



## **NOTICE OF MEETING**

Elected Members

Please be advised that the next Ordinary Meeting of Council will be held in CRC Meeting Room, West Island on Wednesday, 24 June 2020 commencing at 4.00pm.

Andrea Selvey  
**Chief Executive Officer**

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### **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. 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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## OUR VALUES

### Service

Provide the best service we can.

We serve the community and each other.

### Accountability

We take responsibility for our own actions.

We do what we say we will do.

Mistakes are an opportunity to learn.

### Support

We support our team and our community.

Look for opportunities to help each other.

### Respect

We respect and value others.

Our interactions are always respectful towards others.

### Integrity

We will be honest and transparent with all our dealings.

Maintain confidentiality.

Trust each other.

### Achievement

Being proactive and enabling the outcomes.

Be creative and think outside the square.

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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
Cr Anthony	21 May 2020 – 30 August 2020	20 May 2020

### 5.2 APPLICATION FOR LEAVE OF ABSENCE

## 6. PETITIONS/DEPUTATIONS/PRESENTATIONS

## 7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)

7.1 Ordinary Council Meeting held on 20 May 2020 -Attachment 7.1

### OFFICER'S RECOMMENDATION

**THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 5.22(2) AND 3.18 OF THE LOCAL GOVERNMENT ACT 1995, RESOLVES THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING 20 MAY 2020, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.**

## 8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

## 9. DECLARATION OF INTERESTS

Councillors are to complete a Disclosure of Interest Form for each item they are required to disclose an interest in. The Form should be given to the Presiding Member before the meeting commences. After the meeting, the Form is to be provided to the Governance and Risk Coordinator for inclusion in the Disclosures Register.

## 10. REPORT AND RECOMMENDATIONS OF COMMITTEE

### 10.1 FINANCE

#### 10.1.1 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDING 31 MAY 2020

##### Report Information

Date: 19 June 2020  
 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 31 May 2020

##### 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</i>

		<i>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 31 May 2020 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 2019 to 31 May 2020 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 period 1 July 2019 to 31 May 2020.

**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

**Strategic Implications**

Nil



## Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	That budget allocations are significantly exceeded.	Moderate (6)	Variances are monitored and highlighted to Council on a monthly basis for corrective action.
Health & Safety	N/A	N/A	N/A
Reputation	The monthly financial statements are open to public scrutiny.	Low (3)	Procedures in place to ensure all expenditure is justifiable.
Service Interruption	N/A	N/A	N/A
Compliance	The report is to be presented to Council within two months in order to comply with relevant legislation.	Low (3)	There are processes in place to ensure compliance with legislation.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A
Fraud	That the report is manipulated.	Low (3)	Interim and end of year audits.

## Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

## Conclusion

That the financial statements for the period 1 July 2019 to 31 May 2020 be received.

### OFFICER'S RECOMMENDATION – ITEM NO 10.1.1

**THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2019 TO 31 MAY 2020.**

## 10.1.2 SCHEDULE OF ACCOUNTS PAID FOR PERIOD 1 MAY 2020 TO 31 MAY 2020

### Report Information

Date: May 2020  
 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

### 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 funds disbursed for the period 1 May 2020 - 31 May 2020.

### Relevant Documents

Available for viewing at the meeting

Nil

## Background

A list of accounts paid between 1 May and 31 May 2020 is attached.

## Comment

Expenditure for the month has been in accordance with Council adopted budget.

## Policy and Legislative Implications

*Regulation 13(1) of the Local Government (Financial Management) Regulations 1996.*

## Strategic Implications:

Strategic Community Plan: Outcome 4.1 – An informed Council leading working with others to advance our islands.

## Conclusion

The the list stating all accounts paid under delegation for May 2020 is presented for Council to receive.

## OFFICERS' RECOMMENDATION – ITEM NO 10.1.2

**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 MAY 2020 TO 31 MAY 2020 INCLUSIVE OF CHEQUE 11591 TO 11595 AND EFT 7252 TO EFT 7309, VIVA ENERGY & DIRECT DEBIT SUPERANNUATION TOTALLING \$321,352.33**

### 10.1.3 PROPOSED SCHEDULE OF FEES AND CHARGES 2020/2021

#### Report Information

Date: 18 June 2020  
 Location: N/A  
 Applicant: Shire of Cocos (Keeling) Islands  
 File Ref:  
 Disclosure of Interest: Nil  
 Reporting Officer: Joanne Soderlund, Deputy Chief Executive Officer  
 Island: Shire wide  
 Attachments: 10.1.3 Proposed Schedule of Fees and Charges 2020/2021

#### 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 presents the proposed schedule of fees and charges for the coming financial year, i.e. 2020/2021, to Council for consideration and to adopt for inclusion in the 2020/2021 Budget.

#### Relevant Documents

[Available for viewing at the meeting](#)

## Background

A local government may impose and recover a fee or charge for goods or services it provides. The proposed Fees and Charges have been collated and compiled in consultation with staff responsible for providing the relevant services to the community and ensuring appropriate levels of income/cost recovery are generated for the Shire.

A review of fees and charges is an annual practice within the normal budget process

## Comment

Proposed fees and charges were presented to Councillors as part of the Councillor workshop on 20 May 2020.

As per the resolution of Council (in its capacity as Trustee of the Land Trusts) at the Ordinary Meeting of Council on 20 May 2020, the Kampong Rental fees have been frozen at the 2019/20 rate; and as per the Council resolution made at the Ordinary Meeting of Council on 22 April 2020, the Rubbish Removal Fee has also been frozen at the 2019/20 rate.

