



SHIRE OF
COCOS
KEELING
ISLANDS

NOTICE OF MEETING

Dear President and Councillors,

I advise that the Ordinary Meeting of Council will be held in Council Chamber, Home Island on Wednesday, 22 May 2019 commencing at 1.00pm.

Andrea Selvey
Chief Executive Officer

COUNCILLORS PLEASE NOTE:

DISCLAIMER

The advice and information contained herein is given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

Please note this agenda contains recommendations which have not yet been adopted by Council.

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Disclaimer

Members of the public should note that in any discussion regarding any planning or other application that any statement or intimation of approval made by any member or officer of the Shire during the course of any meeting is not intended to be and is not to be taken as notice of approval from the Shire. No action should be taken on any item discussed at a Council meeting prior to written advice on the resolution of the Council being received. Any plans or documents contained in this document may be subject to copyright law provisions (Copyright Act 1968, as amended) and the express permission of the copyright owner(s) should be sought prior to the reproduction.

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1. OPENING/ANNOUNCEMENTS OF VISITORS

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4. PUBLIC QUESTION TIME

In accordance with section 5.24(1) (a) of the Local Government Act 1995, time is allocated for questions to be raised by members of the public, as follows:

(1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.

(2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in sub regulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

Pursuant to regulation 7(4) (a) of the Local Government (Administration) Regulations 1996, questions from the public must relate to a matter affecting the local government.

In accordance with section 5.25 (1) (f) of the Local Government Act 1995 and the Local Government (Administration) Regulations 1996 regulation 11(e) a summary of each question raised by members of the public at the meeting and a summary of the response to the question will be included in the minutes of the meeting.

Where a question is taken on notice at the meeting, a summary of the response to the question will be included in the agenda for the following Council meeting.

5. LEAVE OF ABSENCE

The Local Government Act 1995 (Section 2.25) provides that a Council may, by resolution, grant leave of absence to a member for Ordinary Council Meetings. A member who is absent, without first obtaining leave of the Council, throughout three consecutive Ordinary meetings of the Council is disqualified from continuing his or her membership of the Council. Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The leave cannot be granted retrospectively. An apology for non-attendance at a meeting is not an application for leave of absence.

5.1 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Councillor	Date of Leave	Approved by Council
NIL		

5.2 APPLICATION FOR LEAVE OF ABSENCE

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

OFFICER RECOMMENDATION

THAT THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 24 APRIL 2019 BE CONFIRMED AS A TRUE AND CORRECT RECORD.

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

9. DECLARATION OF INTERESTS

10. REPORT AND RECOMMENDATIONS OF COMMITTEE

10.1 FINANCE

10.1.1 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDING 30 APRIL 2019

Report Information

Date: 17/05/2019
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.1.1 Statement of Financial Activity with accompanying notes 30 April 2019

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To inform Council of the financial position of the Shire at 30 April 2019 in compliance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Monthly Financial Statements for the period 1st July 2018 to 30th April 2019 are presented for consideration.

Comment

The Monthly Financial Report is prepared in accordance with the requirements of the Local Government Act 1995 and Local Government (Financial Management) Regulations.

A statement of Financial Activity with accompanying notes is attached for the periods 1 July 2018 to 30 April 2019.

Policy and Legislative Implications

Regulation 34 of the Local Government (Financial Management) Regulations 1996 requires all Local Governments to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure for the month in question.

Financial Management Regulation 34 also requires this statement to be accompanied by:-

- A. An explanation of the composition of the net current assets, less committal assets and restricted assets;
- B. An explanation of material variances; and
- C. Such supporting information that is relevant to the Local Government

Financial Implications

Nil

Strategic Implications

Nil

Conclusion

That the financial statements for the period 1st of July 2018 to 30th April 2019 be received.

OFFICER RECOMMENDATION – ITEM NO 10.1.1

THAT THE FINANCIAL STATEMENTS FOR THE PERIODS 1ST OF JULY 2018 TO 30TH OF APRIL 2019 BE RECEIVED.

10.1.2 SCHEDULED OF ACCOUNTS PAID FOR PERIOD 1-30 APRIL 2019

Report Information

Date: 16 May 2019
 Location: Not applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Senior Finance Officer
 Island: Shire Wide
 Attachments: 10.1.2 Schedule of accounts paid
 10.1.2 Credit MasterCard

Authority / Discretion

Definition

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<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To inform Council of funds disbursed for the period 1st April 2019 -30th April 2019

Relevant Documents

Available for viewing at the meeting

Nil

Background

A list of accounts paid between 1st and 30th April 2019 is attached

Comment

The schedule of accounts paid is submitted in accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996.

Policy and Legislative Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Conclusion

That Council receives the list stating all accounts paid for April 2019.

OFFICER RECOMMENDATION – ITEM NO 10.1.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO CREDITOR PAYMENTS FROM THE MUNICIPAL FUND FOR THE PERIOD 1/4/2019 TO 30/4/2019, INCLUSIVE OF MUNICIPAL CHEQUE NUMBER 11553, EFT 6479 TO EFT 6511, DIRECT DEBIT SUPERANNUATION'S AND MASTER CARD PAYMENTS TOTALLING: \$133,413.78.

10.1.3 BUDGET AMENDMENT - BRICK PAVING RENEWAL

Report Information

Date: 17/05/2019
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: Nil

Authority / Discretion

Definition

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<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

This report seeks a Council resolution to formalise amendments to the budget as the result of a funding agreement with the Department of Infrastructure and Regional Development and Cities for the renewal of a section of brick paving on Home Island.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Shire has been successful in securing a funding agreement from the Department of Infrastructure, Regional Development and Cities (the Department) to renew a degraded section of Brick Paving on Home Island. The funding agreement runs over two financial years (2018/19 and 2019/20) and is for a total of \$258,694.25.

