

<b>ORDINARY MEETING</b> <b>30TH MAY 2012</b>	<b>24</b>
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CAIRNS ENTERTAINMENT PRECINCT - REPORT FROM THE PROJECT CONTROL GROUP

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**RECOMMENDATION:**

**That Council resolves that it is in the public interest to proceed with the Cairns Entertainment Precinct project, in its current form on the current Wharf Street site, for the following reasons:**

- (a) the advanced state of the project**
- (b) the project is currently in accordance with the State and Commonwealth Funding Agreements**
- (c) the existence of the 99 year site lease between Cairns Regional Council and Far North Queensland Ports Corporation; and**
- (d) the level of expenditure already incurred to date.**

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**1. INTRODUCTION:**

This report seeks direction from the new Council in respect of the Cairns Entertainment Precinct (CEP) project. It explores three options for consideration by Council:

- 1. Continuation of the CEP project in line with existing Council decisions; or
- 2. Suspension of the CEP project to provide more time for the incoming Council to consider the details of the current project and the implications of ceasing the project or attempting to relocate it to an alternative site; or
- 3. Termination of the CEP project immediately, progressing planning for a replacement for the Civic Theatre on an alternative site.

In canvassing these options, this first Cairns Entertainment Precinct project report for the new Council also provides an overview of the activities leading to the current status of the project.

## 2. BACKGROUND

On 1 May 2012, following public statements by the Premier and the Mayor-elect that the Cairns Entertainment Precinct would not proceed in its current form, project expenditure was immediately reduced by the issue of formal notices to all consultants and contractors, directing the immediate suspension of work until the direction of the new Council was known. Only essential expenditure is currently being incurred to ensure issues during this interim period are managed appropriately.

The project has a lengthy history spanning five previous Councils, over eighteen years, examining nine separate potential sites for a replacement Civic Theatre.

- Attachment A provides detailed information covering the Civic Theatre and assessment of alternative sites.
- Attachment B details the Cairns Entertainment Precinct project history.

## 3. COMMENT

### 3.1. Option: Continue the CEP project in line with existing Council decisions

The community consultation program, the business planning and design of the Cairns Entertainment Precinct which has been completed over the past two years has led to a fully-funded, shovel-ready project on a site leased to Council for \$10 per annum. Over 120 consultants and 35 contractors have been engaged in full and part time positions to work on the CEP, and the Managing Contractor tenderers have invested in the order of \$200,000 each to prepare their tenders. Until 1 May 2012, work was progressing in line with the program that forms the basis of Council's binding contractual obligations with the State and Commonwealth as funding partners.

Development Applications for the whole of the Precinct and for the Performing Arts Centre were lodged on 30 March 2012 as required by the Commonwealth Government. Construction on site was scheduled to start in July 2012. The project will generate 165 jobs on site and up to 610 indirect jobs in the immediate region, at a time when unemployment in Cairns is well above the State average, and at a time when market prices, including the cost of labour and materials, are at an all-time low.

At the time of the issue of the notices to suspend works, the five-year CEP project was 30% complete. The project budget of \$154.6 million includes all project costs, including staffing and administration, communication costs, all consultants' fees, contingencies, escalation, the costs of the construction of a pedestrian link to the Convention Centre, and a marketing budget for 12 months to support the opening period. The Precinct is scheduled to be commissioned and fully operational in 2015.

Total project expenditure (ex GST) from inception to date (1 June 2010 to 30 April 2012) is as follows:

Gross expenditure	\$7,393,916 (including all external and internal costs)
Revenue received	\$2,500,000 (State Government Grant Funding for PAF)
Invoiced (payment pending)	\$6,000,000 (Commonwealth Jobs Fund).

The CEP has been subjected to the most rigorous and comprehensive business planning ever undertaken by a Council in Queensland, and it is understood that the Project Assurance Framework (PAF) assessment is the only complete study undertaken for a performing arts centre in the State. This body of work exhaustively analysed need, options, social, economic and financial outcomes for the project. For a project with a life cycle in excess of 50 years, the PAF study clearly demonstrated that the CEP is both viable and affordable, and it was on this basis that the State and Commonwealth made decisions to invest in the future of Cairns. In taking into account all the circumstances, including Ports North's intended future uses for the CEP site, and in the absence of alternative proposals or funding, it is recommended that it is in the public interest to take the CEP project through to completion.

On 11 April 2012 correspondence was received from the State Government advising that Ministerial consent previously granted for the awarding of the Managing Contractor Tender had been revoked. The tender report was therefore not considered by Council and is resubmitted for Council's consideration as a separate item on the Agenda of 30 May 2012.

### **3.1.1. Compliance with Council's Corporate and Cultural Planning documents**

The CEP project has substantially implemented Council's direction to provide a new performing arts centre and advocate for a regional museum. Key milestones to date are:

- Project Assurance Framework assessment (three stages – community needs analysis, options evaluation and business planning) undertaken in conjunction with State Government agencies, completed and approved by Cabinet. Independently reviewed by the Commonwealth Department of Infrastructure and endorsed by all levels of Government.
- Site secured at rent of \$10pa, site lease executed – 99 year lease commenced 14 March 2012.
- Full project funding secured (tied to the CEP Business Case), annual funding and expenditure cashflows negotiated with all levels of Government, Funding Agreements executed.
- Port operations comprehensively assessed, and CEP designed to ensure no impact on current or future Port operations. Owner's consent to lodgement of DA secured.
- Architectural design substantially advanced; masterplan, concept and schematic design phases complete and within budget. Detailed design approximately 50% complete.
- Heritage approvals progressively obtained.
- Development applications lodged.
- Queensland Museum an active participant in regional museum planning.
- CEP practical completion scheduled for May 2015.

### **3.1.2. Governance**

A governance structure for the delivery of the CEP project was established in accordance with the Local Government Act 2009.

As a formally constituted Standing Committee of Council, the CEP Committee convened on a regular basis (usually monthly) to receive reports and information regarding the progress of the project, and to provide direction, in an open public forum. Meetings are open to the public and agendas, reports and minutes are published on Council's website.

The Project Control Group meets monthly, receiving formal reports from the project manager, expert consultants and others, providing direction and formulating recommendations to Council.

### **3.1.3. Probity**

A probity plan for the assessment and selection of tenderers was endorsed by Council in 2011. An independent probity adviser (BDO North Qld) was appointed to review and provide comment on the manner in which competitive processes were conducted. All probity reports received have confirmed that processes have been conducted with fairness and equity.

### **3.1.4. Legal**

Council's solicitors have provided oversight, review, legal drafting and other services throughout the project, preparing contracts, providing advice and direction.

### **3.1.5. Procurement**

Competitive processes for the selection and appointment of tenderers have been conducted at arms' length through Council's Purchasing Branch.

### **3.1.6. Community needs**

- Community stakeholders have been actively engaged in development of planning and design briefs.
- Community stakeholders were involved in the development of design options, and advised the preferred options.
- Culturally sensitive consultations have been conducted with Traditional Owners, tribal and clan groups regarding the inclusion of Indigenous heritage, needs, performance and public art throughout the site.
- Accessibility consultations conducted.
- Performing arts stakeholders consulted.
- Multicultural groups consulted.
- Port users/stakeholders consulted.
- Business organisations consulted.
- Schools consulted.
- State and Commonwealth departments and agencies in Cairns consulted.