There has been a small increase to the wet hire fee for plant and equipment in line with anticipated cost increases.

Labour charges have been increased by 1.75% rounded in line with the increase to the Local Government Industry Award 2020.

Statutory fees have been amended as required, with some minor increases to Building Act Fees.

## Policy and Legislative Implications

The *Local Government Act (WA) (CKI) 1995*, S6.16, S6.17 and S6.19 stipulate the requirements for imposing fees and charges.

## Financial Implications

The fees and charges account for approximately 20% of the Shire's total revenue and account for approximately 65% of the Shire's own source revenue. Therefore, fees and charges must balance the need to manage this ratio, the need to cover the cost to supply the service whilst also being affordable to our community and stakeholders.

## Strategic Implications

Shire of Cocos (Keeling) Islands Corporate Business Plan 2018/19 – 2021/22 Key Result Area 4 – Civic Leadership, Objective 4 – Ensure efficient and effective management of the organisation and financial resources.

### Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Fees and charges do not reflect cost (i.e. are too low) or are unaffordable (i.e. too high).	Moderate (6)	Fees and charges are carefully considered to ensure they balance the need cost recovery requirements with affordability.
Health & Safety	N/A		
Reputation	Costs are seen by the community and stakeholders as too high.	Moderate (6)	Fees and charges are carefully considered to ensure they balance the need for cost recovery with affordability.
Service Interruption	N/A		
Compliance	Statutory fees and charges are not compliant	Moderate (6)	Statutory fees and charges have been verified by appropriately qualified technical advisors to the Shire.
Property	N/A		
Environment	N/A		
Fraud	N/A		

### Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
<b>Almost Certain (5)</b>	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
<b>Likely (4)</b>	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
<b>Possible (3)</b>	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
<b>Unlikely (2)</b>	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
<b>Rare (1)</b>	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

### Voting Requirements

Absolute Majority

**OFFICER'S RECOMMENDATION – ITEM NO 10.1.3**

**THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO S6.16, S6.17 AND S6.19 OF THE LOCAL GOVERNMENT ACT (WA)(CKI) 1995 RESOLVES TO:**

- 1. ADOPT THE 2020/2021 FEES AND CHARGES SCHEDULE AS PER THE ATTACHMENT;  
AND**
- 2. ENDORSE THE STATUTORY ADVERTISING OF THE 2020/2021 FEES AND CHARGES FOR THE SHIRE OF COCOS (KEELING) ISLANDS EFFECTIVE AS OF 1 AUGUST 2020.**

## 10.2 LEASES

All matters relating to leases for consideration in this agenda relate to leases of trust land and therefore are listed in a separate part of this meeting dealing with land trusts matters.

## 10.3 PLANNING/BUILDING

### 10.3.1 PROPOSED CARPORT (BOAT STORAGE) IN FRONT AND SIDE SETBACK-17 (LOT 6) BUFFETT CLOSE, WEST ISLAND

#### Report Information

Date: 11 June 2020  
 Location: Lot 6 Buffett Close, West Island  
 Applicant: Paul Marshall  
 File Ref:  
 Reporting Officer: Chief Executive Officer  
 Island: West Island  
 Attachments: 10.3.1 Plans of the proposed carport

#### 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 Paul Marshall to construct a Carport (Boat Shelter) in the front setback and reduced side setback at his residential property at Lot 6 Buffett Close, West Island.

## Relevant Documents

Available for viewing at the meeting

Nil

## Background

The applicant proposes to construct a 3m wide x 6m long x 3.2m high carport to store a boat in front of the existing dwelling.

The residential design codes define a carport as;

### **Carport**

*A roofed structure designed to accommodate one or more motor vehicles (includes boats) **unenclosed** except to the extent that it abuts a **dwelling** or a property boundary on one side, and being without a door unless that door is **visually permeable**.*

The subject property is zoned Residential R15 which requires a primary street setback of 6m and a side boundary setback of 1.5m as detailed in the table below. The applicant is proposing primary street setback of 4m and side boundary setback of 0.5m.

### State Planning Policy 7.3 Residential Design Codes

General site requirements for all single house(s) and grouped dwellings; and multiple dwellings in areas coded less than R40: Table 1

R-Code	Dwelling type	Minimum setbacks (m)		
		Primary Street	Secondary Street	Other/rear
R15	Single house or grouped dwelling	6	1.5	*/6

The Residential Design Codes allow for variations to setbacks based on any special circumstances applicable to individual properties.

In this case the dwelling is setback 14m from the street boundary, which allows scope for variations to structures in the front setback.

There is an existing Council approved portable building with deck at the subject property approved on 27 April 2016 which is setback 4m from the front boundary with dimensions 6.5m x 7m which is also taken into account.

The proposed front setback for the carport meets the deemed to comply provisions in the Residential Design Codes as set out below in 5.1.2 and the shown on the below image.