Comment

The recent master planning identified renewal of brick paved roads on Home Island as a priority; therefore the Shire was very appreciative of a funding opportunity presented by the Department and entered into a funding agreement to commence this work. The Shire identified 1293sqm of road along Jalan Pantai to be renewed under this agreement. The work will commence manufacturing the bricks in the 2019/2020 year however a budget amendment is needed to reflect the cost of the cement required to be purchased and the freight of those materials that will fall the in current financial year. The first milestone payment is also scheduled to be received in the current financial year and therefore also requires a budget amendment.

Policy and Legislative Implications

Local Government (Financial Management) Regulations 1996

Financial Implications

The full \$73,100.40 cost of the purchase and freight is offset by the first milestone payment to be received from the funding agreement with the Department of Infrastructure, Regional Development and Cities. Therefore there is no net impact on the Shire's financial position.

Strategic Implications

Shire of Cocos (Keeling) Islands Corporate Business Plan 2018/2019 – 2021/2022 CL4.1.4.3
Maximise grant funding opportunities.

Shire of Cocos (Keeling) Islands Corporate Business Plan 2018/2019 – 2021/2022 CL4.1.5.1
Develop and implement a sound asset management framework for all classes of assets.

Conclusion

The officer's recommendation to is Council is that budget amendments as outlined in the report are approved given that there is no net impact on the Shire's financial position and that the funding will enable a master plan priority project to commence.

OFFICER RECOMMENDATION – ITEM NO 10.1.3

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTION 6.8 (b) OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) RESOLVES TO MAKE THE FOLLOWING AMENDMENTS TO THE SHIRE OF COCOS (KEELING) ISLANDS 2018/19 BUDGET:

GL NUMBER	JOB NUMBER	DESCRIPTION	AMOUNT
122316		ROADS – CAPITAL FUNDING	(73,100.40)
123410	C548	ROAD RENEWAL - JALAN PANTAI	73,100.40

10.1.4 DIFFERENTIAL RATING 2019/2020 FINANCIAL YEAR

Report Information

Date: 17 May 2019
 Location: Not Applicable
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: Nil

Authority / Discretion

Definition

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<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
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<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To present information to Council on rates modelling and obtain Council approval to give public notice of its intention to adopt differential rates and minimum payments for the 2019/2020 financial year.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Local Government Act 1995 as amended, provides that before imposing differential general rates or a minimum payments applying to a differential rate category, a local government is to give 21 days' local public notice of the intention to do so. Where a local government proposes to modify the proposed rates or minimum payments after considering any submissions received during the advertising period, it is not required to give local public notice of the modified rate or minimum payment.

The Local Government Act 1995 as amended provides that a local government may impose differential general rates according to any, or a combination, of the following characteristics:

- A. The purpose for which the land is zoned under a town planning scheme in force under the Town Planning and Development Act 1928
- B. The predominant purpose for which the land is held or used as determined by the local government;
- C. Whether or not the land is vacant; or
- D. Any other characteristic or combination of characteristics prescribed.

Comment

Every four years the Office of the Valuer General undertakes a revaluation of all properties on Cocos (Keeling) Islands. This process was recently completed with the new Gross Rental Values for all properties to commence from 1 July 2019. Overall there was a 3.86% increase in Gross Rental Values across the shire from \$3,418,814 to \$3,550,849. Therefore when considering the proposed rates in the dollar below, consideration needs to be given that there has been a change in the Gross Rental Value base and that comparing the Total Rate Revenue figures will give a clearer overall picture of the effect of the proposed differential rates.

The total value of rates revenue raised is proposed to increase by an amount of 2.85%; however increases in each category of differential rate will differ as a result of one or more of the following:

- The revaluation by the Valuer General;
- Section 6.33 (3) of the Local Government Act which provides that in imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it;
- Section 6.35 of the Local Government Act 1995 which sets out limitations on the percentage of minimum payments imposed without approval of the Minister.

The application of differential rates aims to provide a more equitable solution for the rates charged according to the use of the property. The land use is the recommended way to

determine the categories and following are the intended differential rates for the 2019/2020 financial year.

RATING CATEGORY	RATE IN \$ 2019/20	MINIMUM RATE 2019/20	TOTAL RATE REVENUE 2019/20	RATE IN \$ 2018/19	MINIMUM RATE 2018/19	TOTAL RATE REVENUE 2018/19
GRV General Developed	.1090	\$ 705	\$241,673	.1106	\$690	\$234,633
GRV Undeveloped	.2175	\$ 800	\$16,622	.2185	\$805	\$16,708
GRV Business	.1150	\$ 705	\$113,193	.1158	\$690	\$109,901
GRV Holiday Accommodation	.1617	\$ 705	\$42,246	.1623	\$690	\$41,017

Policy and Legislative Implications

Sections 6.33, 6.35 & 6.36 of the Local Government Act 1995 as amended.

Financial Implications

If imposed the above rates would yield revenue of \$413,733 comprising a 2.85% increase in total rates revenue raised compared to the 2018/2019 year.

Strategic Implications

Nil

Conclusion

Although the Long Term Financial Plan (LTFP) forecasts rate increases at 2% the increase of 2.85% in total revenue is consistent with increases imposed over the past 4 years of approx 3%. It is noted that a review of the Long Term Financial Plan is required and is anticipated for the 2019/2020 year. Therefore, the officer's recommendation is for the proposed differential rates and minimum payments as outlined below be considered by Council for advertising.

OFFICER RECOMMENDATION – ITEM NO 10.1.4

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 6.33, 6.35 AND 6.36 OF THE LOCAL GOVERNMENT ACT (WA) (CKI) RESOLVES TO GIVE LOCAL PUBLIC NOTICE ITS INTENTION TO ADOPT THE FOLLOWING DIFFERENTIAL RATES AND MINIMUM PAYMENTS FOR EACH OF THE FOLLOWING RATING CATEGORIES IN THE 2019/2020 FINANCIAL YEAR.