### **3.1.7. Community Information**

- Project awareness survey conducted.
- Communications strategy developed and implemented.
- Project website established.

- Fact sheets published.
- Media programs implemented.
- Social media implemented.
- Presentations, information sessions conducted.
- Community displays, information stalls staffed.

### **3.1.8. Design**

- Client (Council) project brief developed and updated.
- Outline and detailed design briefs prepared.
- Architects selected from national and international tenders.
- Consultant team selected from national tenders.
- Masterplan, concept design, schematic design phases complete; developed design phase 50% complete.
- Construction staging options developed to align with available funding and approved by all levels of Government.
- Design guidelines submitted to Ports North.
- Ports North's 12 "overriding (operational) objectives" satisfied.
- Design value managed, workshopped, approved by Council and remains within budget.

### **3.1.9. Heritage**

- Preliminary heritage studies of White's Shed complete.
- All provisions of the Aboriginal Cultural Heritage Act satisfied.
- DERM support achieved to date.
- DERM exemption certificate obtained to undertake White's Shed investigative works.
- Expression of Interest and Tender for White's Shed works completed. Council resolution to award contract to Richard Field Constructions. Contract (\$351,000) executed.

### **3.1.10. HAZMAT and Geotechnical**

- HAZMAT for White's Shed part completed. Work suspended 1 May 2012.
- RFC currently deployed staff off-site until HAZMAT advice finalised. Works suspended.
- Drilling rig for further geotech assessment postponed pending new Council direction.

### **3.1.11. Program**

- Target master program issued 5 January 2012 – forms basis of current agreements.
- Delay in appointing Managing Contractor and other consultants impacts on program and on Council's ability to meet funding milestones.
- Notice requesting Extension of Time has been submitted by Richard Field Constructions due to HAZMAT work; now superseded by suspension.

### **3.1.12. Budget**

- Total project budget is \$154.6million, including design contingency and construction contingency, all consultants' costs, council staffing and operational costs, communications, marketing and opening budget.
- QS/cost planner engaged from inception. Preliminary and elemental cost plans completed and issued.
- Value management conducted and ongoing, to ensure design develops within budget.
- Current design within budget.

### **3.1.13. Landowner and statutory approvals**

- Responses to Ports overriding objectives prepared and submitted to Ports.
- Design guidelines submitted to Ports.
- Landowner's consent obtained.
- DERM approval for Investigative works in White's Shed obtained.
- Tidal works application lodged.
- Preliminary Development Application (whole of Precinct DA) lodged with Ports North.
- Performing Arts Centre Development Application Lodged with Ports North.
- Acknowledgements received indicating applications properly prepared.
- Ongoing DA briefings between Ports North planning consultants and Council's Planning consultants.
- Extension of time for Information requests now under negotiation.

### **3.1.14. Consultant appointments**

All consultants AS4122-2010 contracts for Phases 2,3,and 4 have been executed in accordance with Council resolutions and purchase orders for Phase 4 (detailed design) issued (approx Phase 4 value \$2.7million) issued. All design work was suspended by formal notice to consultants issued 1 May 2012. Consultants invoice Council on a monthly basis and will invoice for work completed as at 30 April 2012. Some suspension costs may be incurred by Council.

Design and Advisory Disciplines and Contractor (White's Shed)	Firm	Contract Status	Value Phase 4 (Detailed design)	Employees working on CEP (Full and part time)
			<b>ex.GST</b>	
Architectural Design Services	CA COX Architecture	Contract suspended	\$543,296	17
Acoustic Engineering	Acoustic Studio	Contract suspended	\$307,820	6
Theatre Planning Consultancy Services	Schuler Shook	Contract suspended	\$70,000	4
Heritage Consultancy Services	Converge	Contract suspended	\$14,900	3
Hydraulic Engineer	SPP Group	Contract suspended	\$61,000	6
Fire Engineering (Protection)	SPP Group	Contract suspended	\$29,250	4
Structural Engineering	Arup	Contract suspended	\$430,000	6
Façade Engineering	Arup	Contract suspended	\$37,800	5
Mechanical Engineering	Arup	Contract suspended	\$127,707	5
Fire Engineering (Safety)	Arup	Contract suspended	\$123,000	1
Traffic Engineering	Arup	Contract suspended	\$16,400	2
ESD Consultancy Services	Cundall	Contract suspended	\$45,000	10
Wind Engineering	Windtech	Contract suspended	\$36,000	8
BCA (building certifier)	Certis	Contract suspended	\$108,000	3
QS/Cost Planner Consultancy	WT Partnership	Contract suspended	\$108,000	4
Civil Consultancy Services	Cardno	Contract suspended	\$107,350	11
Electrical Engineering	Steensen Varming	Contract suspended	\$335,000	5
Vertical Transportation Engineering	Steensen Varming	Contract suspended	\$20,250	5
Landscape Architecture	Tract Consultants	Contract suspended	\$184,370	4
			\$171,204	
Town Planning Services	URBIS	Scope of services suspended	(incl all work to date)	5
Maritime consultancy services	Cardno	Works suspended	\$as needed	2
Maritime risk management services	Cardno	Works suspended	\$as needed	Incl as above
Surveying Services	Brazier Motti	Works suspended	\$as needed	5
Geotechnical services	Douglas Partners	Works suspended	\$65,580	3
HAZMAT	Douglas Partners	Works suspended	\$22,900	
Indigenous Architectural Advisor	Indij Design	Works suspended	\$as needed	2
Legal	MacDonnells Law	Non-contract	\$as needed	4
Probity	BDO (Nth Qld)	Works suspended	\$as needed	2
			Monthly purchase order (May 2012) continuing to assist with suspension processes	
Consultant design and project management services	Savills Project Management		\$61, 351.50	5
White's Shed Investigative works	Richard Field Constructions	Contract suspended	\$351,210	36

### **3.1.15. Pending consultant appointments**

- Tender #2357 for Independent Commissioning Services closed on 17 April 2012. This tender has not been assessed due to suspension of works.
- The call for Expressions of Interest #2368 for Construction Project Management Services closed on 19 April 2012. This EOI has not been assessed due to suspension of works. Savills Project Management has been appointed for May 2012 to assist with the coordination of design documentation, management of Aconex and various suspension processes.
- Consultancies remaining to be appointed, now suspended, but which would be necessary should the CEP project continue are: accessibility consultant (compliance with statutory requirements), food and beverage consultant (brief and design of kitchen, bars, associated facilities), venue management consultant (venue operations, including location and design of box office, FOH and BOH detailed design including loading, building systems, staging communications, input into IT), Information Technology consultant.

### **3.1.16 Contractor appointments - White's Shed investigative works**

Further to Council's resolution of 22 February 2012, a purchase order for \$351,210 (ex GST) was issued to Richard Field Constructions (RFC) for the Investigative works at White's Shed on 5 March 2012. The AS2124-1992 contract for these works was prepared by MacDonnells Law and has been executed by both parties.