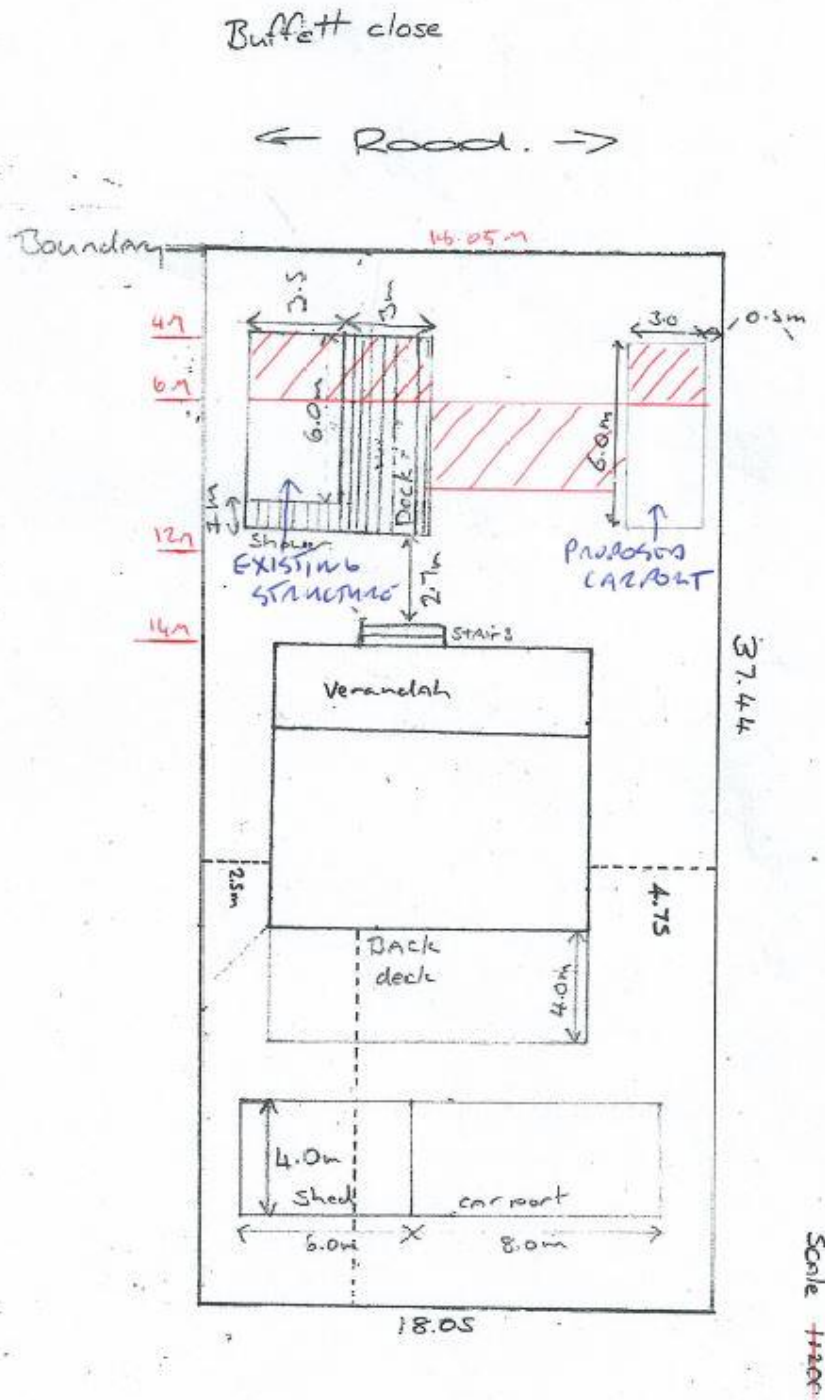
#### Deemed-to-comply

Development satisfies the following deemed-to-comply requirements

#### 5.1.2 Street Setback

##### C2.1 Buildings set back from the primary street boundary:

- i. in accordance with Table 1;
- ii. corresponding to the average of the setback of existing dwellings on each adjacent property fronting the same street;
- iii. **reduced by up to 50 per cent provided that the area of any building, including a carport or garage, intruding into the setback area is compensated for by at least an equal area of open space between the setback line and line drawn parallel to it at twice the setback distance.**



Similarly, the reduced side boundary setback can be varied by Council based on site circumstances and comments from the impacted neighbouring property. The structure is to be open on all sides and as such will not impose a solid wall on the neighbours views and amenity. The neighbour has provided comments supporting the proposed reduced setback as detailed below.

From: Tracey Evans

Date: Thu, May 21, 2020 at 4:47 AM

Subject: Fwd: Permission

To: Paul Marshall

*Hi Paul - I'm forwarding the original email.*

*We do not have any problems with you building the boat shelter on your block in Cocos.*

*Fond regards*

*Tracey and Neil Evans*

*Broome WA*

**Comment**

Given that the Front setback can meet the deemed to comply provisions of the Residential Design Codes and there is no objection from the impacted neighbour for an open structure 0.5m from their boundary, the officer recommendation is to support the application.

**Policy and Legislative Implications**

*Clause 4.3.2 of the Shire of Cocos (Keeling) Islands Local Planning Scheme No.1:*

*Within the Residential zone on Home and West Islands, the minimum setbacks prescribed in Table 1 of the R-Codes may be varied at the discretion of the local government provided:*

- (a) the variation is consistent with the orderly and proper planning of the locality and would in the opinion of the local government either maintain or enhance the appearance of the streetscape; and*
- (b) the variation will not have any adverse effect upon the occupiers or inhabitants of the locality or upon the future development of the locality.*

**Financial Implications**

The item has no financial implications.

**Strategic Implications**

Strategic Community Plan - Key Result Area: Environment Objective – Outcome 3.2 - Future development is sympathetic to the islands’ environment.