RATING CATEGORY	RATE IN THE DOLLAR	MINIMUM RATES
GRV GENERAL DEVELOPED	0.1090	\$ 705
GRV UNDEVELOPED	0.2175	\$ 800
GRV BUSINESS	0.1150	\$ 705
GRV HOLIDAY ACCOMMODATION	0.1617	\$ 705

10.2 LEASES

10.2.1 BIG BARGE CARETAKERS

Report Information

Date: 30 April 2019
 Applicant: Emma Washer
 File Ref:
 Location: Big Barge, Part Lot 100 Sydney Hwy
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: West Island
 Attachments: 10.2.1 Confidential Email from E Washer

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
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<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

This matter brings a request from the lessee of the Big Barge, Emma Washer, to appoint a caretaker at the Big Barge for a period of up to two years, before Council.

Relevant Documents

Available for viewing at the meeting

Current Lease

Background

Ms Washer holds a current lease with the Shire of Cocos (Keeling) Islands that commenced on 1 March 2016 and expires on 28 February 2026.

Clause 2.3 of Schedule 2 of the lease states:

(b) where the Lessee is to be absent from the Cocos (Keeling) Islands for a period which exceeds 3 months in any period of 12 months, the approval is in the Lessor's absolute discretion.

The Shire has received a formal written application (Attachment 10.2.1) from Ms Washer to appoint a caretaker for a period of up to 2 years while Ms Washer and her family are off-Island.

Comment

The lease provides no guidance regarding reasons for approving or denying a request, only that any such requests are at the Lessor's absolute discretion. However, Council has previously granted approval for caretakers to be appointed for periods that the lessee away from Cocos, albeit for shorter periods of time.

The lessee has outlined the credentials of the temporary caretakers and the officer is satisfied that the temporary caretakers will ensure the business provides a tourism and community development product that would add value to the Islands. The officer also believes that allowing the Big Barge to be vacant for this period will not be a good outcome for the community or for tourism.

Policy and Legislative Implications

In April 2019, Council formally adopted a Caretaker's Dwelling Policy which included a requirement for applications to appoint temporary caretakers for periods exceeding six months to be presented to Council. Therefore, in accordance with Council policy, this matter is being formally brought before Council.

Financial Implications

Nil

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016 -2026 Outcome 1.1 Encourage economic stability for the Islands.

Conclusion

The recommendation to approve this request is based on the strong credentials of the temporary caretakers and the view that allowing temporary caretakers will provide a better outcome for the community than allowing the facility to remain vacant for up to two years.

OFFICER RECOMMENDATION – ITEM NO 10.2.1

1. THAT COUNCIL, IN ITS CAPACITY OF TRUSTEE OF THE LAND TRUSTS AND THEREFORE THE LESSOR OF THE PROPERTY IN QUESTION RESOLVES TO APPROVE THE APPLICATION BY THE LESSEES OF PART LOT 100 SYDNEY HWY (THE BIG BARGE) TO APPOINT CARETAKERS WHO WILL BE LOCATED AT THE BIG BARGE FOR A PERIOD NOT EXCEEDING TWO YEARS COMMENCING IN JANUARY 2020 ON THE FOLLOWING CONDITIONS:

- **THAT THE BIG BARGE ART CENTRE CONTINUES TO OPERATE AS A BUSINESS INCLUDING MAINTAINING, AS A MINIMUM, THE 15 HOURS OF SET OPENING HOURS EACH WEEK;**
- **THAT THE LESSEES DO NOT CHARGE ANY RENT OR DERIVE ANY OTHER DIRECT FINANCIAL BENEFIT FROM THE CARETAKER'S DWELLING;**
- **ALL LEASE CONDITIONS ARE OBSERVED.**

10.2.2 DIRECTION ISLAND RESORT PROPOSAL – STAKEHOLDER AND COMMUNITY ENGAGEMENT OUTCOMES REPORT, APRIL 2019

Report Information

Date: 13 May 2019
 Applicant: Cocos Boronia Resort Pty Ltd
 File Ref:
 Location: Lot 102
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Direction Island
 Attachments: 10.2.2 Stakeholder and Community Engagement Outcomes Report, April 2019
 10.2.2 Direction Island Presentations

Authority / Discretion

Definition

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<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Executive Summary

This items brings the outcomes of public submissions and the Community Reference Group (CRG) recommendations on an unsolicited proposal from Chris Blakeman of Cocos Boronia Resort Pty Ltd to Council for consideration and seeks Council direction on a response to Mr Blakeman. As this is a land leasing issue it should be noted that Council, in this instance, is acting in its capacity as the Trustee of the Land Trusts as the Land (Lot 103) is held in Trust.

Council as the Trustee, in making any decision in relation to the Trusts, must give due consideration of the purpose of the Trusts, that is, *the benefit, advancement and wellbeing of the community formed by Kampong residents; and the wellbeing of Cocos Islanders*, and ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to dispose of Land held in Trust to the Lessee.

Relevant Documents

Available for viewing at the meeting or prior to the meeting by request

Nil

Background

At the Ordinary meeting of Council on 24 January 2019, Council resolved to:

1. *IMPLEMENT THE COMMUNITY AND STAKEHOLDER ENGAGEMENT STRATEGY AS PER ATTACHMENT 10.2.2 TO SEEK COMMUNITY AND STAKEHOLDER VIEWS ON THE REQUEST FROM CHRIS BLAKEMAN OF COCOS BORONIA RESORT PTY LTD THAT COUNCIL COMMITS TO NEGOTIATING EXCLUSIVELY WITH COCOS BORONIA RESORT PTY LTD IN GOOD FAITH, SUBJECT TO STATUTORY PROCESSES, FOR LEASING LAND ON DIRECTION ISLAND TO DEVELOP A RESORT;*
2. *CONSIDER THE RECOMMENDATIONS FROM THE COMMUNITY AND STAKEHOLDER ENGAGEMENT AND ANY PUBLIC SUBMISSIONS AT AN ORDINARY MEETING OF COUNCIL IN MAKING A DETERMINATION ON THE REQUEST FROM COCOS BORONIA RESORT PTY LTD; AND*
3. *ADVISE THE PROPONENT THAT ANY DECISION TO PROGRESS WITH A LEASE WOULD NEED TO ADHERE TO THE STATUTORY PROCESSES AS REQUIRED BY SECTION 3.58 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) AND ASSOCIATED REGULATIONS.*

