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Shire of Kalamunda

**Audit Committee**

14 June 2011

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Report to Council





**6. REPORT TO COUNCIL**

Declaration of financial/conflict of interests to be recorded prior to dealing with each item.

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## 5. REPORTS

**Declaration of financial / conflict of interests to be recorded prior to dealing with each item.**

### 5. Investment Report

|                     |  |
|---------------------|--|
| Previous Items      | N/A  |
| Responsible Officer | Director Corporate Services                      |
| Service Area        | Finance  |
| File Reference      |  |
| Applicant           | N/A  |
| Owner               | N/A  |
| Attachment 1        | Shire of Kalamunda Investments as at 31 May 2011 |

### PURPOSE

1. To receive a report on the Shire of Kalamunda's investments.

### BACKGROUND

2. At the Audit Committee Meeting of 9 June 2008 it was proposed to provide the Audit Committee meetings with a report detailing the Shire of Kalamunda's Investment Portfolio.

### DETAILS

3. The Shire of Kalamunda's investment portfolio continues to be in accordance with the policy, and is restricted to the placement of funds with licensed banks.
4. Details of the Shire of Kalamunda's Short Term Investments are provided as (Attachment 1).

### STATUTORY AND LEGAL IMPLICATIONS

5. Nil.

### POLICY IMPLICATIONS

6. Policy Fin 7, short term investments.

### PUBLIC CONSULTATION/COMMUNICATION

7. Nil.

### FINANCIAL IMPLICATIONS

8. Nil.

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## **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

### **Strategic Planning Implications**

9. Nil.

### **Sustainability Implications**

#### Social implications

10. Nil.

#### Economic Implications

11. Nil.

#### Environmental Implications

12. Nil.

### **OFFICER COMMENT**

13. There are four categories of funding for which the Shire's cash holdings relate.
- Municipal Unrestricted (\$2,512,730.95) – Operational funding.
  - Municipal Restricted (\$2,123,837.48) – Reserves and minor trusts.
  - Cell 9 (\$7,312,764.53) – Wattle Grove guided development scheme trust.
  - Public Open Space (\$1,717,231.74) – Cash in lieu of Public Open Space trust.
14. A fifth category of funds, a \$1,500,000 overdraft facility funding the East Welshpool Road subdivision, has been established. To date, this has not been drawn upon.
15. Interest bearing term deposits represent the bulk of all monies currently held, with \$8,750,132.46 currently spread across seven banks.
16. Monies not required to meet unpresented cheques are held in interest bearing accounts.
17. Funds received for Cash in Lieu of Public Open Space (\$1,717,231.74) are being treated as Trust in accordance with s.154 of the *Planning and Development Act 2005*.

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18. Operational cash flow from 30 June until the following year's rates first instalment relies on the temporary use of restricted funding. This is as a result of not having an overdraft in place to meet operational needs during this time. A suggested strategy to minimise this need would be to move towards earlier adoption of the annual budget in future years, in line with long term financial planning.

**COMMITTEE RECOMMENDATION TO COUNCIL (AC 05/2011)**

1. That the report on Investments held by the Shire of Kalamunda be received.

Moved: **Cr Donald McKechnie**

Seconded: **Cr Allan Morton**

Vote: **CARRIED UNANIMOUSLY (5/0)**

The Chief Executive Officer joined the meeting at 4.32pm.

The Shire President left the meeting at 4.33 pm and returned at 4.34pm.

The Manager Finance joined the meeting at 4.33pm.





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## **6. Sundry Debtors write-off – Townend**

**Reason for Confidentiality:** *Local Government Act 1995 s5.23 (2)(d)* – legal advice obtained or maybe obtained by the local government and which relates to a matter to be discussed at the meeting.

|                     |                                   |
|---------------------|-----------------------------------|
| Previous Items      | OCM 51/2011                       |
| Responsible Officer | Director Corporate Services       |
| Service Area        | Corporate Services                |
| File Reference      |                                   |
| Applicant           | N/A                               |
| Owner               | N/A                               |
| Attachment 1        | Sundry Debtor write off - Townend |

### **PURPOSE**

1. To provide further details regarding the write off of debtors at the meeting of the Audit Committee of 14 March 2011 and of a specific sundry debt write off required as part of a legal settlement.