Further to the Commonwealth's Job Fund (Infrastructure Employment Program) RFC has provided certification that 36 contractors and subcontractors have been engaged to work on White's Shed.

The site has been established, power connected and more than two weeks work completed. Scaffolding and other materials have arrived on site and further materials are on order with Cairns suppliers. The site has been secured to the extent possible pending Council's direction. Liability for materials, security and unauthorised access to the site rests with Council as the lessee.

### **3.1.17 Contractor appointments - Managing Contractor**

The Managing Contractor is to be appointed under a two stage contract: Stage 1 to work with the design team through the remainder of the detailed design phase to ensure works designed can be built within budget. A Guaranteed Construction Sum is then to confirm the scope of works that can be delivered, and Stage 2 (main works) are scheduled to commence in approximately September 2012. Early works (services relocation etc) were scheduled to commence in July 2012.

Ministerial consent to make a major policy decision, to appoint the Managing Contractor as proposed by the Business Case during the caretaker period, was obtained 16 January 2012. The three month tender assessment process from January to April 2012 was completed and the Tender Assessment Panel report recommending the appointment of the preferred MC was prepared for Council's consideration on 11 April 2012. The Minister for Local Government revoked the previous approval prior to the Council meeting on 11 April 2012. The report was withdrawn from the Council agenda.

A letter was issued to tenderers on 11 April 2012 advising them of the Minister's decision and requesting tender prices remain valid for 60 days until 25 May 2012. It is possible, but unlikely, that tenderers could seek recovery of costs for the preparation of tenders (approximately \$200,000 per tender).

The appointment of the Managing Contractor by 31 May 2012 will trigger the second payment of \$6 million under the Jobs Fund (Infrastructure Employment) Program.

### 3.1.18. Funding agreements and budget cashflows

Funding cashflows have been negotiated with all levels of Government and payment milestones embedded in the funding agreements. The following table shows grant funding payments to be received by milestone, month and budget year:

Funding Milestones Rev 9			BY MILESTONE		
##	MILESTONE NAME		FED	STATE	CRC
# 01	Main DA (PAC) lodged	Feb-12			
		Mar-12	6,000,000		
# 02	Main Contractor appointed	Apr-12			
		May-12	6,000,000		
		Jun-12			
# 03	Commence main works on site	Jul-12			
		Aug-12		6,000,000	
# 04	Enabling works complete	Sep-12			
		Oct-12		8,538,000	
# 05	Substructure complete	Nov-12			
		Dec-12		7,462,000	
# 06	Stalls slab complete	Jan-13			
		Feb-13		4,586,000	480,000
# 07	LG Structure complete	Mar-13			
		Apr-13			10,639,000
# 08	1st Balcony complete	May-13			
		Jun-13			13,739,000
# 09	UG Structure complete	Jul-13			
		Aug-13	18,000,000		
# 10	Grid to flytower	Sep-13			
		Oct-13	10,000,000		
# 11	Lighting bridges to auditorium	Nov-13		7,931,000	
		Dec-13			
# 12	Roof over auditorium	Jan-14		10,425,500	
		Feb-14			
		Mar-14			
# 13	Plaza roof complete	Apr-14			11,047,500
		May-14			
		Jun-14			
# 14	Auditorium wall finishes complete	Jul-14		9,813,000	
		Aug-14			
		Sep-14			
# 15	Hard surface to plaza complete	Oct-14			8,304,000
# 16	Seats installed	Nov-14		2,550,000	167,000
		Dec-14			
# 17	White's Shed restoration complete	Jan-15			4,538,000
# 18	Sound / Technical systems complete	Feb-15			2,002,000
		Mar-15			
		Apr-15			
# 19	Practical completion	May-15			5,389,000
# 20	pre opening	Jun-15			1,000,000
			40,000,000	57,305,500	57,305,500

### **3.2 Option: Suspend the CEP project to provide more time for the incoming Council to consider the details of the current project and the implications of ceasing the project or attempting to relocate it to an alternative site**

Suspension of the project for say, a further month, until Council's Ordinary meeting in June 2012, will impact matters relating to:

- Supplier contracts
- External funding agreement commitments

The project status has already been reviewed to determine the most efficient means of immediately reducing project costs and to manage Council's contractual obligations, until Council provides its formal direction.

Overall, the delivery of the project is approximately 30% complete. Work is underway on and offsite, involving a wide range of personnel: more than 122 consultants in full and part time positions, 36 contractors and subcontractors working on White's Shed, Ports North (in its capacity as lessor and consent manager, government agencies (eg DERM), utilities (Ergon and Telstra), referral agencies involved in the Development Application process and Council staff. As detailed above, a number of tender processes initiated or completed, remain to be finalised.

The following provides an overview of options available and the action taken by the Project Control Group.

#### **3.2.1 Design and Advisory consultancies**

With the exception of the external project manager (Savills) who is required to review and approve current progress claims and manage the delivery of design documentation to the current stage, the PCG has instructed that all work to cease until further notice, and that no further costs are to be incurred from the date of notification, except at the specific request or direction of Council.

#### **3.2.2 ACONEX project documentation management**

Project communication across all design disciplines, drawing transmittals and 3D modelling are managed on the web-based document management platform Aconex, at no cost to Council, until the appointment of the managing contractor, who is then to take on the costs as part of the MC contract.

All project documentation remains secure on Aconex until further notice. Negotiation of termination costs has not yet commenced. Following a formal Council direction, Aconex will be requested prepare the project design files and records for permanent transfer to Council.

#### **3.2.3 Richard Field Constructions**

A formal suspension notice has been issued. The site has been secured as far as possible however site shed and power remain pending Council's direction.

### **3.2.4 White's Shed – HAZMAT assessment**

Douglas Partners have completed the initial Hazardous Materials survey, although further testing remains to be undertaken. The draft report has been prepared by Douglas Partners. Issue of the Final Report and related works have been suspended.

### **3.2.5 Geotechnical Survey**

Douglas Partners had identified a suitable drilling contractor to start on site with two weeks' notice. The drilling rig has been put on hold.

### **3.2.6 Managing Contractor Tender #2343**

Tenderers have been formally requested to hold their tender prices for 60 days until 25 May 2012. The tender assessment report is re-submitted for Council's consideration as a separate item on Council's meeting Agenda of 30 May 2012.

### **3.2.7 State Funding Agreement**

Under the terms of the executed Funding Agreement Council is to report monthly on the progress of the project, and to meet milestones as they fall due. These reports are provided as required.

The next State Government milestone (commencement of works on site) is due in August 2012 and will result in payment of \$6 million. This payment will be jeopardised if Council does not commence works on site in August 2012. Delaying the project by a further month at this stage will seriously impact Council's ability to meet this milestone and require Council to seek an extension of the date.

No correspondence has been received from the State Government regarding a change to the status of the Funding Agreement.

Staff continue to report on project actions and Council's direction to Arts Qld as required by the Funding Agreement.