This resolution of Council was in response to a request from Mr Blakeman in November 2018 for a level of assurance from Council that they would be willing to consider leasing land on Direction Island to Cocos Boronia Resort Pty Ltd for the purpose of developing a resort. The specific request from Mr Blakeman was that Council would deal exclusively with Cocos Boronia Resort Pty Ltd as a proponent for the potential to lease a parcel of land on Direction Island.

The proposal was detailed in a letter dated 10 January 2019 from Mr Blakeman which was attached to the officer's report on this matter in the 24 January Council agenda.

A summary of the proposal is as follows:

The proposed site is Direction Island - north of the jetty. The proposal is for a 60 room resort to commence the project with 160 rooms as upper limit for the resort. The proposal includes

20 over-water bungalows. Other facilities proposed include a swimming pool, restaurant, bar, spa, independent arrival jetty, reception and four water taxis.

In support of his request Mr Blakeman has provided various reports and information to proceed with public consultation. This material was considered by Council at the 24 January 2019 Council meeting and subsequently made available to the Community.

The land on Direction Island is owned by the Shire freehold, subject to the Cocos Land Trust. It is zoned Parks and Recreation. The Scheme states that:

2.1.2 A person or body shall not use or commence or carry out development on land or within a waterway reserved under this Scheme without first applying for and obtaining development approval of the local government. In determining an application for development approval the local government shall have regard to: (a) the matters set out in Part 9 of the deemed provisions. (b) the ultimate purpose intended for the reserve.

(See further in this report for an extract from the Deemed Provisions.)

The Commonwealth has responsibility of territorial waters until the high-water mark. Beyond this point, for Direction Island, is the responsibility of the Shire. As the proposal includes a development over the water (for which the Commonwealth has responsibility) Shire representatives have spoken with officers at the Department of Planning, as agents of the Commonwealth, to enquire about their process for considering this proposal. The intent is to ensure the Shire and the Commonwealth processes are aligned and complementary. The Department advised that Mr Blakeman has been in contact with them about this proposal and that they are prepared to be flexible and will strive to support the Shire in its preferred approach.

Noting that this proposal would elicit strong public interest, Council supported a stakeholder and community engagement process to gauge public interest in the concept to inform Council deliberations on the proposal. The outcomes report is now presented for Council consideration. See Attachment 10.2.2.

In summary:

Public Submissions - a total of 18 public submissions were received, 5 were in support, 10 were against, 1 was in support of some level of development but of a lesser scale than the current proposal, and 2 made observations rather than stating a position.

Community Reference Group (CRG) - of the 23 participants, 20 supported the proposal in some form while 3 did not support the current proposal. Of the 20 who supported the proposal in some form, 12 recommended that Council support the Cocos Boronia Resort proposal, with conditions, while 8 felt that Council should not deal exclusively with Cocos Boronia Resort.

Of those 12 who supported the current proposal, the conditions they recommended Council consider were:

- Size and scale – 5 felt it should be smaller while 7 recommended that 60 rooms was acceptable.
- Local employment – an overwhelming condition recommended by the CRG was a commitment to local employment and up-skilling of local people.
- Halal section – the majority of the CRG felt that any resort development should include a Halal section. Associated conditions included the requirement for a social impact study and cultural awareness officer.
- Environment – environmental studies were an important consideration.
- Flights and freight – a condition that the resort comes with its own flight and freight services was another recurring theme.

The 3 people who voted against the proposal gave the scale of the proposal as their primary concern.

It is important to note that this is a preliminary engagement and does not meet the statutory requirements for disposal of property (by lease) as required by Section 3.58 of the *Local Government Act 1995 (WA) (CKI)*. Should Council resolve to proceed with negotiations, the statutory process would need to be implemented prior to Council making a final decision regarding a lease.

The officer's recommendation is for Council to receive the report on outcomes from the engagement and to authorise the Chief Executive Officer to enter into negotiations with Cocos Boronia Resort regarding conditions of a potential lease. Negotiations on lease conditions would include seeking a response from the proponent regarding the conditions recommended by the CRG, defining the area and obtaining a valuation, due diligence conditions such as environmental impact assessments, social and cultural impact assessments, full detailed business plan and finances, timeframes and qualitative, objective criteria for assessing due diligence.

Comment

1. The community engagement shows that a reasonable proportion of the community is in favour of, or not opposed to, some development on Direction Island provided that there are economic development outcomes. The Community and Stakeholder Engagement strategy approved by Council for this project identified the level of engagement as "Involve". This means that while Council has not delegated its decision making authority in this matter, it has committed to listen to community input in making their decision.
2. The results of a survey of Tourism Association members by the Tourism Marketing Manager shows that members felt there is a need for more accommodation and some appetite for Direction Island to be considered; noting that there was less support for this

particular proposal. (The details of the survey are in the Tourism Presentation attached to the Stakeholder and Community Engagement Outcomes Report, April 2019.)

3. The Shire's Corporate Business Plan 2018/19 to 21/22 identifies Economic Development as a Key Result Area and includes the Theme of "Economic stability and improved potential for economic development and diversity for the Islands."

The objective aligned to this Key Result Area is to "Support and assist Tourism in recognition of its importance as an economic driver."

4. The officer's recommendation provides for negotiations to commence, not a commitment to a lease; noting that any negotiations would need to include very tight timeframes and qualitative criteria.