**Risk Implications**

<b>Risk Category</b>	<b>Description</b>	<b>Rating (consequence x likelihood)</b>	<b>Mitigation Action</b>
Financial	Application fee not paid	Low (2)	Permit not issued before fees paid
Health & Safety	Design of building to comply with BCA	Low (4)	Proper building certification

Reputation	Nil	Nil	Nil
Service Interruption	Nil	Nil	Nil
Compliance	Building permit not obtained prior to construction	Low (1)	Advice note added to planning approval
Property			
Environment			
Fraud	Nil	Nil	Nil

### Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

### Voting Requirements

Simple Majority

### Conclusion

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

### OFFICER'S 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 THE CARPORT (BOAT SHELTER) IN ACCORDANCE WITH THE ATTACHED PLANS ON LOT 6 (NO. 17) BUFFETT CLOSE, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITION AND ADVICE NOTES:

1. ALL DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE ATTACHED PLANS DATE STAMPED 18 MAY 2020 AND SHALL NOT BE ALTERED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE LOCAL GOVERNMENT.
2. FRONT SETBACK IS TO BE A MINIMUM OF 4M
3. THE STRUCTURE IS TO NOT TO BE ENCLOSED BY ANY WALLS OR PART WALLS WITHOUT THE APPROVAL OF THE COUNCIL.

### 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. STORMWATER IS TO BE MANAGED IN ACCORDANCE WITH LOCAL CONDITIONS.

3. 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.
4. 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.
5. 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* (THE ACT). AN APPLICATION FOR REVIEW MUST BE SUBMITTED IN ACCORDANCE WITH PART XIV OF THE 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 SHIRE OF COCOS (KEELING) ISLANDS REGULATION 17 REVIEW 2020 REPORT

#### Report Information

Date: 17 June 2020  
 Location: N/A  
 Applicant: Shire of Cocos (Keeling) Islands Audit and Governance Committee  
 File Ref:  
 Disclosure of Interest: Nil  
 Reporting Officer: Andrea Selvey, Chief Executive Officer  
 Island: N/A  
 Attachments: 10.4.1 Shire of Cocos (Keeling) Islands Regulation 17 Review Report 2020

#### 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 presents the Regulation 17 Review Report 2020 (Regulation 17 Report) by the CEO to Council on behalf of the Audit and Governance Committee.

#### Relevant Documents

[Available for viewing at the meeting](#)

## Background

Regulation 17 of the *Local Government (Audit) Regulations 1996 (WA)(CKI)* requires Local Government CEOs to review the appropriateness and effectiveness of their local government's systems and procedures at least once in every three financial years and report the results of that review to the Audit Committee. The three systems specified in Regulation 17 for review are risk management, internal controls and legislative compliance.

The last Shire of Cocos (Keeling) Islands Regulation 17 Report was formally presented to the Shire of Cocos (Keeling) Islands Audit Committee 8 February 2017. This requires the next review to be reported to the Audit Committee by June 2020.

## Comment

In conducting this Regulation 17 Review, the Shire formed a Project Aware team consisting of four staff from different areas of the internal operation.

1. Ibrahim Macrae, Governance and Risk Coordinator
2. Joanne Soderlund, Deputy CEO
3. Sally Badlu, Senior Finance Officer
4. Andrea Selvey, CEO

The Project Aware team assessed 83 systems and procedures across the three areas of Risk Management, Internal Controls and Legislative Compliance. Definitions were developed by the team for each of the above areas and are documented in the Report.

The team was supported by Civic Legal under their governance support service. Each month the Project Aware team considered two or three systems, using working papers to guide their consideration of how effective and appropriate each system was. The working papers were submitted to Civic Legal and in monthly governance meetings, Civic Legal assisted the Project Aware team to further analyse those systems and consider their effectiveness and appropriateness.

The review was conducted over a period of ten months commencing in September 2019 with this final Regulation 17 Report compiled and presented to the Shire of Cocos (Keeling) Islands Audit and Governance Committee on 18 June 2020.

A summary of the analysis is presented in a table in the attached Shire of Cocos (Keeling) Islands Regulation 17 Review Report June 2020.

It will be noted in the summary table that some actions were listed for consideration by the Audit and Governance Committee and for their monitoring and advice.



At their meeting on 18 June, the Committee received the report and resolved to provide a copy of the report to Council. The Committee also resolved to seek an implementation plan and timeline from the CEO at the next meeting of the Committee.

**Policy and Legislative Implications**

*Local Government (Audit) Regulations 1996 (WA)(CKI) 1996*

**Financial Implications**

There are no direct financial implications from receiving this Report; however, it is likely that improvements to governance will be resource intensive. Any specific resource implications will be presented to Council as part of the usual budget process.

**Strategic Implications**

Strategic Community Plan: Civic Leadership Objective

**Risk Implications**

<b>Risk Category</b>	<b>Description</b>	<b>Rating (consequence x likelihood)</b>	<b>Mitigation Action</b>
Financial	N/A		
Health & Safety	N/A		
Reputation	Risk that a poor performing organisation will attract negative attention from external auditors and other compliance agencies.	Moderate (8)	The Reg 17 report ensures that the organisation considers the effectiveness and appropriateness of its systems and procedures to improve its performance which assists with protecting it from reputational risk.
Service Interruption	N/A		
Compliance	Systems and process are non-compliant.	Moderate (9)	The Reg 17 Review includes an assessment under legislative compliance to assist with ongoing improvements to compliance.
Property	N/A		
Environment	N/A		

Fraud	Poor internal controls	Moderate (9)	The Reg 17 Review is one tool used to monitor and improve internal controls.
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### Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
<b>Almost Certain (5)</b>	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
<b>Likely (4)</b>	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
<b>Possible (3)</b>	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
<b>Unlikely (2)</b>	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
<b>Rare (1)</b>	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

### Voting Requirements

Simple Majority

### Conclusion

Under Regulation 16 of the *Local Government (Audit) Regulations 1996 (WA)(CKI) 1996*, the Audit and Governance Committee has a responsibility to review the Regulation 17 Report given to it by the CEO which they did at their meeting on 18 June 2020. They are then required to report to Council the results of the review and provide Council with a copy of the CEO's report. This item and attached Regulation 17 Report is consistent with the Committee's responsibilities.

