

# Shire of Cocos (Keeling) Islands

## Shire of Cocos (Keeling) Islands

### Agenda

#### Ordinary Meeting of Council

9 December 2020, 4.00pm

Council Chambers, Home Island

## 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
NIL		

### 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 11 November 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 11 NOVEMBER 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.

Name	Item No.	Interest	Nature

## 10. REPORT AND RECOMMENDATIONS OF COMMITTEE

### 10.1 FINANCE

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

##### Report Information

Date: 3 December 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 October 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>

### Report Purpose

To inform Council of the financial position of the Shire at 31 October 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 reporting of monthly financial information is a requirement under section 6.4 of the Local Government Act 1995, and Regulation 34 of the Local Government (Financial Management) Regulations.

### 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 2020 to 31 October 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: -

- An explanation of the composition of the net current assets, less committal assets and restricted assets;
- An explanation of material variances; and
- 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 2020 to 31 October 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 2020 TO 31 OCTOBER 2020.**

**10.1.2 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDING 30 NOVEMBER 2020**

**Report Information**

Date: 3 December 2020  
 Location: Not Applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Deputy Chief Executive Officer  
 Island: Shire Wide  
 Attachments: 10.1.2 Statement of Financial Activity with accompanying notes 30 November 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>

**Report Purpose**

To inform Council of the financial position of the Shire at 30 November 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 reporting of monthly financial information is a requirement under section 6.4 of the Local Government Act 1995, and Regulation 34 of the Local Government (Financial Management) Regulations.

## 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 2020 to 30 November 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)
<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)

### Conclusion

That the financial statements for the period 1 July 2020 to 30 November 2020 be received.

### OFFICER'S RECOMMENDATION – ITEM NO 10.1.2

**THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2020 TO 30 NOVEMBER 2020.**

### 10.1.3 SCHEDULE OF ACCOUNTS PAID FOR PERIOD 1 NOVEMBER 2020 TO 30 NOVEMBER 2020

#### Report Information

Date: November 2020  
 Location: Not applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Senior Finance Officer  
 Island: Shire Wide  
 Attachments: 10.1.3 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 November 2020 – 30 November 2020.

#### Relevant Documents

Available for viewing at the meeting

Nil

### Background

A list of accounts paid between 1 November 2020 and 30 November 2020 is attached.

### Comment

Accounts paid are in accordance with the Council adopted budget for the financial year and with Council's Purchasing Policy.

### Policy and Legislative Implications

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

### 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 accounts paid report is 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 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 along with sequence checks.
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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)

### Conclusion

That Council receives the list stating all accounts paid for November 2020.

### OFFICER'S RECOMMENDATION – ITEM NO 10.1.3

**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 NOVEMBER 2020 TO 30 NOVEMBER 2020 INCLUSIVE OF CHEQUE 11617 to 11620, EFT 7642 TO EFT 7709, VIVA ENERGY, MASTERCARD & DIRECT DEBIT SUPERANNUATION TOTALLING \$774,728.03.**



## 10.2 LEASES

## 10.3 PLANNING/BUILDING

### 10.3.1 PROPOSED SHIPPING CONTAINER STORAGE USE – LOT 163 BEACON HEIGHTS, WEST ISLAND

#### Report Information

Date: 3 December 2020  
 Location: Lot 163 Beacon Heights, West Island  
 Applicant: Helen Liu & David O’Dowd  
 File Ref:  
 Reporting Officer: Chief Executive Officer  
 Island: West Island  
 Attachment: 10.3.1 Letter from the applicant

#### 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 a development application for the use of shipping container for storage upon 63 Beacon Heights Road, West Island for a period of 12 months.

## **Relevant Documents**

[Available for viewing at the meeting](#)

## **Background**

On 11 November 2020, Council granted development approval for the construction and use of a serviced apartment on the subject property.

The applicant/landowner has now requested extension approval to keep a shipping container on the subject property for to store building materials for their house extension and renovation.

The subject shipping container has already been on the property for period of 12-months, which is the maximum period for which the Chief Executive Officer can issue approval under Council's Shipping Container Policy. As such, the landowner now seeks development approval from Council to keep the container on site for a further 12-month period.

It is recommended that the approval will include a requirement to abide by all conditions of the Policy.

## **Comment**

Given the building works on the site, providing an extension to the approval period of which the shipping container can remain on the property is justified provided the approval is conditioned to ensure the shipping container is removed on or before the cessation of the further 12-month placement period or as soon as building works on the site have been completed - whichever is the sooner.

## **Policy and Legislative Implications**

Shipping Container Policy

## Financial Implications

This item has no financial implications.

## Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016 – 2026:

*Outcome 3.2 Future development is sympathetic to the Islands environment*

*3.2.1 Maintain and develop infrastructure in-line with community needs and the Islands environment.*

## Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial			
Health & Safety			
Reputation			
Service Interruption			
Compliance	The shipping container is not removed after the 12-month approval period	Moderate (6)	Approval condition enforcement
Property			
Environment	Shipping container can detract from the visual amenity of the environment		Limit approval period to ensure container is removed as soon as possible
Fraud			

## 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

Given there is no relevant planning concerns, the officer supports the proposal subject to conditions being imposed on the applicant.