### **3.2.8 Commonwealth Funding Agreement**

The Commonwealth Funding Agreement provides for the right to terminate the agreement at will, although as Council is not in breach of the agreement it is not known whether this provision would be invoked. The Commonwealth does however require the project to be funded in partnership by both Council and the State, and failure to retain partnership funding will jeopardise the Commonwealth Funding, and may result in termination.

Milestone 1 was completed on 30 March 2012 and the Commonwealth has been invoiced for the first payment of \$6 million plus GST. To date this invoice has not been paid. It could be expected that the payment will not be made until such time as the Council makes a commitment to continue with the project.

The second milestone, for which a further payment of \$6 million is to be received, is the appointment of the Managing Contractor on or before 31 May 2012. A delay will directly impact Council's ability to meet this milestone and would require urgent negotiations between Council and the funding body to seek an extension of the deadline.

### **3.2.9. Site Lease**

The 99 year site lease (at rent \$10.00 per annum) commenced on 14 March 2012 and the site is under the legal control of Council.

Ports North has been advised that works have been suspended and will be advised of Council's direction when known. Should the project not proceed Council will be in breach of the terms of the lease and may be exposed to a claim for damages.

### **3.2.10. Development applications**

Council has paid Development Application assessment fees of \$65,000 to Ports North, who has in turn engaged consultants to assess the three DAs submitted to date.

An extension of time for Information Requests has been agreed with Ports North in its statutory role as Assessment Manager.

### **3.2.11. Other issues – weather**

The current program and Funding Agreement milestones have been negotiated to accommodate the wet season, with early (in ground) works scheduled to start in late July 2012. Significant delay to program will impact on the ability to complete the scheduled works prior to the wet season.

## **3.3 Option - Terminate the CEP project immediately and commence planning for a replacement for the Civic Theatre on an alternative site**

In the event that Council resolves to terminate the current project immediately, it is recommended that Council would also then undertake the following actions:

1. Advise the State and Federal governments of its decision and the reasons for the decision; and seek to negotiate variations to the current funding agreements to accommodate the project on an alternative site.
2. Terminate all contracts.
3. Advise Ports North that Council will not continue with the project, repudiating the lease, and that it withdraws the Development Applications, seeking a refund, in part, of fees paid.
4. Advise all statutory authorities that negotiations and design work will cease.
5. Following termination of the lease by Ports North, advise relevant State departments and agencies that Council will no longer be responsible for White's Shed, and that Council will provide all relevant reports and findings to date.
6. Take all actions required to "wind up" the project, meeting the legitimate costs of the same from Council's Property Acquisition Reserve.

7. Advise the Traditional Owners and Elders, and all other stakeholders that the CEP project will not proceed.
8. Direct the project team to develop a communications plan to provide advice to the community regarding Council's decision.
9. Require a report be brought back to Council detailing the costs of implementing the above, including any costs associated with failure to proceed with the project as set out in the Project Assurance Framework Deed of Grant Funding between the State and Council.

Notwithstanding the requirement listed at 9 above, general advice in relation to the financial implications of such a decision is as follows:

**Scenario 1 – Council is unable to negotiate with the funding partners to secure grants and a replacement project does not proceed**

With regard to the Federal Government's outstanding \$6million Milestone 1 payment – the Funding Agreement is silent as to whether or not Council would have any claim to these funds in the event that the project was terminated. Council would need to seek legal advice on this aspect and include this advice in the report to be brought back to Council. Subject to the legal advice, Council officers are currently of the view that there is a high level of risk associated with Council being able to claim these funds, whether in full or in part. During funding negotiations the Commonwealth Government made it clear that the grant funds were to be used to create employment and deliver a completed project.

With regard to the State Government's \$2.5m grant funding payment (already received) for the Project Assurance Framework assessment of the project (including the Business Case) – staff would again seek legal advice as to the operation of the Agreement with respect to the repayment of funds. Council officers are currently of the view that Council would not have to repay the Business Planning funding as the work completed was a discrete business planning exercise for which funding has been acquitted.

Treatment of the expenditure incurred to date on the project (\$7,393,916) is expected to be as follows:

- from a cash position perspective, given the Funding Agreement positions outlined above, the following outcomes are possible (amounts rounded and subject to confirmation in a future report to Council):
  - incur a net cash loss of \$7.4m (assumes no grant retention) – possible
  - incur a net cash loss of \$4.9m (assumes retention of \$2.5m from State) probable
  - incur a net cash loss of \$0 (assumes grant retention) – unlikely
- from an accrual perspective, based on the information currently available, the full \$7.4m would be expensed and as such have a direct negative impact on Council's Operating Position for 2012/2013 financial year.

**Scenario 2 – Council is able to negotiate with the funding partner(s) to secure grants and a replacement project does proceed**

With regard to the treatment of the expenditure incurred to date on the project (\$7,393,916) - it will be necessary to determine what portion of the expenditure is specific to the CEP site. This expenditure, potentially approximately 80% or \$6m, would need to be expensed and will have a direct negative impact on Council's Operating Position for 2012/2013 financial year. Subject to Internal Audit confirmation, the balance of the expenditure that is non-site specific would be "transferable" to the new project. This means that the amount could be capitalised as part of the value of the new asset when completed.

With respect to the matter of an alternative proposal and location for a replacement for the Civic Theatre, it will be necessary for Council officers to produce a report that revisits and updates the previous project site selection reports. In producing the report it would be preferable that Councillors' views were sought and considered through a workshop format. It is estimated that it would require a minimum of two months to undertake this work and report back to Council formally with options, depending on the level of analysis required, and the confirmation of the design brief.

The absence of a firm alternative proposal and related business case will make the task of negotiating Funding Agreement variations with the State and Federal Governments more challenging in the short term.

**RATIONALE FOR RECOMMENDATION:**

The summary of CEP work undertaken over the past 18 months and more, demonstrates not only that the CEP project has been significantly implemented, but also provides some information about the complexity of a major public project: the design process for specialised buildings (both performing arts facilities and heritage-listed buildings), the business planning processes that are required, the consultation processes that support the development of the design briefs, the statutory and landowner processes, and the challenges in securing project funding, the timeframe and legal processes required for the procurement of consultants and contractors.

The Project Control Group recommends that Council approve the recommendation to enable the project to move forward in order to achieve the quadruple bottom-line outcome that underpins all Council operations: social, environmental, economic and cultural benefits for the community. More specifically, each of Council's objectives in each of these areas has been worked and re-worked to achieve the best possible outcome, within the time and budget available, taking into account all current issues and risks.