### **BACKGROUND**

2. At the General Services Committee of 11 April 2011, a confidential report was presented to settle a legal dispute over the valuation determined for cash in lieu of public open space at Lot 7 (292) Sultana Road East, Forrestfield.
3. Council resolved (OCM 51/2011) to settle the matter by offering to accept \$25,000 and the parties entering into a non-disclosure agreement.
4. Through their lawyer the Townend's accepted the offer and the non-disclosure agreement is currently in the process of being formalised.

### **DETAILS**

5. The original invoice was for raised \$45,996.36. After receipt of the \$25,000 settlement a balance of \$20,996.36 remains to be written off. This is in consideration of legal costs which were likely to have been incurred if the matter had proceeded to arbitration. The outstanding balance is shown at Attachment 1.
6. The current provision for doubtful debts is \$36,855.77.

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**STATUTORY AND LEGAL IMPLICATIONS**

7. As this debtor does not relate to rates or service charges the provisions section 6.47 of the *Local Government Act 1995* requiring Council's adoption by Absolute Majority do not apply.

**POLICY IMPLICATIONS**

8. Nil.

**PUBLIC CONSULTATION/COMMUNICATION**

9. Nil.

**FINANCIAL IMPLICATIONS**

10. As part of the current budget and draft long term financial plan, \$12,000 is set aside annually to provide for doubtful debts.

**STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

**Strategic Planning Implications**

11. Nil.

**Sustainability Implications**

Social implications

12. Nil.

Economic Implications

13. Nil.

Environmental Implications

14. Nil.

**OFFICER COMMENT**

15. The Shire of Kalamunda's available provision for such doubtful debts is \$36,855.77. As this is a balance sheet provision no impact on operating expenditure would result from the writing off of this sundry debt.

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**COMMITTEE RECOMMENDATION TO COUNCIL (AC 06/2011)**

1. That the Audit Committee endorse the write off of an outstanding balance of \$20,996.36 owed by Roger and Raimunda Townend.

Moved: **Cr Margaret Thomas**

Seconded: **Cr Donald McKechnie**

Vote: **CARRIED UNANIMOUSLY (5/0)**



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**Declaration of financial / conflict of interests to be recorded prior to dealing with each item.**

|           |                                |                             |
|-----------|--------------------------------|-----------------------------|
| <b>7.</b> | <b>Sundry Debtor Write-Off</b> |                             |
|           | Previous Items                 | OCM 39/2011                 |
|           | Responsible Officer            | Director Corporate Services |
|           | Service Area                   | Corporate Services          |
|           | File Reference                 |                             |
|           | Applicant                      | N/A                         |
|           | Owner                          | N/A                         |
|           | Attachment 1:                  | Sundry Debtors              |
|           | Attachment 2:                  | Debt Collection Procedure   |

**PURPOSE**

1. To consider the further write off of debtors identified since the last meeting of the Audit Committee on 14 March 2011.

**BACKGROUND**

2. A list of sundry debtors to be written off totalling \$27,918.86 has been identified and is shown as Attachment 1. These sundry debts are for invoices issued for the recovery of building maintenance expenditure to community groups and sporting clubs in 2008/2009 and 2009/2010 financial years.
3. The Shire has in place a debt collection procedure for sundry debtors, involving follow up reminders, phone calls and ultimately referral to Dun & Bradstreet for an initial free reminder service before commencing formal proceedings. This is shown as Attachment 2.

**DETAILS**

4. The recovery of building maintenance costs from community groups and sporting clubs has been attempted in line with individual lease and licence agreements. The recovery and debt collection procedure of these costs has been undertaken as consistently as possible in line with the Shire's debt collection procedure.
5. Disputes over some amounts invoiced to clubs and groups have arisen due to there being no definitive list for recoverable items along with uncertainty, in some cases, as to the accuracy of metre readings at particular sites. The costs involved in routinely inspecting a public building, occupied by local groups, and the need to undertake maintenance of older buildings to ensure acceptable levels of compliance with standards, have been widely criticised and the invoiced amount queried during the recovery process.