Should Council, after all the above has been considered, agree to a lease, it is important to note that prior to the project being able to be progressed it is a legislative requirement that the proponent lodges a Development Application for Council as the issuing authority, to consider the specifics of the proposal. An extract from the Deemed Provisions for considering Development Applications is as follows:

67. Matters to be considered by local government

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application—

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (c) any approved State planning policy;*
- (d) any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);*
- (e) any policy of the Commission;*
- (f) any policy of the State;*
- (g) any local planning policy for the Scheme area;*
- (h) any structure plan, activity centre plan or local development plan that relates to the development;*
- (i) any report of the review of the local planning scheme that has been published under the*
 - (i) Planning and Development (Local Planning Schemes) Regulations 2015;*

- (ii) *in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;*
- (j) *the built heritage conservation of any place that is of cultural significance;*
- (k) *the effect of the proposal on the cultural heritage significance of the area in which the development is located;*
- (l) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (m) *the amenity of the locality including the following—*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (n) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
- (o) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (p) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (q) *the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (r) *the adequacy of —*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *the availability and adequacy for the development of the following—*
 - (i) *public transport services;*
 - (ii) *public utility services;*
 - (iii) *storage, management and collection of waste;*
 - (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
- (v) *access by older people and people with disability;*

- (w) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (x) *the history of the site where the development is to be located;*
- (y) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (z) *any submissions received on the application;*
 - (za) *the comments or submissions received from any authority consulted under clause 66;*
 - (zb) *any other planning consideration the local government considers appropriate.*

Financial Implications

Should Council resolve as per the officer's recommendation, there would be a resource implication for a valuation to inform the negotiations. These are estimated to be \$2000 for the direct cost of an indicative desktop valuation. This cost can be accommodated within current budget allocations for consultants. There will be resource implications of staff time however, this can also be accommodated within the current budget.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2013 – 2023 – Objective – Civic Leadership – Lead in making things happen.

Conclusion

Officer's recognise the significance of this proposal and the long term impact of any decisions relating to the project; therefore while the recommendation is to proceed with negotiations these will be brought before Council for due consideration.

OFFICER RECOMMENDATION – ITEM 10.2.2

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) AND SECTION 27 OF THE TRUSTEES ACT 1962 RESOLVES TO:

- 1. RECEIVE THE STAKEHOLDER AND COMMUNITY ENGAGEMENT OUTCOMES REPORT, APRIL 2019 AS PER ATTACHMENT 10.2.2 THAT PROVIDES INFORMATION ON COMMUNITY AND STAKEHOLDER VIEWS ON THE REQUEST FROM CHRIS BLAKEMAN OF COCOS BORONIA RESORT PTY LTD THAT COUNCIL COMMITS TO NEGOTIATING EXCLUSIVELY WITH COCOS BORONIA RESORT PTY LTD IN GOOD FAITH, SUBJECT TO STATUTORY PROCESSES, FOR LEASING LAND ON DIRECTION ISLAND TO DEVELOP A RESORT;**

2. **ACKNOWLEDGE THE PARTICIPANTS FOR THEIR INPUT;**
3. **INVITE COCOS BORONIA RESORT PTY LTD TO ENTER INTO NEGOTIATIONS REGARDING A POTENTIAL LEASE FOR A RESORT ON DIRECTION ISLAND AND CONSIDER THE RESULTS OF NEGOTIATIONS AT AN ORDINARY MEETING OF COUNCIL AS SOON AS POSSIBLE.**

10.2.3 REQUEST TO LEASE PORTION OF LOT 100 – SOUTH END PRECINCT FROM APE X KITEBOARDING

Report Information

Date: 17 May 2019
 Location: Part Lot 100 - South End Precinct
 Applicant: Ape X Kiteboarding
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Asset and Property Management Coordinator
 Island: West Island
 Attachments: 10.2.3 Email Request
 10.2.3 Ape X Kiteboarding Client Policy
 10.2.3 Ape X Kiteboarding WHS Management Policy,
 10.2.3 South End Precinct Commercial Development Policy and Map

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To present a request and supporting documentation for a new lease for Council consideration.

Relevant Documents

Available for viewing at the meeting

Nil

Background

Ape X Kiteboarding commenced operations on the Cocos (Keeling) Islands during the 2018 trade winds season offering small group kiteboarding lessons. At the time the Shire did not have any commercial use framework in place for the area and as such there was little structure around how commercial operators should and could use this area.

Following the end of last season the Shire held a post season debrief with all adventure sports operators which resulted in the development of the South End Precinct Commercial Development Policy. The policy was adopted at the 24th April 2019 Ordinary Council meeting.

On 9th of May 2019 April Warren of Ape X Kiteboarding wrote to the Shire requesting to enter into a formal lease for lease area 5 of the policy area map. The South End Precinct Commercial Development Policy requires any adventure sport and tour business to obtain a lease from the Shire for their base of operations.

Comment

The South End Precinct Commercial Development Policy has been produced to provide guidance to stakeholders on the requirements for the operation of commercial land uses in the South End area.

One of these requirements is that a lease must be obtained in order to run an adventure sport or tour business in the area. The policy also set out the lease areas which would be available and for what purpose. As a result Ape X Kiteboarding has applied for lease area 5 which is designated for use as a wind sport area.

Ape X Kiteboarding has advised that they would like to secure the lease so that they can provide Kiteboarding lessons during the period of July - September commencing in 2019. Ape X Kiteboarding also have a base of operations on the Gold Coast which has an alternative wind season to the Cocos (Keeling) Islands. A WH&S Management Policy along with evidence of insurance have been provided by Ape X Kiteboarding and are attached to this agenda item.

A valuation will be sought from a registered valuer which will determine the annual lease fee to be charged. In addition to this Shire rates would also be raised on the area if this lease is approved.

The proponent has requested a 5 year lease + 5 year option which is consistent with other leases in the area.