Key drivers of the recommendation to proceed are:

- The management of the project in a manner that ensures that the unprecedented level of external funding for the CEP project efficiently delivers the benefits of such funding directly to the Cairns region. The benefits of grant funding of almost \$100 million and the lease of the CEP site for a rent of \$10 per annum are to be optimised.
- The need to kick-start the economy in Cairns in 2012, creating and sustaining direct and indirect jobs and supply contracts through a strong and confident investment in public facilities of an enduring design and quality, to deliver value for money over several decades.
- The need to deliver a well-planned development that will contribute to the sustainable, long-term growth of the Cairns CBD through integrated masterplanning of the waterfront and the city centre, to create activity and attraction, even when the performing arts centre is closed.
- The need to achieve substantial commencement of the project works to meet Council's obligations under the funding agreements, ensuring that project funding is not lost, and project expenditure to date is not wasted.
- The need to fulfil Council's obligations to Ports North, as landowner and lessor, the commercial operator of the port, and assessment manager, in recognition of Council's obligations under the 99 year lease.
- Noting the high quality of consultants on the team, that Council maintain its contractual obligations to its consultants, to prevent the loss of resources within their teams, and to prevent the loss of key personnel to unrelated projects.
- The need to work with the Qld Department of Public Works (as owner of the Convention Centre) to ensure that the State's requirements regarding the link can be achieved, and that the State agency approvals required can be scheduled appropriately.
- The impact of the wet season on early works scheduling, and the consequences of delay on grant funding acquittal.
- Acknowledgment that there are no alternative plans, site, funding or business plans available for a different proposal.

### **CONSIDERATIONS:**

#### **Corporate and Operational Plans:**

Council's Corporate Plan 2009-2014 lists the establishment of a regional Performing Arts Centre and regional Museum advocacy as Corporate Projects.

Council's Cultural Plan 2009-2014 identifies the building of a regional Performing Arts Centre and the provision of support for the State government in establishing a Regional Museum as Outcomes Strategy 1 for cultural facilities.

These corporate objectives have now been substantially implemented.

Statutory:

The processes outlined in this report have been conducted in accordance with the provisions of the *Local Government Act 2009* and other relevant legislation.

Policy:

The Terms of Reference for the Cairns Entertainment Precinct Committee are listed in Policy No 1:05:08.

The CEP project has been planned to support numerous Commonwealth and State policies promoting cultural vitality and economic outcomes, including Indigenous employment and opportunity. These policies are detailed in the Project Assurance Framework – Strategic Assessment of Service Requirements.

Financial and Risk:

With commitments from all levels of government the Cairns Entertainment Precinct project is fully funded.

With external grant funding of \$97.3 million secured and the long term lease of the site at effectively no cost, Council is in an unprecedented position to deliver new performing arts facilities and a catalyst project to support the Cairns economy and the future development of the Cairns CBD.

If Council does not support the recommendation in this report, a range of risks will eventuate, including the following:

**Financial and Economic risks**

- No immediate kick-start to construction in Cairns – no jobs and no supply contracts, leading to the further loss of local and regional employment.
- Termination of employment of more than 150 consultants and contractors currently engaged on the project.
- Council will be in breach of its obligations under the Commonwealth and State Funding Agreements, entitling termination of the Agreements.
- Loss of \$97.3 million external project funding which is specifically tied to the CEP project and to its Business Case.
- Potential inability to secure new Commonwealth and State Funding. The Commonwealth Jobs Fund Program has expired and there are no available new funding programs providing a similar opportunity.
- If the project is terminated, Council will have repudiated the lease and Ports North as the lessor will be entitled to terminate the lease and claim damages from Council.

- If Council does not lodge its development documents in the prescribed periods under the lease, subject to service of a notice and failure to remedy this breach, Ports North will be entitled to terminate the lease and claim damages.
- Ports North may be required to repay \$31 million equity from State (as a result of the CEP project) which would otherwise benefit the region.
- Potential loss of project expenditure to date of approximately \$5 million (net of Business Planning grant funding).
- Potential inability to secure a new, suitable site on favourable terms, or for as little as \$10 per year.
- Loss of economic flow-on from the operating Precinct to the CBD and broader region.
- Loss of opportunity to attract or engage with tourists and visitors to the region through a cultural precinct which has been masterplanned for growth (including a regional museum) when funding is available.
- Loss of opportunity to add commercial value to nearby sites.
- Loss of opportunity to provide a catalyst for other CBD development – in turn creating further employment and demand for business services.
- Loss of opportunity to deliver a complex, specialised project at a time when the costs of labour and materials are low. As the economy improves, inflation of 3% per annum may add \$4.5million per year to a \$150 million project.
- Project “wind-up” costs resulting from termination of the project.
- Failure to prepare a detailed business plan for a different project will mean Council does not have the information required to complete its budget processes.

### **Project risks**

- Significant loss of time for a new project with a minimum of eighteen months to two years before construction could start, even if the site has been secured and funding achieved, due to the complexity of consultation, brief preparation, site feasibility and masterplanning, statutory processes for procurement, the proper completion of all required design phases allowing for community and Council review and approvals, value management, budget and cost management processes, and the statutory approvals process.
- Failure to secure a site on terms favourable to Council, and/or failure to achieve total project funding almost immediately, will almost certainly prohibit the completion of a different project, on a different site, within the current Council term.

- If the appointment of the current project team cannot be maintained by reason of the operation of the provisions of the Local Government Act 2009, loss of the project knowledge and the delay caused by the need to prepare design briefs, the preparation of expression of interest and tender documents, followed by the assessment process for more than twenty separate disciplines, will almost certainly prohibit the completion of a different project on a different site within the current Council term. Council's Purchasing Manager has provided preliminary advice that ordering a variation to the current consultant contracts for a different scope of work on a different site, is likely to contravene the statutory procurement provisions. Preliminary legal advice from solicitors expert in local government matters has also confirmed this view. It would also appear that Ministerial approval to retain the design team could not be obtained.
- Stakeholder and user distrust regarding project integrity and Council's ability to meet community needs after many years of consultations (from 2002) with no outcome.
- Loss of trust by external organisations and other levels of Government in Council's decision making ability and governance, if Council is in breach of its legal agreements.
- Failure to attract competitive tenders from consultants and contractors unwilling to invest in expensive bid processes, if unsure of Council's willingness to complete the project.

### **Social risks**

The CEP has been designed to meet the needs of all sectors of the community, and the broader region, to the Pacific rim, recognising that it is to be a hub for cultural activity, including outdoor performance and community celebrations that could be broadcast to remote communities. The Project Assurance Framework Assessment identifies numerous social benefits, which the consultants responsible for the financial and economic analysis, PricewaterhouseCoopers, identify as a significant output of the project.

Termination of the CEP project will result in the loss of benefits flowing from a *Precinct* although some of these will be retained through the building of a different project on a different site. It should be noted that the PAF assessment concluded that the refurbishment of the Civic Theatre would not deliver the social and cultural outcomes required.

### **Delivery risks**

Statements were made during the election period that a new performing arts centre would be delivered in the current Council term. The professional advice to Council is that two key ingredients are required to achieve this outcome:

(a) time to undertake all proper processes required to ensure that public facilities of quality, representing value for money, both in capital and operational costs, capable of meeting the needs of the community for at least the next 50 years can be achieved, within a sound governance framework; and

(b) project funding, sufficient to ensure the efficient delivery of a viable and affordable project.

At this stage, no alternative project has been defined and no alternative site secured. The terms on which sites not owned by Council could be available, are not known.