### AUDIT AND GOVERNANCE COMMITTEE RECOMMENDATION – ITEM NO 10.4.1

**THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996 (WA)(CKI) 1996 NOTES THE RESULTS OF THE AUDIT AND GOVERNANCE COMMITTEE'S REVIEW OF THE CEO'S REGULATION 17 REPORT 2020 AND RECEIVES A COPY OF THE REPORT.**

## 10.4.2 SHIRE OF COCOS (KEELING) ISLANDS e-MEETINGS POLICY (DRAFT)

### Report Information

Date: 15 June 2020  
 Location: N/A  
 Applicant: Shire of Cocos (Keeling) Islands  
 File Ref:  
 Disclosure of Interest: Nil  
 Reporting Officer: Andrea Selvey, Chief Executive Officer  
 Island: N/A  
 Attachments: 10.4.2 Shire of Cocos (Keeling) Islands e-Meeting Policy (Draft)

### 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

For Council to consider the draft e-Meetings Policy.

### Relevant Documents

[Available for viewing at the meeting](#)

## **Background**

An amendment to the *Local Government (Administration) Regulations 1996 (the Regulations)* was passed in March 2020 to allow Local Governments in Western Australia to hold meetings electronically under certain circumstances, specifically during a State of Emergency or during a Public Health Emergency.

The updated Regulations also allow for Councils to suspend specific clauses of their Meeting Procedures Local Law to accommodate an e-format.

In response to the amendment, the attached Policy has been drafted to guide the process in the event that an e-Meeting is required.

## **Comment**

The Shire is committed to transparent and open decision-making and therefore will only call an e-Meeting in the event that the Administrator declares a Public Health Emergency or a formal State of Emergency on Cocos (Keeling) Islands.

The Policy provides detail on the clauses that will be suspended and alternative procedures that can be applied.

The adoption of an e-Meeting Policy will future proof the Shire should restrictions resulting from a State of Emergency or Public Health Emergency prevent in-person meetings.

The intent is for this policy to be enacted on a meeting by meeting basis rather than for the duration of the period of the State of Emergency in recognition that in-person meetings are the preferred option.

## **Policy and Legislative Implications**

*Local Government (Administration) Regulations 1996*

## **Financial Implications**

There are no financial implications arising from adopting this Policy.

## **Strategic Implications**

Strategic Community Plan: Civic Leadership Objective

### Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	N/A		
Health & Safety	N/A		
Reputation	Holding meetings that are not open to the public can lead to a perception that decision-making is not transparent.	Moderate (6)	In drafting the policy, the administration has been mindful to allow other means of allowing for engagement and transparency. Note also that this policy would only apply in emergency situations. The Policy also aids in transparency.
Service Interruption	Without a policy it is possible that meetings would have to be deferred, resulting in deferred to council decision making and potential service disruption.	Moderate (6)	This draft policy puts a clear structure around continuity of council decision-making processes.
Compliance	Meeting procedures are non-compliant	Low (4)	The policy provides a structure to ensure that e-Meetings are compliant.
Property	N/A		
Environment	N/A		
Fraud	N/A		

### Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
<b>Almost Certain (5)</b>	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
<b>Likely (4)</b>	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
<b>Possible (3)</b>	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
<b>Unlikely (2)</b>	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
<b>Rare (1)</b>	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

### Voting Requirements

Simple Majority

## Conclusion

This policy provides a process and structure around the legislation and ensure community engagement and participation can still occur. The draft has been recommended by WALGA and is therefore presented to Council with a recommendation that it is adopted.

## OFFICER'S RECOMMENDATION – ITEM NO 10.4.2

**THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO S14C OF THE *LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS 1996* ADOPTS THE e-MEETING POLICY FOR INCLUSION IN THE SHIRE OF COCOS (KEELING) ISLANDS POLICY MANUAL 2020 AND SETS THE REVIEW DATE TO COINCIDE WITH THE ANNUAL REVIEW OF THE POLICY MANUAL IN 2021.**

### 10.4.3 REVIEW OF FINANCIAL MANAGEMENT SYSTEMS (REGULATION 5 REVIEW)

#### Report Information

<b>Date:</b>	19 June 2020
<b>Applicant:</b>	Shire of Cocos (Keeling) Islands
<b>File Ref:</b>	
<b>Location:</b>	Not Applicable
<b>Disclosure of Interest:</b>	Nil
<b>Reporting Officer:</b>	Chief Executive Officer
<b>Island:</b>	Shire Wide
<b>Attachments:</b>	10.4.3 Financial Management Systems Review

#### 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

This report presents the Shire of Cocos (Keeling) Islands Financial Management Systems Review for consideration by Council.

#### Relevant Documents

Available for viewing at the meeting

Nil

## Background

The *Local Government (Financial Management) Regulations 1996 Part 2 – 5 (2) (c)* requires the CEO to undertake a review of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 3 financial years) and to report to the local government the results of those reviews. (This regulation was amended on the 26 June 2018 from a requirement of not less than once in every 4 financial years to 3 financial years.)

