



Item No: 16.1.

File No: 16.51.1.3

Date: 19 February 2018

Attachment: A &amp; B

**Meeting:** Council

**Title:** Walkerville Sports Club Financials

**Responsible Manager:** Chief Executive Officer, Kiki Magro

**Author:** Property & Contracts Officer, Allison Down

**Key Focus Area 2:** sustainable and resilient future, based on a sensitive and sensible approach to planning, heritage, economic development and the public realm

**Type of Report:** Decision Report

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## Recommendation

Pursuant to Section 83(5) of the *Local Government Act 1999*, the Chief Executive Officer indicates that the matter contained in this report may, if the Council so determines, be considered in confidence pursuant to Section 90(2) of the *Local Government Act 1999* on the basis that the information contained in the attached report is information of the nature specified in subsections 90(3)(d) being commercial information of a confidential nature the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information or that would confer a commercial advantage on a third party and that would, on balance, be contrary to the public interest.

## Recommendation (Public)

### Pursuant to s90(3)(d)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except the Council's Chief Executive Officer Kiki Magro, Property and Contracts Officer Allison Down and Acting Council Secretariat Jo Biskup be excluded from attendance at the meeting for the report on Walkerville Sports Club Financials.

The Council is satisfied that, pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information that is commercial information of a confidential nature the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information or that would confer a commercial advantage on a third party and that would, on balance, be contrary to the public interest.

### Recommendation (Confidential)

1. That Council authorise Administration to engage legal services to assist in the drafting of a revised Community Facility Leasing Agreement that will enable Council to terminate the leasing agreement and potentially evict the Walkerville Sports Club in the event that the lease and loan payments are defaulted upon; and
1. That the revised (redrafted) Community Facility Leasing Agreement, as specified in item 1 above, be presented to Council at a future meeting for consideration and endorsement; and
2. That Administration take no further action in relation to lease negotiations with the Walkerville Sports Club until Council has received and considered the revised Community Facility Leasing Agreement.

### Recommendation (Public)

#### Pursuant to s.91(7)

That having considered the Agenda Item, Walkerville Sports Club Financials, 19 February 2018 in confidence under section 90(2) and (3)(d) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report entitled Walkerville Sports Club Financials, 19 February 2018 relevant to this Agenda Item be retained in confidence (excepting that Council authorises the release of the resolution / minutes to those relevant parties in order to progress the matter) until the matters are resolved and that pursuant to Section 91(9)(c) of the *Local Government Act 1999* the Council delegates to the Chief Executive Officer the review and power to revoke this Order.

and

That Council resolves to end its confidential deliberations pursuant to Section 90(2) of the *Local Government Act 1999* Council and re-admit the public.

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### Summary

Council at its meeting held on 18 December 2017, noted that the Walkerville Sports Club has accumulated a debt that totals approximately \$31,000. This figure has been made up of missed loan repayments, unpaid maintenance and insurance costs and lease fees.

At its ordinary meeting on 18 December 2017, Council having considered the monies owed resolved:

#### **CNC192/17-18**

#### *That Council:*

1. *Receive and note the financial report provided by the Walkerville Sports Club for the years 2015/16 and 2016/17;*
2. *Having noted the information provided by the Walkerville Sports Club, delegate responsibility to the Mayor, Chief Executive Officer and the Property and Contracts Officer to schedule a meeting with the Walkerville Sports Club in the early 2018 to develop strategy to address the outstanding debt: and*
3. *That a report be presented back to Council outlining the proposed strategy to a future meeting.*

This report outlines the outcome of the meeting that was held with the President of the Walkerville Sports Club on 24 January 2018 and a proposed strategy to address the debt.