Capital costs could be reduced if the CEP project was terminated and a performing arts centre alone was delivered on another site, however the question of whether a saving could be achieved on Council's portion of the capital costs, and on the operational budgets, can only be determined after considerable preliminary work is completed, and when the quantum of available funding is known.

Given these circumstances it is unlikely that the current project could be terminated and a new project developed and delivered in less than four years if site selection, business planning, funding negotiations, consultation, procurement processes, masterplanning, design and development application processes, construction documentation and construction are to start again at the project inception stage.

### **Sustainability:**

A sustainability scorecard assessment for the CEP project has been completed. While the new development will generate increased GHG emissions (refer Resources assessment) the remainder of the project will generate improved outcomes for the community.

Specifically the assessment is as follows:

**Resources:** The delivery and outcome of the activity will contribute to an increase in greenhouse gas emissions. This is because the unused brownfield site will be fully developed for new performing arts and community facilities. The facility will result in greater use of water than is presently on site. Sustainable design is however an integral part of the design process and initiatives are included to minimise the use of resources.

**Environment:** The assessment recognises that the design will conserve biodiversity.

**Community:** The assessment shows the project will deliver significant and positive benefits for the community, improving the amenity of open space, and delivering improved programs and services.

**Governance:** The ongoing operational costs will be higher than the existing Civic Theatre, but that is to be expected for a new facility offering a greater level of user amenity and functionality. Otherwise the project significantly improves the work environment, and supports economic activity.



### **CONSULTATION:**

The Project Control Group has been consulted in the preparation of this report.

### **OPTIONS:**

Council may resolve to support the recommendation or resolve to support an alternative position.

If Council chooses not to approve the recommendation, it is recommended that Council then resolve to immediately take the following action:

1. Advise the State and Federal governments of its decision and the reasons for the decision and seek to negotiate variations to the current funding agreements to accommodate the project on an alternative site
2. Terminate all contracts.
3. Advise Ports North that Council will not continue with the project, repudiating the lease, and that it withdraws the Development Applications, seeking a refund, in part, of fees paid.
4. Advise all statutory authorities that negotiations and design work will cease.
5. Following termination of the lease by Ports North, advise the relevant Departments and agencies that Council is no longer responsible for White's Shed, and that Council will provide all relevant reports and findings to date.
6. Take all actions required to "wind up" the project, meeting the legitimate costs of the same from Council's Property Acquisition Reserve.
7. Advise the Traditional Owners and Elders, and all other stakeholders that the CEP project will not proceed.
8. Direct the project team to develop a communications plan to provide advice to the community regarding Council's decision.
9. Require a report be brought back to Council detailing the costs of implementing the above, including any costs associated with failure to proceed with the project as set out in the Project Assurance Framework Deed of Grant Funding between the State and Council.
10. Require a report to be brought back to Council setting out alternative site options for a replacement for the Cairns Civic Theatre.

**CONCLUSION:**

The Project Control Group recommends that, after consideration of all the circumstances, including the risks outlined above, it is in the public interest to proceed with the CEP project as scheduled.

Suggestions that a better outcome for the community could be achieved through the delivery of an alternative, and as yet unidentified, uncosted and unfunded project have not been tested, and the anticipated benefits of an alternative proposal must be balanced against the risk of losing project funding and the likelihood of failure to provide any facilities during the current Council term.

**ATTACHMENTS:**

Attachment A: The Civic Theatre and assessment of alternative sites

Attachment B: The Cairns Entertainment Precinct project history

Attachment C: Schedule of community consultation.

Linda Cardew

**Project Manager – Cairns Entertainment Precinct**

Lyn Russell *PSM*

**Chief Executive Officer**

## **Attachment A**

### **The Civic Theatre and assessment of alternative sites**

The need to replace the Civic Theatre has been the catalyst for the delivery of new performing arts facilities in Cairns.

The Cairns Civic Theatre can no longer meet the needs of the community and does not adequately support use by an ever-growing population. Opened in 1974, the building was designed for a community significantly smaller than today, and to a budget that was, even at the time it was built, inadequate to provide facilities of an enduring design and quality. By 1994, just 20 years later, Council started to look at its options – firstly to refurbish the Theatre, and later to rebuild on other sites within the Cairns CBD.

Over the past 18 years Council has examined the following options for the provision of new performing arts facilities:

- 1994      Cairns Civic Theatre Extensions – A Development Plan**  
Peddle Thorp Cleland Pty Ltd  
This study examined options to redevelop the Civic Theatre.
- 2002      A Regional Performing Arts Centre for Cairns**  
Positive Solutions  
This study was a user needs analysis for a Performing Arts Centre for the next 30 years.
- 2003      Cairns Regional Performing Arts Centre – Site selection study**  
Connell Wagner  
This study examined the existing Civic Theatre site, Munro Martin Park, Greenslopes Street, the Pier carpark, the site of the Cairns Port Authority Building, the QR Marshalling Yards, Cairns Council Administration Building site (Spence Street).
- 2005      Cairns Regional Performing Arts Centre Regional Economic Impact report**  
Cummings Economics  
This report compared the “value added” and employment generated in a regional economy if the Performing Arts Centre is proceeded with, compared with the option of remaining with the existing Civic Theatre.
- 2006      The Cairns Cultural Hub – Phase 1 Report**  
Cox Rayner  
This was a Feasibility Study into the integration and co-location of a Regional Performing Arts Centre and a Regional Museum (Hartley Street site).
- 2009      Cairns Cultural Precinct Planning Report**  
Department Public Works Project Services, Architectus and Total Project Group, Positive Solutions and Cairns Regional Council  
Feasibility study, user needs analysis, concept drawings for performing arts centre, museum, plaza and carparking on site owned by Ports North under the Cityport and Seaport Masterplans.

**2009 Cairns Cultural Precinct Development – Economic Impact Study**

AEC Group

Examines the economic impact of the cultural and commercial activities on the Cultural Precinct site.

From 1994 successive Councils rejected all options, and each of the sites proposed. Project funding could not be realised. In 2009 and now again in 2012, relevant Councils were and are faced with the same issue: how to deal with a building that cannot be cost-effectively refurbished or rebuilt. The Civic Theatre presents unacceptable accessibility, occupational health and safety, and maintenance issues; its users, including school children, are frequently forced to change, unpack instruments or gather outside prior to performing – again unacceptable, but even more so in the wet season. When benchmarked against other regional performing arts facilities, the Civic Theatre performs poorly in all respects.

Council, through its actions in looking at options for the replacement of the Civic Theatre, has acknowledged that this is not an acceptable position for a progressive city, and has consequently embodied its intention to provide new performing arts facilities in its corporate planning documents.

Council's *Corporate Plan 2009-2014* lists the establishment of a regional Performing Arts Centre and regional Museum advocacy as Corporate Projects.

Council's *Cultural Plan 2009-2014* identifies the building of a regional Performing Arts Centre and the provision of support for the State government in establishing a Regional Museum as Outcomes Strategy 1 for cultural facilities.