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6. Special interest groups and sporting clubs play an important role within the community. It is acknowledged that community participation may be adversely affected by high participation costs as a direct result of the recovery of building maintenance costs. It is proposed to only seek recovery of the costs associated with running the buildings as opposed to maintaining the buildings. Those costs which directly relate to group usage and agreed within the lease/license arrangement between individual groups and the Shire of Kalamunda, will in future form the basis of charges to the clubs and groups.
  7. Costs sought to be recovered include utilities (water, gas, electricity), rubbish collection and lease/license fee.
  8. The costs, it is proposed, that will no longer be recoverable (but have previously been invoiced) include;
    - general maintenance
    - plumbing
    - electrical repairs
    - glass repairs
    - gutter cleaning
    - alarm monitoring and associated telephone calls and rental
    - fire equipment inspections
    - cleaning
    - pest inspections
    - building insurance
    - emergency services levy (ESL)

These costs are reported within the above categories shown as Attachment 1.

### **STATUTORY AND LEGAL IMPLICATIONS**

9. As these debtors are not related to rates or service charges the provision of section 6.47 of the *Local Government Act 1995* requiring Council's adoption by Absolute Majority does not apply.

### **POLICY IMPLICATIONS**

10. Nil.

### **PUBLIC CONSULTATION/COMMUNICATION**

11. Nil.

### **FINANCIAL IMPLICATIONS**

12. The provision for doubtful debts is currently \$36,855.77. The provision would become \$15,859.41 subject to endorsing the recommendation of the preceding confidential item. Therefore a bad debts expense for the balance being \$12,059.45 would be incurred.

13. During the recent interim audit, comment was made by the inspecting audit officer as to the age of these debts and questions were raised as to the likelihood of recovery.
14. As part of the current budget and draft long term financial plan, \$12,000 is set aside annually to provide for doubtful debts.

## **STRATEGIC AND SUSTAINABILITY IMPLICATIONS**

### **Strategic Planning Implications**

15. Nil.

### **Sustainability Implications**

#### Social implications

16. It is acknowledged that community participation may be adversely affected by high participation costs to user groups as a direct result of the recovery of building operation costs.

#### Economic Implications

17. Nil.

#### Environmental Implications

18. Nil.

## **OFFICER COMMENT**

19. Direction is sought from the Audit Committee and Council as to the balance between the recovery of costs from community groups and sporting clubs.
20. Local groups and sporting clubs use facilities which require funds to provide and maintain the services and activities undertaken. A balance between the recovery of Shire costs and not deterring participation is seen as the recognition of the greater community good.

## **OFFICER RECOMMENDATION**

1. That the Audit Committee endorses the write off of sundry debts totalling \$27,918.86 as detailed in Attachment 1.

Moved:

Seconded:

Vote:

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The committee discussed the Officer Recommendation and added further points of clarification before voting.

**COMMITTEE RECOMMENDATION TO COUNCIL (AC 07/2011)**

1. That the Audit Committee endorses the write off of sundry debts totalling \$46,856.71, as detailed in Attachment 1, with the exception of loan repayments and lease/licence fees.
2. From 1 July 2011 all users will be required to pay for:
  - Utility Costs
  - Telephone Usage
  - Rubbish, waste & recycling services
  - Special Cleaning and Damage.

Moved: **Cr Allan Morton**

Seconded: **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY (5/0)**



**Declaration of financial / conflict of interests to be recorded prior to dealing with each item.**

**8. Forrestfield United Soccer Club Sundry Debt**

|                     |  |
|---------------------|--|
| Previous Items      | N/A  |
| Responsible Officer | Director Corporate Services  |
| Service Area        | Finance  |
| File Reference      |  |
| Applicant           | N/A  |
| Owner               | N/A  |
| Attachment 1        | Statement of Outstanding Debt – Forrestfield United Soccer Club    |
| Attachment 2        | Record of Recovery Actions Taken – Forrestfield United Soccer Club |

**PURPOSE**

1. To consider formal recovery action against the Forrestfield United Soccer Club Inc. (FUSC) for outstanding sundry debt and to consider writing off non-utility building maintenance costs.

**BACKGROUND**

2. A report detailing the Shire's sundry debtors is presented monthly to the General Services Committee. Several comments have been made regarding the amount and age of the debt.