## Background

The Walkerville Sports Club has been progressively falling further and further behind in its payments to Council for a range of services including, maintenance, loan repayments, lease fees and insurance. It currently owes approximately \$31,000. The Club continues to 'blame' the works carried out on the Walkerville Oval to upgrade the irrigation system as the cause of their loss of revenue and have pursued a financial hardship claim with Council. Given that the works were pre-planned and sufficiently communicated to the Club, it should be noted that to date, the Club has failed to provide sufficient evidence that Council acted in a manner that was negligent or responsible for the Club's financial position.

In line with Council's decision on 18 December 2018, and in order to seek a resolution to the outstanding debt, a meeting was scheduled on 24 January 2018 and included, the Mayor, Deputy Mayor, CEO, Property and Contracts Officer and the President of the Walkerville Sports Club.

## Discussion/Issues for Consideration

In preparation for the meeting, financial statements that had been previously provided to Council by the Walkerville Sports Club were reviewed by Council's Acting Finance Manager, Christopher Legget. With permission from the Walkerville Sports Club, Mr Legget attempted to contact the Walkerville Sports Club Auditors for clarification regarding a number of items identified in the financial statements prior to the scheduled meeting. Unfortunately, despite numerous attempts, the Auditor did not return calls or respond to emails and therefore the Acting Finance Manager was unable to get clarification on the statements. A copy of Mr Legget's notes are presented as **Attachment A**.

Throughout the course of the meeting, the Club President, Mr Chris Harcourt indicated that the Club has been on a path towards recovering from its financial problems and that he would be in a better position to respond to Council following the Walkerville Sports Club Committee meeting that was scheduled for 30 January 2018.

Following the scheduled meeting of the Walkerville Sports Club Committee, Mr Harcourt has subsequently advised that the Club's Board of Directors resolved to make a payment in line with the bi-yearly loan repayment and also make an offer to Council with respect to the rest of the monies owed. However, to date, administration has not received formal correspondence with respect to this matter. A copy of the email advice from Mr Harcourt is presented as **Attachment B**.

In accordance with Mr Harcourt's request (refer to Attachment B) Administration is compiling the information as requested.

Whilst the outstanding debt is being considered and actioned by Council, it is likely that there will be some impact upon finalising negotiations of a new lease with the Club. Administration is of the view, that any new lease offered to the Club, should include appropriate clauses that would enable effective management of the Club's debt and / or eviction if the debt repayments are defaulted upon. In this regard, it would be prudent to seek and engage legal services to support the development of such leasing requirements.

## Options for Consideration

### Option 1

2. That Council authorise Administration to engage legal services to assist in the drafting of a revised Community Facility Leasing Agreement that will enable Council to terminate the leasing agreement and potentially evict the Walkerville Sports Club in the event that the lease and loan payments are defaulted upon; and
3. That the revised (redrafted) Community Facility Leasing Agreement, as specified in item 1 above, be presented to Council at a future meeting for consideration and endorsement;

4. That Administration take no further action in relation to lease negotiations with the Walkerville Sports Club until Council has received and considered the revised Community Facility Leasing Agreement.

### Option 2

That Council:

1. note that there has been some progression in regard to addressing the current financial position of the Walkerville Sports Club;
2. takes no further action until the Walkerville Sports Club present their proposal to repay all monies owed, as per email advice dated 5 February 2018; and
3. request the Walkerville Sports Club to make available their audited financial statements, which are due on or about 31 March 2018, for Councils further consideration.

### **Analysis of Options**

Option one provides Council the opportunity to investigate further legal options in terms of redress toward the current situation, whilst seeking to implement a new lease to support this.

Option two enables Council to consider the next steps, once it has received the Clubs repayment proposal. It also recognises that the preparation of the next financial statements are scheduled to be prepared at the end of March 2018. This option may be considered somewhat lenient. It allows the Walkerville Sports Club to address the outstanding debt under their own level of speed. However, it may show good faith on the part of Council and ensure a continued good working relationship with the Club.

### **Financial Implications**

There are clear financial implications should the debt repayment not be forthcoming.

### **Community Implications**

There is no requirement to consult the broader community.

### **Regional Implications**

There are no regional implications resulting from the consideration of this matter.