As noted above, in determining this matter, Council is acting in its capacity as the Trustee of the Land Trusts as the Land (Part Lot 100) is Land held in Trust; therefore Council, is required to have due consideration of the purpose of the Trust, that is “the benefit, advancement and wellbeing of the community formed by Kampong residents; and the wellbeing of Cocos Islanders” and ensure their decision-making is guided by this objective.

Policy and Legislative Implications

Section 3.58 of the Local Government Act 1995 as amended
South End Precinct Commercial Development Policy

Financial Implications

Nil

Strategic Implications

Shire of Cocos (Keeling) Islands Corporate Business Plan 2018/19 - 2021/22 - Economic Objective 1 - Support and assist Tourism in recognition of its importance as an economic driver - Outcome ED1.1.1.2 Ensure Shire processes are focussed on proactively enabling tourism operators to develop their business.

Conclusion

The request for a new lease is presented to Council for consideration and the officer's recommendation is that the request is approved based on:

1. Consistency with the South End Precinct Commercial Development Policy; and
2. Progresses the purpose of the Trust in that it will increase revenue and support strategic outcomes as outlined in the Strategic Community Plan.

OFFICER RECOMMENDATION – ITEM NO 10.2.3

1. THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.58 OF THE LOCAL GOVERNMENT ACT 1995 RESOLVES TO ENTER INTO A LEASE FOR PART LOT 100 LEASE AREA 5 FOR AN INITIAL FIVE YEAR TERM WITH A FIVE YEAR OPTION WITH APE X KITEBOARDING SUBJECT TO MEETING ALL THE REQUIREMENTS OF SECTION 3.58 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) RELATING TO THE DISPOSAL OF PROPERTY.

10.2.4 REQUEST TO LEASE PORTION OF LOT 100 - SOUTH END PRECINCT FROM ZEPHYR KITE TOURS

Report Information

Date: 22 May 2019
 Location: Part Lot 100 - South End Precinct
 Applicant: Zephyr Kite Tours
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Asset and Property Management Coordinator
 Island: West Island
 Attachments: 10.2.4 Zephyr Kite Tour Lease Application
 10.2.4 South End Precinct Commercial Development Policy and Map

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

To present the request and supporting documentation for a new lease to Council for consideration.

Relevant Documents

Available for viewing at the meeting

Background

Zephyr Kite Tours has been operating on the Cocos (Keeling) Islands since 2005 and currently occupies an area of beach on Part Lot 100 known as 'Kite Beach' (lease area 1 of the policy area map) under an informal 'agreement of occupancy' arrangement.

In 2008, Zephyr was granted Council approval to erect a seasonal solid kite centre/shack in the area under the agreement.

On 10 May 2019 Jennie Oceans of Zephyr Kite Tours wrote to the Shire requesting to enter into a formal lease as required under the new South End Precinct Commercial Development Policy which was adopted by Council at the April Ordinary Meeting of Council.

Comment

The South End Precinct Commercial Development Policy has been produced to provide guidance to stakeholders on the requirements for the operation of commercial land uses in the South End area.

One of these requirements is that a lease must be obtained in order to run an adventure sport or tour business in the area. The policy also set out the lease areas which would be available and for what purpose. The current 'agreement of occupancy' that Zephyr Kite Tours holds with the Shire does not meet the requirements of the new policy of having a formal lease.

A valuation will be sought from a registered valuer which will determine the annual lease fee to be charged. In addition to this Shire rates would also be raised on the area if this lease is approved.

The proponent has requested a 5 year lease + 5 year option which is consistent with other leases in the area.

As noted above, in determining this matter, Council is acting in its capacity as the Trustee of the Land Trusts as the Land (Part Lot 100) is Land held in Trust; therefore Council, is required to have due consideration of the purpose of the Trust, that is "the benefit, advancement and wellbeing of the community formed by Kampong residents; and the wellbeing of Cocos Islanders" and ensure their decision-making is guided by this objective.

Policy and Legislative Implications

Section 3.58 of the Local Government Act 1995 as amended
South End Precinct Commercial Development Policy

Financial Implications

Nil

Strategic Implications

Shire of Cocos (Keeling) Islands Corporate Business Plan 2018/19 - 2021/22 - Economic Objective 1 - Support and assist Tourism in recognition of its importance as an economic driver - Outcome ED1.1.1.2 Ensure Shire processes are focused on proactively enabling tourism operators to develop their business.

Conclusion

The request for a new lease is presented to Council for consideration and the officer's recommendation is that the request is approved based on:

1. Consistency with the South End Precinct Commercial Development Policy; and
2. Progresses the purpose of the Trust in that it will increase revenue and support strategic outcomes as outlined in the Strategic Community Plan.
3. Zephyr Kite Tours is an established business that has been operating successfully since 2005.

OFFICER RECOMMENDATION – ITEM NO 10.2.4

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.58 OF THE LOCAL GOVERNMENT ACT 1995 RESOLVES TO ENTER INTO A LEASE FOR PART LOT 100 LEASE AREA 5 FOR AN INITIAL FIVE YEAR TERM WITH A FIVE YEAR OPTION WITH ZEPHYR KITE TOURS SUBJECT TO MEETING ALL THE REQUIREMENTS OF SECTION 3.58 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) RELATING TO THE DISPOSAL OF PROPERTY.

10.3 PLANNING/BUILDING

10.3.1 PROPOSED AMENITIES ROOM ADDITION – LOT 100 RUMAH BARU ROAD, WEST ISLAND

Report Information

Date: 8 May 2019
 Location: Lot 100 Rumah Baru Road
 Applicant: Linx Cargo Care Group
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: West Island
 Attachments: 10.3.1 Elevations, Floor plan, Port plan, Development Approval application, Site plan

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

For Council to consider an application for development approval from Linx Cargo Care Group for the addition of a amenities room to the port office on West Island.