**DETAILS**

3. The current amount outstanding is \$40,521.36 and is shown at Attachment 1. This comprises outstanding self-supporting loan repayments, reserve hire and recovery of maintenance and utility costs.
4. The Shire of Kalamunda has pursued the debt according to policy, with consideration of the club's importance to the community. A system memo is recorded detailing actions taken and is shown as Attachment 2.
5. A fortnightly direct debit plan is currently in place, established after a meeting held on 24 June 2009. A payment plan was agreed (since increased to \$500 per fortnight) for debt outstanding at that time, but any new invoices issued would become due and payable according to normal 30 day terms. This has not been adhered to fully, though the fortnightly direct debit continues.

6. Despite issuing a final notice by staff and a final demand from the Shire's debt recovery agent Dun and Bradstreet on 11 May 2011, there remains no improvement on this matter. Dun and Bradstreet staff spoke with Heinz Luik of the club, who responded that upon receipt of the notice follow up action would occur. To date no response has been received by Dun and Bradstreet.
7. Preceding agenda items have sought direction towards the nature of building maintenance and utility costs to be recovered from clubs. To exclude non-utility, insurance and emergency services levy items from the outstanding amount sought from FUSC (green highlighted items on Attachment 2 ), reduces the amount owed by \$5,995.32.
8. To recover this debt formally from the club would involve instructing Dunn and Bradstreet to issue a general procedure claim for the outstanding amount, for a fee. Being an "Other Incorporated Entity" the claim would be against the FUSC seal holders. Should they not defend the claim a charge over the assets would occur and bailiffs would then proceed to seize and sell items to recover the amount owed. Should the matter be defended a pre-trial meeting at the magistrate's court would occur in an attempt to resolve the matter ahead of a formal hearing. Legal costs would be incurred.

#### **STATUTORY AND LEGAL IMPLICATIONS**

9. As this debtor does not related to rates or service charges the provisions section 6.47 of the *Local Government Act 1995* requiring Council's adoption by Absolute Majority do not apply.

#### **POLICY IMPLICATIONS**

10. Nil.

#### **PUBLIC CONSULTATION/COMMUNICATION**

11. Nil.

#### **FINANCIAL IMPLICATIONS**

12. Considering the preceding items recommending the writing off of sundry debt, no provision for doubtful debts would therefore exist. To write of the \$5,995.32 would incur a bad debt expense in the 2010/2011 financial year.

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**STRATEGIC AND SUSTAINABILITY IMPLICATIONS****Strategic Planning Implications**

13. Nil.

**Sustainability Implications**Social implications

14. Nil.

Economic Implications

15.

Environmental Implications

16. Nil.

**OFFICER COMMENT**

17. The Shire of Kalamunda would have no available doubtful debt provision for writing off the \$5,995.32 in 2010/2011. As part of the current budget and draft long term financial plan, \$12,000 is set aside annually to provide for doubtful debts.
18. The club's outstanding debt has been raised directly with club committee members by staff on several occasions.
19. Formal proceedings against the FUSC would have serious repercussions for the club's credit rating and especially the club's seal holders should the matter be pursued legally and judgement be entered into. It is likely that the viability of the club would be compromised.

**OFFICER RECOMMENDATION (AC 08/2011)**

1. That the Audit Committee endorse that the write off of \$5,995.32 owed by Forrestfield United Soccer Club Inc.
2. That the Forrestfield United Soccer Club Inc. committee be requested to attend a special Audit Committee meeting to discuss formal legal proceedings for the recovery of the outstanding debt.

Moved:

Seconded:

Vote:

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The committee discussed the Officer Recommendation and added further points of clarification before voting.

**COMMITTEE RECOMMENDATION TO COUNCIL (AC 08/2011)**

1. That the amount of \$26,236.15 owed by the Forrestfield United Soccer Club Inc be rolled over until 31 December 2011.
2. That the Audit Committee endorse that the write off of \$14,285.21 owed by Forrestfield United Soccer Club Inc.
3. That the Forrestfield United Soccer Club Inc. committee be requested to attend a special Audit Committee meeting to discuss formal legal proceedings for the recovery of the outstanding debt.

Moved: **Cr Donald McKechnie**

Seconded: **Cr Margaret Thomas**

Vote: **CARRIED UNANIMOUSLY (5/0)**