The last Shire of Cocos (Keeling) Islands Financial Management Review was formally presented to Council at the Ordinary Meeting of Council on 29 June 2016. That review was undertaken internally.

The next review will need to be reported to Council by June 2023.

## Comment

Megan Shirt, an experienced Local Government Financial Management Consultant, was engaged to undertake an independent financial management systems review for the Shire. Samples were selected and systems tested during an onsite visit in March 2019 for the 12 months from March 2018 – February 2019.

Subsequent to the onsite testing a report has been developed tabling the findings of the review. It was intended to finalise the report during a further site visit scheduled for April 2020 however due to travel restriction this did not occur, and the report was finalised remotely on the 28 February 2020 by Ms Shirt and in the weeks that followed, staff have reviewed and updated the report with actions have already been implemented. Staff comments are listed on the final page of the report next to each action / comment raised in the review. See attachment 10.4.3.

This review was presented to the Audit and Governance Committee at their meeting on 18 June 2020 given the remit of the Committee in both financial controls and governance matters as per their terms of reference. The Committee received the report and requested an updated and more comprehensive action plan and timeline to be developed and tabled at the next Audit and Governance Committee meeting.

As required by the Regulations, the report on this review is now formally presented to Council for consideration and to receive the report.

## Policy and Legislative Implications

*Regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996*



### Financial Implications

There are no direct financial implications arising from receiving this report. However, it is likely actions recommended in the report will require additional resources. Requests for additional resources will be formally presented to Council as part of Council’s budget process.

### Strategic Implications

Shire of Cocos (Keeling) Islands Corporate Business Plan 2018/19 – 2021/22 Key Result Area 4 – Civic Leadership, Objective 4 – Ensure efficient and effective management of the organisation and financial resources.

### Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Financial management systems and processes lack rigour required for sound controls of budget and expenditure	Moderate (12)	The FMR provides a sound assessment of areas of risk and makes recommendations for improvement. Some of those improvements have commenced and others will be captured in an action plan. Note that improvements to all systems should be continuous and ongoing.
Health & Safety	N/A		
Reputation	Risk that a poor performing organisation will attract negative attention from external auditors and other compliance agencies.	Moderate (6)	An independent review of the Shire’s financial management systems provides a robust framework for managing and strengthening financial management.
Service Interruption	N/A		
Compliance	The FMR is not compliant with legislative requirements.	Moderate (6)	THE FMR has been completed by a qualified consultant and reviewed by staff and the Audit and

	Shire processes and systems are non-compliant.		Governance Committee.  The FMR identifies areas of concern and makes recommendations for improvements.
Property	N/A		
Environment	N/A		
Fraud	Poor internal controls can pose a risk that fraud can occur unnoticed.		The FMR assists in identifying areas of risk and makes recommendations to mitigate that risk.

### Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
<b>Almost Certain (5)</b>	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
<b>Likely (4)</b>	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
<b>Possible (3)</b>	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
<b>Unlikely (2)</b>	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
<b>Rare (1)</b>	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

### Voting Requirements

Simple Majority

### Conclusion

The review of financial management systems is a legislative requirement. The review has been undertaken by a qualified and experience external consultant and her report provides a sound framework for staff efforts at continuous improvement. The Audit and Governance Committee has also reviewed the report and will be monitoring ongoing actions. For these reasons, officers are confident in recommending that Council receives this report.

**OFFICER'S RECOMMENDATION – ITEM NO 10.4.3**

**THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO *REGULATION 5(2)(C) OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996*, RESOLVES TO:**

- 1. RECEIVE THE SHIRE OF COCOS (KEELING) ISLANDS FINANCIAL MANAGEMENT SYSTEMS REVIEW REPORT; AND**
- 2. NOTES THE AUDIT AND GOVERNANCE COMMITTEE REQUEST FOR AN IMPLEMENTATION PLAN AND TIMELINE ON THE IDENTIFIED ACTIONS TO ALLOW THAT COMMITTEE TO MONITOR PROGRESS OF RECOMMENDATIONS AND TO REPORT ON PROGRESS TO COUNCIL VIA MINUTES OF THE COMMITTEE MEETINGS.**

## 10.5 MINUTES TO BE RECEIVED

### 10.5.1 MINUTES FROM AUDIT AND GOVERNANCE COMMITTEE MEETING TO BE RECEIVED

#### Report Information

Date: 19 June 2020  
 Applicant: Shire of Cocos (Keeling) Islands  
 File Ref:  
 Location: N/A  
 Disclosure of Interest: Nil  
 Reporting Officer: Governance and Risk Coordinator  
 Island: Shire Wide  
 Attachments: 10.5.1-Audit Committee Meeting Minutes (Unconfirmed)  
 18 June 2020

#### 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>

#### Summary

The report formally presents the (unconfirmed) minutes of Audit and Governance Committee of Council from the previous meeting.

## Background

The Shire has established the Audit and Governance Committee as a Committee of Council. The Audit and Governance Committee does not have any delegated authority; therefore, any recommendations requiring a Council decision that result from this Committee meeting must be brought before Council. This will be done via agenda items to Council.

## Comment

The attached minutes are the unconfirmed minutes of the meeting of Audit and Governance Committee of Council held on the 18 June 2020.

## Consultation

N/A

## Financial Implications

The Officer's recommendation for Council to receive the minutes of Committee meetings carries no financial commitment for Council. Should any recommendation require a financial commitment or have any implication outside the CEO's delegated authority, the matter will be referred to Council as a specific agenda item.