Relevant Documents

Available for viewing at the meeting

Plans of the ablution block.

Background

Cocos (Keeling) Island port operator, Linx has applied to add an amenities room to the existing port office upon Lot 100 Rumah Baru Road, West Island.

The subject land is a Crown reserve which is classified for the purposes of a Marina.

Currently Council does not have a delegation register in place for statutory planning approvals, meaning each application must be presented to Council for determination.

Comment

The proposed 6m long, 3.45m wide and 2.5m high amenities room will adjoin the car park (eastern) side of the existing port office. The proposed building will be clad with appropriate materials which match the existing office; resulting in no planning concerns for the proposal.

Policy and Legislative Implications

Clause 2.1.2 of the *Shire of Cocos (Keeling) Islands Local Planning Scheme No.1*:

A person or body shall not use or commence or carry out development on land or within a waterway reserved under this Scheme without first applying for and obtaining development approval of the local government. In determining an application for development approval the local government shall have regard to:

(a) the matters set out in Part 9 of the deemed provisions.

(b) the ultimate purpose intended for the reserve.

Financial Implications

Nil

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016 -2026 Outcome 3.21 Maintain and develop infrastructure in-line with community needs and the Islands environment.

Conclusion

Given there is no relevant planning concerns the officer supports the proposal.

OFFICER RECOMMENDATION – ITEM NO 10.3.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR A PROPOSED AMENITIES ROOM ADDITION IN ACCORDANCE WITH THE ATTACHED APPROVED PLANS ON LOT 100 RUMAH BARU ROAD, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITION AND ADVICE NOTES:

1. ALL DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE ATTACHED PLANS DATE STAMPED 22 MAY 2019 AND SHALL NOT BE ALTERED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE LOCAL GOVERNMENT.

ADVICE NOTES:

1. THE APPLICANT BE ADVISED THIS IS PLANNING APPROVAL ONLY AND NOT A BUILDING PERMIT. A BUILDING PERMIT MUST BE OBTAINED FOR THIS DEVELOPMENT.
2. IF THE DEVELOPMENT THE SUBJECT OF THIS APPROVAL IS NOT SUBSTANTIALLY COMMENCED WITHIN A PERIOD OF TWO (2) YEARS, THE APPROVAL SHALL LAPSE AND BE OF NO FURTHER EFFECT.
3. WHERE AN APPROVAL HAS SO LAPSED, NO DEVELOPMENT SHALL BE CARRIED OUT WITHOUT THE FURTHER APPROVAL OF THE LOCAL GOVERNMENT HAVING FIRST BEEN SOUGHT AND OBTAINED.
4. THE APPLICANT BE ADVISED THAT “SHOULD YOU BE AGGRIEVED BY THIS DECISION, OR ANY CONDITIONS IMPOSED, THERE IS A RIGHT OF REVIEW UNDER THE *PLANNING AND DEVELOPMENT ACT 2005*. AN APPLICATION FOR REVIEW MUST BE SUBMITTED IN ACCORDANCE WITH PART XIV OF THE *PLANNING AND DEVELOPMENT ACT* WITHIN 28 DAYS OF THE DATE OF THIS DECISION TO:

THE STATE ADMINISTRATIVE TRIBUNAL

GPO BOX U1991

PERTH WA 6845”

10.4 ADMINISTRATION

10.4.1 COMMUNITY AND STAKEHOLDER ENGAGEMENT FRAMEWORK

Report Information

Date: 14 May 2019
 Location: N/A
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: A. Selvey, Chief Executive Officer
 Island: N/A
 Attachments: 10.4.1 Community and Stakeholder Engagement Framework, April 2019

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

This report formally presents the Shire of Cocos (Keeling) Islands Community and Stakeholder Engagement Framework to Council for consideration. The officer's recommendation is that the Framework is adopted to guide engagement activities carried out by the Shire.

Relevant Documents

Available for viewing at the meeting

Nil

Background

Council has indicated its focus on robust and consistent engagement by seeking the development of a framework to guide engagement activities undertaken by the Shire as a KPI for the CEO.

Comment

The Engagement Framework has been developed for Shire of Cocos (Keeling) Islands staff, Council, and any external consultants working with the Shire, and provides guidelines on how to involve stakeholders and the broader community in the decision-making process.

This Framework for engagement is inclusive of our stakeholders including other local, regional and mainland agencies with whom we partner and rely upon for support and advice.

Community engagement does not replace or undermine Council's responsibility for decision-making as the Local Government Act 1995 (WA) (CKI) is quite clear about responsibility of Councils to make decisions. The purpose of gaining input from the community is to enhance and inform Council's decision-making processes. Another aspiration of good community engagement is to build trust between the organisation and the community it serves.

This Framework aims to provide a structure to ensure the Shire connects with the community allowing community members and stakeholders to have the opportunity to be part of problem solving and decision-making processes that will affect their lives and the community as a whole.

Policy and Legislative Implications

The Integrated Planning and Reporting (IPR) framework was introduced in 2011 and included a requirement for community engagement in any future planning. This was the first time in Western Australia that community engagement was formally required of local governments by legislation. Previously, the most legislation required was advertising and public submissions on matters such as Local Laws, disposal of property, regulatory planning and the like. This Framework encompasses the requirements under IPR and includes a broader view of community engagement that extends beyond IPR and public submissions.

Financial Implications

Nil

Strategic Implications

Strategic Community Plan

Theme 4 Civic Leadership

Outcome 4.1 An informed Council leading working with others to advance our Islands

Conclusion

Council has in the past carried out good community engagement activities; this framework is simply a mechanism for formalising this process and to provide clarity to the community regarding the Shire's commitment and approach to engagement.

OFFICER RECOMMENDATION – ITEM NO 10.4.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO S. 3.12 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) RESOLVES TO ADOPT THE SHIRE OF COCOS (KEELING) ISLAND COMMUNITY AND STAKEHOLDER ENGAGEMENT FRAMEWORK TO GUIDE THE SHIRE'S ENGAGEMENT ACTIVITIES.