### **Governance Implications**

There are potential governance implications resulting from the consideration of this matter and the ongoing management of the outstanding debt owed by the Walkerville Sports Club.

### **Preferred Option & Reasoning**

Option one is the preferred option. It enables Council to commence working toward a position of greater control with the Walkerville Sports Club. It envisages that an offer from the Walkerville Sports Club will be made regardless of this option and does not preclude Council from further consideration of the matter.

**Attachments**

Attachment A	Acting Manger Finance, Christopher Legget notes regarding Walkerville Sports Club Financial Statements
Attachment B	Email correspondence from Walkerville Sports Club President, Mr Chris Harcourt

Released

## Points raised by Auditor (Ashby, Madden, Truman):

- Processes for payment of ATO, Workcover and Superannuation for employees are non-existent
- Processes in regards to determining employee status are non-existent
- No evidence of payments to ATO, Workcover and Superannuation so potential unacknowledged financial liability and legal implications
- Bar takings have decreased despite cost of goods sold remaining steady, resulting in a decrease in profit.

## Other issues:

- Bar stock has decreased over the year which means there should have been an increase in sales for the year which hasn't occurred
- Cost of goods sold (COGS) have been steady for past 3 years whilst bar takings have decreased, ie

Year	Bar takings	COGS	Profit before wages
2015	\$118,143	\$56,924	\$61,219
2016	\$108,740	\$56,239	\$52,501
2017	\$ 87,134	\$57,521	\$29,613

- Bar takings in 2017 are \$31,009 less than 2015 whilst COGS is only \$597 more than 2015.
- This indicates that sales are **\$30,412** less than they should have been in 2017 based on prior years' figures.
- Potential reasons could be;
  - o Bar goods being consumed without payment
  - o Bar receipts not being entered into receipting system
  - o Cost of goods sold and closing stock may be incorrect.

The above data indicates that the possibility of fraud and mismanagement needs to be investigated.

- The club's Trade Creditors is \$30,992 as at 31<sup>st</sup> March 2017. The amount owed to Council as at 31<sup>st</sup> March was \$25,267.66.

Trade Creditors are made up as follows:

- Loan payments outstanding: \$18,896.76
- Insurance: \$3,036.57
- Lease Fees: \$290.35
- Lift Service Fee/Recertification of Safety Equipment: \$3,043.98

- Sports club currently has a loan with the Council. The current balance as at 31 March is:
  - Balance as per loan schedule as at 31 March 2017: \$77,659.90
  - It is noted that club still owed an additional \$18,896.76 of loan payments as at 31 March 2017 and is recorded in trade creditors.
  - We note a loan payment was made by the club to Council on 28 August 2017 for \$6,298.92.

Recommendations;

- Obtain a financial report as at 31<sup>st</sup> December to provide most recent financial figures.
- Hold discussions with club regarding;
  - Employment issues raised by the Auditor
  - Bar taking issues raised in this report
  - Council's debt and payment plan.
  - Need to obtain audit report as at 31 March 2017
  - Loan should be recorded on Balance Sheet.
  - Trade Creditors – Does it include council's debt of \$25,267.66 as at 31 March 2017.

**Allison Down**

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**From:** Chris Harcourt <chris@mfy.com.au>  
**Sent:** Monday, 5 February 2018 2:03 PM  
**To:** Allison Down  
**Cc:** Koch's  
**Subject:** RE: Follow up to meeting

Hi Allison,

Sorry, for my lack of reply. It has been a bit hectic the last few days.

The Board of Directors has resolved to make a payment in line with our usual bi-yearly lease / loan payment (of approx. \$6,200), and provide an offer in respect to repayment of other amounts owing. I am liaising with other Directors currently, to formulate the wording of the email back to Council.

WSC does not envisage any foreseeable issue with current cashflow to meet on-going payments as they arise during 2018, and moving into the future. However, WSC is not a position to repay Council within 1-2 years either.