## Risk Implications

Nil

## Policy Implications

Nil

## Statutory Implications

Administration regulation 11 sets out the content that the minutes of council or committee meetings must contain, including:

- the names of members present at the meeting;
- details of each motion moved, the mover and the outcome of the motion;
- details of each decision made at the meeting; and
- written reasons for each decision made at a meeting that is significantly different from the committee's or council employee's recommendation.

*Section 5.22(2) and (3) of the Act* requires that the minutes of a council or committee meeting are to go to the next meeting of the council or committee for confirmation and signing by the person presiding to certify the confirmation.

### **Strategic Implications**

Shire of Cocos (Keeling) Islands Strategic Community Plan 2013 – Outcome 4.1 - An informed Council leading working with others to advance our islands.

### **Voting Requirements**

Simple majority

### **Conclusion**

That the minutes of the Audit and Governance Committee meeting held on the 18 June 2020 be received.

### **OFFICER'S RECOMMENDATION – ITEM NO 10.5.1**

**THAT COUNCIL BY SIMPLE MAJORITY PURSUANT TO SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995 RESOLVES TO:**

- 1. RECEIVE THE MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING HELD ON 18 JUNE 2020.**

- 11. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
  
- 12. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL**
  
- 13. MATTERS BEHIND CLOSED DOORS**
  
- 14. MATTERS RELATING TO THE LAND TRUSTS**



## MATTERS RELATING TO THE LAND TRUST 1979 AND LAND TRUST 1984

The Australian Government transferred ownership of portions of land on the Cocos (Keeling) Islands, under two separate deeds, to the Territory's local government being the Cocos (Keeling) Islands Council. On 1 July 1992 the Territories Law Reform Act came into effect by which the Commonwealth Government applied Western Australian laws to the Cocos (Keeling) Islands. The Local Government (Transition) Ordinance 1992 established the Shire of the Cocos (Keeling) Islands by absorbing the Cocos (Keeling) Islands Council. By this arrangement, the body corporate called the Shire of Cocos (Keeling) Islands became the Trustee for both Land Trusts. Decisions relating to the Trust are made by Council as the decision-making arm of the body corporate.

**The 1979 Deed:** The 1979 Trust Deed applies to all of the land above the high-water mark on Home Island, except Lot 13, Lot 14 and Pulu Gangsa (Cemetery Island). The Deed states that the land is to be held 'upon trust for the benefit, advancement and wellbeing of the community formed by the Kampong residents.' No other terms were expressed in the Deed. 'Kampong residents' were described in the 1979 Trust Deed as 'the residents from time to time of the Kampong area'.

**The 1984 Deed:** The 1984 Trust Deed applies to all parcels of land situated and being above high-water mark within the Cocos (Keeling) Islands, including North Keeling Island, but not including parcels of land as described in the First Schedule of the 1984 Trust Deed.

This transferred land was to be held by the Council (and later, by its successor, the Shire) 'upon trust for the benefit, advancement and wellbeing of the Cocos (Keeling) Islanders resident in the Territory on land owned by the Council.'



## 14.1 TRUSTS ADMINISTRATION

### 14.1.1 COMMERCIAL TENANCIES (COVID-19 RESPONSE) REGULATIONS 2020 AND CODE OF CONDUCT

#### Report Information

Date: 17 June 2020  
 Location: N/A  
 Applicant: Shire of Cocos (Keeling) Islands  
 File Ref:  
 Disclosure of Interest: Nil  
 Reporting Officer: Andrea Selvey, Chief Executive Officer  
 Island: N/A  
 Attachments:

#### 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

For Council, acting in its capacity as the Trustee for the Cocos Keeling Islands Land Trust 1984, to receive and consider the legislation and process for determining concessions on lease fees for 2020-21 for commercial tenants suffering financial hardship.

#### Relevant Documents

Available for viewing at the meeting

## Background

The West Australian (WA) Government passed the *Commercial Tenancies (COVID-19 Response) Act 2020*, *Commercial Tenancies (COVID-19 Response) Regulations 2020 (inclusive of the Code of Conduct)* to assist commercial tenants and landlords reach agreements about lease payments during the COVID-19 'emergency period', which is for six months from 30 March 2020.

## Comment

Prior to the enactment of the legislation the Trustee was already considering various options for providing concessions on lease fees, including a tiered model offering higher levels of relief to businesses perceived to be suffering the greatest financial hardship. It was thought that this option would enable relief to be offered to tenants relatively quickly and would not be an administrative burden for the tenant and for the Shire.

However, to comply with the legislation the Trustee must consider relief on a case-by-case basis, using the formulas for calculating relief as prescribed by the Code. Commercial tenants will need to formally apply to the Trustee for relief and provide evidence to substantiate their claim, as per the legislation guidelines published by the WA Government Small Business Development Corporation. Applications for relief must be considered and an offer sent to the applicant within 14 days of receiving the application (or another agreed timeframe).

Rent relief can be a combination of waived and deferred rent:

- At least 50 per cent of the rent relief is to be in the form of a waiver (not required to be paid), unless the landlord and tenant otherwise agree in writing.
- The proportion of rent not waived may be deferred (paid at a later date).

Based on this, it is proposed that the Trustee notes the legislation and authorises the CEO to apply the legislation as an administrative function.

## Policy and Legislative Implications

*Commercial Tenancies (COVID-19 Response) Act 2020; Commercial Tenancies (COVID-19 Response) Regulations 2020 (inclusive of the Code of Conduct)*

## Financial Implications

There is likely to be a financial impact on the budget in terms of reduced revenue from commercial leases. However, until applications are received and assessed, it is not possible to quantify the financial implication.