10.4.2 MEETING PROCEDURES LOCAL LAW 2019 – FINAL ADOPTION

Report Information

Date: 6 May 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Niel Mitchell, Consultant
 Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.4.2 Schedule of Submissions and comments
 10.4.2 Proposed Meeting Procedures Local Law 2019

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

The purpose of this report is to seek a Council resolution to:

- a) make the Meeting Procedures Local Law, incorporating all amendments as approved by Council;
- b) authorise the affixing of the Common Seal to the Meeting Procedures Local Law;
- c) authorise publication of the Meeting Procedures Local Law as a Notifiable Instrument in the Federal Register of Legislation; and

- d) after publication as a Notifiable Instrument, give local public notice of the date the Meeting Procedures Local Law will come into effect.

Relevant Documents

Available for viewing at the meeting

Nil

Background

At the ordinary meeting held on 23 January 2019 Council resolved to commence the process to make a Meeting Procedures Local Law.

Comment

The procedure for making local laws requires Council to advertise state-wide, advising of its intention to make a local law, and invite submissions to be made on any proposed local law for a six-week period. At the closure of the submission period, Council is to consider all submissions before making a local law.

The draft Meeting Procedures Local Law was advertised as required for public comment in The Atoll on 22 February 2019. Advertising in the Atoll complies with the requirements of both State-wide and local public notice.

At the close of the submission period on 8 April 2019, no public submissions had been received, and comments from Department of Local Government, Sporting & Cultural Industries (DLGSC) were received as per Attachment 1.

The DLGSC's comments for the Local Law covered multiple areas. It is considered that no substantive matters were raised, with the comments being of –

- clarification of several clauses while remaining consistent with the proposed clauses in the original drafts,
- minor editorial nature, and
- being of a contextual or technical nature, punctuation and grammar.

None of the suggested changes altered the intent of the provision amended nor placed additional obligations on the community. Accordingly, it is considered that the amendments agreed are not of a nature that requires re-advertising.

The draft Local Law (Attachment 2) has been amended from the proposed amendment local law advertised for public submissions, in accordance with the Department's comments as noted and agreed.

Summary

As modified by legislation applying to Cocos (Keeling) Islands, once formally adopted by Council, the local law –

- is to be published as a Notifiable Instrument in the Federal Register of Legislation,
- local public notice given of adoption (separate to previous advertising of proposals),
- signed copies are to be sent to relevant Ministers or their delegate.

The local law takes effect on the day stipulated in the local law, being 14 days after publication as a notifiable instrument in the Federal Register of Legislation.

Policy and Legislative Implications

Legislation Act 2003 (Commonwealth) –

- *s.11 – Definition of notifiable instruments*

Cocos (Keeling) Islands Act 1995 (Commonwealth) –

- *s.8G(1) – where reference in WA Legislation to Governor, Minister etc the action is to be directed to the Minister for Territories.*

Local Government Act 1995 (WA)(CKI) –

- *s.3.12 – Procedure for making local laws*
 - (2) *Notice of purpose and effect of local law to be given by the person presiding*
 - (3) *Statewide public notice required, and copies to Minister/s immediately after notice given, minimum 6 weeks notice*
 - (3a) *Local public notice also required to be given*
 - (4) *After notice period, all submissions to be considered, and local law may then be made by absolute majority*
 - (5) *Publication in Government Gazette required*
 - (7) *Parliament to be advised within 10 working days of Gazettal*
- *s.3.13 – Significant changes require recommencement of proposal*
- *s.3.14 – Unless otherwise provided for, local laws come into effect 14 days after Gazettal*
- *s.3.15 – local public notice of the final adoption/making of a local law to be given*

Shire of Cocos (Keeling) Islands, Publishing of Delegated Legislation and Statewide Public Notices Policy

Financial Implications

The cost of advertising the adopted local law will not be significant and will not have any impact on the budget.

Strategic Implications

Conclusion

In accordance with the Shire of Cocos (Keeling) Islands – Strategic Community Plan 2016 - 2026, the Shire aims to assist the community by providing information to assist them to work with the unique legislative arrangements of the Islands. This includes development of local laws that appropriately reflect the needs of the community.

OFFICER RECOMMENDATION - ITEM 10.4.2

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO S. 3.12 (5) OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) RESOLVES TO:

- 1. MAKE THE MEETING PROCEDURES LOCAL LAW 2019 AS PER THE ATTACHED DRAFTS, AND INCORPORATING THE AMENDMENTS OUTLINED BY THE DEPARTMENT OF LOCAL GOVERNMENT & COMMUNITIES**
- 2. AUTHORISE THE PRESIDENT TO SIGN THE MEETING PROCEDURES LOCAL LAW 2019;**
- 3. AUTHORISE THE CEO TO:**
 - a) PUBLISH THE MEETING PROCEDURES LOCAL LAW 2019 AS A NOTIFIABLE INSTRUMENT ON THE FEDERAL REGISTER OF LEGISLATION;**
 - b) GIVE LOCAL PUBLIC NOTICE OF THE ADOPTION OF THE MEETING PROCEDURES LOCAL LAW 2019; AND**
 - c) PROVIDE COPIES OF THE MEETING PROCEDURES LOCAL LAW 2019 TO THE RELEVANT MINISTERS OR DELEGATE.**

10.5 MINUTES TO BE RECEIVED

11. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL

13. MATTERS BEHIND CLOSED DOORS

A report is confidential under Section 5.23 (2) of the Local Government Act 1995.

- (2) If a meeting is being held by a council or by a committee referred to in subsection (1) (b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following—
- (a) a matter affecting an employee or employees; and
 - (b) the personal affairs of any person; and
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret; or
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person,

14. CLOSURE OF BUSINESS