The WSC Directors have requested of me to ask Council to provide details of the "loan" WSC has been servicing. I believe the loan is referred to as Loan 70. Is there a contract? If so, could we sight a copy please? What is the interest rate? What are the terms of said loan? WSC does not possess any details relating to this loan other than some historical heresay provided by members present at the time.

I will provide the details of the exact offer asap, but within the next 2-3 days.

Cheers,

Chris

Chris Harcourt | Associate | MFY Pty Ltd



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**From:** Allison Down [mailto:[ADown@walkerville.sa.gov.au](mailto:ADown@walkerville.sa.gov.au)]  
**Sent:** Monday, 5 February 2018 1:19 PM  
**To:** Chris Harcourt <chris@mfy.com.au>  
**Subject:** RE: Follow up to meeting

Hi Chris,

I trust you've had a good weekend.

I was hoping you might be in a position to update me regarding the outcomes of the Committee's meeting from last week? Are you able to give me a call or drop me an email?

thanks

Regards,

Allison Down  
 Property & Contracts Officer



## Town of Walkerville

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**From:** Chris Harcourt [<mailto:chris@mfy.com.au>]

**Sent:** Tuesday, 30 January 2018 11:39 AM

**To:** Allison Down <[ADown@walkerville.sa.gov.au](mailto:ADown@walkerville.sa.gov.au)>

**Cc:** Koch's <[kochlot@internode.on.net](mailto:kochlot@internode.on.net)>; 'WSCSports' <[sports@walkervillesportsclub.com.au](mailto:sports@walkervillesportsclub.com.au)>; Christian Jensen <[cjensen@adelaide.on.net](mailto:cjensen@adelaide.on.net)>; Chris Robinson <[crobin@chariot.com.au](mailto:crobin@chariot.com.au)>

**Subject:** RE: Follow up to meeting

Hi Allison,

Thanks for your email.

To answer your queries, I have attached relevant documents to / from our Auditor. However, I cannot locate a specific reference about the audit reports being qualified or not. I expect that due to some cash handling practices (typical of clubs like ours), the auditor has qualified his report as such. Reading the Auditor's comments seem to suggest that.

I can advise that specific questions raised by Elizabeth Fricker at the meeting on the financials (2016/17), are as follows;

1. Creditors (pg 4) includes amounts owing to Council (as at 31<sup>st</sup> March 2017),
2. Revenue of \$87,134 included significant discounting to encourage patronage following a noted drop in revenue during summer season. This was also an on-going effect of poor trading during winter, due to oval closures (relocation of football activities). The situation further deteriorated into the summer season, notwithstanding we experienced staffing issues that contributed to this situation.
3. Capital works (pg 4) of \$40,116 - I need to ascertain exactly what this relates to.

Our committee meets tonight and will discuss the ability to make an immediate payment towards the debt, but also to determine a reasonable schedule of repayments going forward. I will update you on these outcomes by Friday of this week (2<sup>nd</sup> Feb).

Cheers,

Chris Harcourt | Associate | MFY Pty Ltd



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**From:** Allison Down [<mailto:ADown@walkerville.sa.gov.au>]

**Sent:** Tuesday, 30 January 2018 9:32 AM

**To:** Chris Harcourt <[chris@mfy.com.au](mailto:chris@mfy.com.au)>

**Subject:** Follow up to meeting

Good morning Chris,

I just wanted to follow up from our meeting last week and to see how you are placed to action some of the outcomes from our meeting.

From my recollection of last week, I noted that you were going to check whether the audit reports were qualified or not and to look into Club's capacity to make a payment on the oldest amount that is currently outstanding.

Although Council doesn't meet until 19 February 2018, I'm just starting to prepare a report that is intended for that meeting and it would be really helpful be able to provide some advice to our Elected Members on next steps with the Club.

Would you be able to drop me an email with an update?

thanks

Regards,

Allison Down  
Property & Contracts Officer



### Town of Walkerville

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