## Strategic Implications

Strategic Community Plan: Economic Objective

## Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Lost revenue from commercial leases	High (15)	Budget expenditure for 20/21 will reflect reduced revenue
Health & Safety	N/A		
Reputation	Deviation from the legislation (even if more favourable) could attract criticism.	Moderate (6)	Applying the legislation exactly as prescribed will mitigate this risk.
Service Interruption	Having to bring each application to the Trustee will slow the process and disrupt efficient delivery of service.	Low (4)	The recommendation to authorise the CEO to apply the legislation as an administrative function will reduce service disruption.
Compliance	Non-compliance with this new legislation.	Low (4)	The legislation is clear and will be applied exactly as prescribed.
Property	N/A		
Environment	N/A		
Fraud	N/A		

## Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
<b>Almost Certain (5)</b>	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
<b>Likely (4)</b>	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
<b>Possible (3)</b>	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
<b>Unlikely (2)</b>	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
<b>Rare (1)</b>	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

## Voting Requirements

Simple Majority

## Conclusion

Applying the legislation exactly as prescribed reduces the risk of non-compliance, perceptions of inequity or poor management of the process.

**OFFICER'S RECOMMENDATION – ITEM NO 14.2.7**

**THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE SHIRE OF COCOS (KEELING) ISLANDS LAND TRUST 1984, BY SIMPLE MAJORITY, PURSUANT TO THE *COMMERCIAL TENANCIES (COVID-19 RESPONSE) ACT 2020* AND THE *COMMERCIAL TENANCIES (COVID-19 RESPONSE) REGULATIONS 2020 (INCLUSIVE OF THE CODE OF CONDUCT)*, RESOLVES TO NOTE THE REQUIREMENTS OF THE REGULATIONS AND AUTHORISE THE CHIEF EXECUTIVE OFFICER TO APPLY THE LEGISLATION AS AN ADMINISTRATIVE FUNCTION FOR COMMERCIAL TENANTS SEEKING FINANCIAL RELIEF.**

## 14.2 TRUSTS LEASE

### 14.2.1 CONFIDENTIAL ITEM – PURSUIT OF OUTSTANDING DEBT - DEBTOR NUMBER (BOS101)

#### Report Information

Date: 17/06/2020  
 Location:  
 Applicant:  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Deputy Chief Executive Officer  
 Island: Home Island  
 Attachments: Circulated under a separate cover

#### 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>

*This report is confidential under Section 5.23 (2) of the Local Government Act 1995 and is circulated under a separate cover.*

(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–*

(b) *the personal affairs of any person;*

**14.2.2 CONFIDENTIAL ITEM – PURSUIT OF OUTSTANDING DEBT - DEBTOR NUMBER (DAK101)**

**Report Information**

Date: 17/06/2020  
 Location:  
 Applicant:  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Deputy Chief Executive Officer  
 Island: Home Island  
 Attachments: Circulated under a separate cover

**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>
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(b) *the personal affairs of any person;*

**14.2.3 CONFIDENTIAL ITEM – PURSUIT OF OUTSTANDING DEBT - DEBTOR NUMBER (CAP101)**

**Report Information**

Date: 17/06/2020  
 Location:  
 Applicant:  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Deputy Chief Executive Officer  
 Island: Home Island  
 Attachments: Circulated under a separate cover

**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>
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(b) *the personal affairs of any person;*

**14.2.4 CONFIDENTIAL ITEM – PURSUIT OF OUTSTANDING DEBT - DEBTOR NUMBER (NEV101)**

**Report Information**

Date: 17/06/2020  
 Location:  
 Applicant:  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Deputy Chief Executive Officer  
 Island: Home Island  
 Attachments: Circulated under a separate cover

**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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(b) *the personal affairs of any person;*



**14.2.5 CONFIDENTIAL ITEM – PURSUIT OF OUTSTANDING DEBT DEBTOR NUMBER (LAK101)**

**Report Information**

Date: 17/06/2020  
 Location:  
 Applicant:  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Deputy Chief Executive Officer  
 Island: Home Island  
 Attachments: Circulated under a separate cover

**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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(b) *the personal affairs of any person;*

**14.2.6 CONFIDENTIAL ITEM – PURSUIT OF OUTSTANDING DEBT - DEBTOR NUMBER (SUL101)**

**Report Information**

Date: 17/06/2020  
 Location:  
 Applicant:  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Deputy Chief Executive Officer  
 Island: Home Island  
 Attachments: Circulated under a separate cover

**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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(b) *the personal affairs of any person;*

**14.2.7 CONFIDENTIAL ITEM – PURSUIT OF OUTSTANDING DEBT - DEBTOR NUMBER (BAT101)**

**Report Information**

Date: 17/06/2020  
 Location:  
 Applicant:  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Deputy Chief Executive Officer  
 Island: Home Island  
 Attachments: Circulated under a separate cover

**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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(b) *the personal affairs of any person;*

**14.2.8 CONFIDENTIAL ITEM – PURSUIT OF OUTSTANDING DEBT DEBTOR NUMBER (ARK101)**

**Report Information**

Date: 17/06/2020  
 Location:  
 Applicant:  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Deputy Chief Executive Officer  
 Island: Home Island  
 Attachments: Circulated under a separate cover

**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>
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(b) *the personal affairs of any person;*

**14.3 TRUSTS FINANCE**

**15. CLOSURE**