## **Attachment B**

### **The Cairns Entertainment Precinct project history**

#### **The Entertainment Precinct site**

The Entertainment Precinct site is owned by Ports North Corporation Pty Ltd, trading as Ports North. Ports North has unequivocally and publicly stated on many occasions that the site is not required nor intended for any future operational port uses. Ports' masterplanning documents have long proposed that its development is intended to provide a buffer between the commercial and retail uses within the Cityport precinct, and the operational Seaport precinct. Over the past two decades, nearby land, also owned by Ports and also located back from the waterfront, has been developed for commercial uses unrelated to port operations. Detailed assessment of Port operations and the proximity of the Port to the proposed CEP, have demonstrated to Ports North's satisfaction that there will be no conflict with Ports' operations now or in the future, even when taking into account future Port expansion.

In 2008, the site became available for consideration for use for community and cultural facilities, and having considered other sites without success, Council resolved to enter into a Heads of Agreement with the owner (at that time, Cairns Ports Limited), to determine the feasibility of the site for its proposed performing arts facilities, and for a regional museum.

**At Council's Ordinary Meeting of 11 December 2008 the following resolution was passed:**

*That Council*

- a) *agree to progress planning in respect of a cultural precinct, including a Regional Performing Arts Centre and a Regional Museum, in partnership with Cairns Ports Limited (CPL) under terms and conditions as identified in the attached Heads of Agreement between Council and the CPL; and*
- b) *delegate the power to make, vary or discharge the Heads of Agreement attached to this report for ss36, 485 and 486 of the Local Government Act 1993 to the Mayor and Chief Executive Officer for s483 of the Act, noting that clause 3.3 of the Heads of Agreement requiring the feasibility and business case for a Regional Performing Arts Centre will include financial and legal review of the matters set out in clause 8.*

In 2009 Council engaged Project Services, a business unit of the Queensland Department of Public Works, to conduct a feasibility study, comprising a user-needs analysis, concept designs, indicative budget and economic impact statement, to determine the viability of providing performing arts facilities on the site, and for the purpose of seeking funding from the State and Federal governments.

Unlike any other study conducted previously, the 2009 feasibility study provided sufficient information to enable the State and Federal governments to make substantial commitments, as funding partners, in the proposed project.

On 8 June 2010 the State announced its commitment as a one-third funding partner to making the Precinct a reality with a \$42.5 million contribution to the project consisting of a transfer of the State-owned port land valued at \$40 million and \$2.5 million as a one-third contribution of funding for detailed planning of the project.

### **Commonwealth government's commitment to funding**

On 9 July 2010, the Minister for Infrastructure and Regional Development, the Hon Anthony Albanese, announced the Commonwealth government's intention to commit \$40 million in funding for the project, from the Jobs Fund (Infrastructure Employment Program). Initially under the program project funding was to be acquitted by 30 June 2012, however the Commonwealth required the completion of the State Government's Project Assurance Framework Business Case, and the commitment of partnership funding from the State Government and Council, prior to the execution of a Funding Agreement, and consequently the release of funding.

Under the Commonwealth Funding Agreement executed on 7 March 2012, \$12 million is to be paid to Council (on completion of the agreed milestones) in 2011/2012. The remaining \$28 million will be paid on completion of the nominated milestones in FY 2013/2014. Under the terms of the Agreement grant funds are specifically tied to the CEP project, and are not to be used for any other purpose. The Jobs Fund (Infrastructure Employment Program) is now closed.

### **State Government's commitment to funding: Project Assurance Framework (PAF) assessment of the Entertainment Precinct project**

To determine the priority and affordability of the Cairns Entertainment Precinct project, the State government provided \$2.5 million for comprehensive business planning. The State requested Council to use the assessment tool utilised by the State government for all major projects: the Project Assurance Framework. An inter-agency committee facilitated by Arts Queensland, and comprising the Department of Public Works, the then Department of Infrastructure and Planning, and Queensland Treasury, worked with the Council team and its consultants for the following 12 months to complete the first three stages of that body of work. Further to a tender process, consultants pre-qualified to the highest State level were appointed to prepare the study.

**The first stage: the Strategic Assessment of Service Requirements** comprehensively interrogated the community's current and future needs for cultural and community facilities. It examined existing policies at local, state and commonwealth levels to determine how those needs would sit within the broader policy frameworks. It looked at the opportunities that cannot be currently met by the existing facilities, including the existing Civic Theatre, and the extent of the regional needs across Far North Queensland. The Strategic Assessment of Service Requirements was presented to Council and noted on 21 April 2011, and formally endorsed by the State government on 24 June 2011.

**The second stage comprised a Preliminary Evaluation of options identified to meet the community's needs.** As Council had previously examined eight separate sites across the Cairns CBD, and had explored the potential or otherwise to refurbish the Civic Theatre, the State government did not require that work to be revisited. Instead the State directed that two masterplan and two design concept options be developed and evaluated for the proposed site. A design and advisory team comprising highly qualified architects and supporting subconsultants was engaged by Council further to competitive tender processes to undertake this work, which later included a series of staging options to align delivery with the current available or anticipated funding.

Council formally noted the Preliminary Evaluation at the CEP Committee meeting on 21 September 2011.

**The third stage comprising the Business Case** examined the preferred construction staging option and compared it to the “do nothing” option, that is to retain the Civic Theatre. The Business Case was developed in accordance with methodologies required by the Project Assurance Framework and at the direction of Queensland Treasury. It was reviewed by all relevant state agencies prior to submission to the Cabinet Budget Review Committee in November 2011.

Council formally noted the Business Case at the CEP Committee meeting on 16 November 2011.

In addition to the Project Assurance Framework assessment, the State government required Council to undergo a **Financial Sustainability Review**, which was conducted by Queensland Treasury Corporation.

Council formally noted the Financial Sustainability Review at the Finance and Administration Committee meeting on 16 November 2011.

### **Community consultation and communication completed to date**

Throughout 2010 and 2011, and in conjunction with the preparation of Briefs and the design work, Council conducted a range of consultation sessions and communications to ensure the project was capable of delivering the cultural facilities that the community needs, and to seek input into the design process. Diverse groups of stakeholders were invited to describe their requirements, including schools, local performing arts and community organisations, business representatives, Cairns Port users and stakeholders, Indigenous and multicultural users, representatives from the disability sector, State and Commonwealth agencies, industry associations and professional bodies. The broader community was invited to participate in eight sessions with the architectural design team to review and comment on the masterplan and concept design options as they were being developed. A schedule of consultations is **attached**.

### **Masterplan and Concept Design Options completed**

Following the community consultations conducted throughout the first half of 2011, the Masterplan options and Concept Design options were completed in early August 2011, and a comprehensive report, including reports from all subconsultants and the cost planner were presented to the CEP Committee on 17 August 2011.

The CEP Committee received the report and resolved as follows:

*That the Entertainment Precinct Committee:*

1. *Receives the Masterplan and Concept Design Report for the Entertainment Precinct site dated July 2011 prepared by CA Cox Rayner Architects and the supporting design and advisory consultants.*
2. *Resolves to no longer pursue Masterplan Option 1 for the purpose of the Project Assurance Framework, as Masterplan Option 2 provides the following superior outcomes:*
  - (a) it has the potential to deliver a superior urban design outcome*
  - (b) it has attracted greater community support through the community and other stakeholder consultations to date*
  - (c) it has a greater level of functionality and user amenity, and a higher degree of flexibility to meet the needs of a growing population*
  - (d) it offers a superior level of protection against storm surge and flooding*
  - (e) it has the potential to achieve more commercial revenue*
  - (f) it will provide a superior level of “buffering” between the Cityport South and Seaport precincts; and*
  - (g) it provides significant advantages in the staging of construction.*
3. *Directs the design team to investigate how Masterplan Option 2 can support staging solutions compatible with available and anticipated funding.*
4. *Directs the CEO, through the project team, to prepare the development application, taking into account staging solutions, and to report to Council on the outcomes, prior to lodgement.*

### **Council’s commitment to funding**

On 21 September 2011, Council resolved:

*... In order to secure grant funding for the Cairns Entertainment Precinct comprising \$40million from the Commonwealth Infrastructure Employment Program committed by Minister Albanese in July 2010, and a requested contribution of \$57.3 million from the State Government, to*

- a) *deliver Option 6, Stage 1 as detailed in the Project Assurance Framework: Preliminary Evaluation assessment dated September 2011; and*
- b) *provide \$57.3million over the three year construction period, being the balance of \$154.6million total funding required, subject to a satisfactory outcome from the State’s independent Financial Sustainability Review of Council’s finances and completion of the required Business Plan to the satisfaction of the State Government.*

## **Presentation of Project Assurance Business Case and Financial Sustainability Review**

On 19 October 2011 the Project Control Group made a number of recommendations to the CEP committee regarding the Expression of Interest for the managing contractor and the bringing forward of Phase 4 fees to enable the development applications to proceed. Council resolved as follows:

*That Council continues to support, in principle, the decisions necessary to progress the architectural rainforest design and further appointments of Consultants, subject to a report being presented to Council detailing the budget impacts on the ten year modelling following the QLD Treasury Financial Sustainability Review and also the Project Business case. This report to be workshopped prior to consideration by council at the next Entertainment Precinct meeting in November 2011.*

**At its Ordinary meeting on 26 October 2011** Council noted a report from the Project Control Group on the issues arising from the decisions of the Entertainment Precinct Committee on 19 October 2011.

**On 16 November 2011 the CEP Committee** noted the final Business Case, and a report on the impact of the Financial Sustainability Review, both of which had been previously workshopped with Councillors.

In early December 2011 the Queensland Cabinet approved the CEP Business Case and Arts Queensland advised Council that State Funding for the CEP project had been committed.

**At its Ordinary meeting of 14 December 2011 Council resolved as follows:**

1. *That Council notes the State Government's decision to allocate \$57.3 million (in addition to the 99 year lease of the land at a peppercorn rental) to the Cairns Entertainment Precinct project and that this decision, together with \$40 million Federal funding, now secures total external funding of \$97.3 million for this project.*
2. *That Council resolves:*
  - *to prepare and execute Grant Funding Deeds with the State and Commonwealth governments to ensure that these are finalised in a timely manner*
  - *to take all required actions for the lodgement of development applications and to progress the design*
  - *to enter into any agreements with Ports North in relation to access and use of the land*
3. *That Council resolves that it is in the public interest to call for Expressions of Interest from building contractors suitably qualified to undertake the role of Main Works Contractor for the Entertainment Precinct Project, noting that the recommendation regarding the selection of the contractor will be brought back to Council for approval prior to appointment.*

4. *That Council delegates operational and financial authority to the CEO in accordance with section 257 of the Local Government Act 2009 to execute actions detailed in recommendation 2 above and as previously resolved by Council, including delegation to approve works in excess of \$150,000, in order to finalise any and all matters (including awarding of tenders and expenditure for contracts) required to continue project works during the period 14 December 2011 to Ordinary meeting on the 25 January 2012.*
5. *That Council resolves to formally request approval from the Minister for Local Government and Planning in accordance with Section 90 B of the Local Government Act 2009, for Cairns Regional Council to make major policy decisions in relation to the design and development approval stages of the Cairns Entertainment Precinct including awarding of the Managing Contractor tender during the Local government election caretaker period.*

In late December 2011 and through January 2012, the above resolutions were implemented. Funding Agreements were negotiated and executed. Negotiations regarding the site lease were concluded, and following the granting of Ministerial approval, the site lease was executed. The Expression of Interest documents for the Managing Contractor were prepared and advertised, and a project briefing for interested contractors conducted in early January. Tender documents and the draft contract were prepared over several weeks, shortlisting interviews conducted and the Managing Contractor tender process and assessment conducted through February, March and April 2012.

In accordance with Council's resolution above, Ministerial approval was sought, and granted (in January 2012) for Council to make a major policy decision to award the Managing Contractor tender during the caretaker period, in order to meet the Commonwealth Government's requirement to acquit grant funding within the required timeframes.

Project works continued with the appointment of the design consultants for the Phase 4 of the works (Detailed Design) in late January 2012.

Following the granting of Owner's Consent to the lodgement of the Development Applications, three DAs were lodged with Ports North as the Assessment Manager on 30 March 2012.

**Attachment C: Community consultations from mid 2010 – October 2011**

Date	Type (community / stakeholder and reference groups)
<b>August – November 2010</b>	15 x 1 hour weekly information sessions across all areas of the LGA
5/8/10	Access and Equity Advisory Group
17/8/10	Library supervisors consultation re education
23/8/10	Douglas Advisory Board
25/8/10	UMI Arts Board consultation
31/08/2010	Local architects consultation
9/9/11	Urban Design Advisory Board
10/09/10	Qld Symphony Orchestra CEO
<b>October/November 2010</b>	Rowland community survey and focus groups
6/10/10	Access and Equity Advisory Board
8/10/2010	General Manager Tjapukai
17/1/11	Performing arts, events staff, others
17/1/11	Ports users
18/1/11	Ports users
18/1/11	Multicultural
18/1/11	Indigenous
19/1/11	Indigenous Others
19/1/11	Performing Arts
20/1/11	Schools / Education
20/1/11	Business
20/1/11	Port user
20/1/11	Torres Strait Is consultation
21/1/11	Traditional Owner – Tjapukai
28/1/11	Museum Reference Group
28/4/11	Indigenous Advisory Committee
3/5/11	Masterplan – broad community (2 sessions)
24/5/11	Masterplan – broad community (2 Sessions)
14/6/11	Concept Design – broad community (2 sessions)
1/7/11	Concept Design – broad community (2 sessions)
5/7/11	Multicultural Advisory Group
6/7/11	Ports stakeholders
6/7/11	Performing arts
7/7/11	Schools and Education stakeholder
18/7/11	YEA! (Young people)
19/7/11	Indigenous Gimmuy Yidinji traditional owners and others
9/8/11	Indigenous Irrukandji (Cairns)
3/9/11	Mallanbarra Yidinji (Gordonvale)
5/9/11	Kuku Yalanji (Mossman)
24/10/11	Djabugay (Kuranda)
26/10/11	Gungandji (Yarrabah)