### 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 A SHIPPING CONTAINER UPON LOT 163 BEACON HEIGHTS, WEST ISLAND SUBJECT TO ADHERENCE TO ALL CONDITIONS IN THE SHIPPING CONTAINER POLICY INCLUDE BUT NOT LIMITED TO:**

- 1. THE SHIPPING CONTAINER SHALL BE ADEQUATELY SECURED DURING CYCLONE SEASON, TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.**
- 2. THE SHIPPING CONTAINER SHALL BE MAINTAINED IN GOOD AND ORDERLY CONDITION TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.**
- 3. THIS DEVELOPMENT APPROVAL IS VALID FOR A PERIOD OF 12-MONTHS OR FOR THE DURATION OF THE BUILDING PROJECT AT THE PROPERTY WHICHEVER IS THE SOONER ON OR PRIOR TO THE END OF THIS PERIOD, THE SHIPPING CONTAINER IS TO BE PERMANENTLY REMOVED FROM THE LOT AND THE LAND REINSTATED TO ITS FORMER CONDITION.**

### ADVICE NOTES:

- 1. THIS IS A DEVELOPMENT APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS UNDER ITS *LOCAL PLANNING SCHEME NO.1*. IT IS NOT AN APPROVAL TO COMMENCE OR CARRY OUT DEVELOPMENT UNDER ANY OTHER LAW. IT IS THE RESPONSIBILITY OF THE APPLICANT/LANDOWNER TO OBTAIN ANY OTHER NECESSARY APPROVALS, CONSENTS, PERMITS AND LICENSES REQUIRED UNDER ANY OTHER LAW, AND TO COMMENCE AND CARRY OUT DEVELOPMENT IN ACCORDANCE WITH ALL RELEVANT LAWS.**
- 2. SHOULD THE APPLICANT BE AGGRIEVED BY THE DECISION (IN PART OR WHOLE) THERE IS A RIGHT PURSUANT TO THE *PLANNING AND DEVELOPMENT ACT 2005* TO HAVE THE DECISION REVIEWED BY THE STATE ADMINISTRATIVE TRIBUNAL. SUCH AN APPLICATION MUST BE LODGED WITHIN TWENTY-EIGHT (28) DAYS FROM THE DATE OF THE DECISION.**

## 10.4 ADMINISTRATION

### 10.4.1 PRESENTATION OF THE 2019/2020 ANNUAL REPORT INCORPORATING THE 2019/2020 ANNUAL FINANCIAL STATEMENTS AND AUDITORS REPORT

#### Report Information

Date: 2 December 2020  
 Location: N/A  
 Applicant: The Shire of Cocos (Keeling) Islands  
 File Ref:  
 Disclosure of Interest: Nil  
 Reporting Officer: Deputy Chief Executive Officer  
 Island: N/A  
 Attachments: 10.4.1 2019/2020 Shire of Cocos (Keeling) Islands Annual Report

#### 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 seek Council acceptance of the Annual Report and Annual Financial Statements for the 2019/2020 financial year and to receive the Audit Report on those Financial Statements.

## Relevant Documents

Available for viewing at the meeting

## Background

The *Local Government Act 1995* requires Councils to prepare and accept an Annual Report for each financial year by 31 December following the financial year end or no later than two months after receiving the Audit Report.

## Comment

The Annual Report, prepared in accordance with the requirements of the Local Government Act, is included with the Agenda for Council's perusal, consideration and acceptance.

Council's Auditors, the Office of the Auditor General, have completed an audit of Council's financial records for the financial year ending 30 June 2020. The Auditors Report was received on the 26 November 2020.

Once the Annual Report has been accepted Council is required to give local public notice of the availability of the Annual Report as soon as practicable.

## Policy and Legislative Implications

Section 5.53(1) of the *Local Government Act 1995* requires a Local Government to prepare an annual report for each financial year. *Section 5.53(2) (f) of the Local Government Act 1995* specifies that the annual report is to contain the financial report of the financial year and Section 5.53(2) (h) specifies that it must contain the auditor's report for the financial year.

In accordance with Section 5.54 of the *Local Government Act 1995* an annual report for the financial year is to be accepted by the Local Government by the 31 December after that financial year or no later than 2 months after the auditor's report becomes available.

## Financial Implications

Nil

## Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2013  
*Civic Leadership Objective - Outcome 4.1 An informed Council leading working with others to advance our Islands*

### Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	N/A		
Health & Safety	N/A		
Reputation	The Annual Report is a primary source of information about the Shire for external stakeholders. Not providing a timely annual report could have adverse implications for the Shire's reputation.	Moderate (8)	Ensure the timely adoption of the Annual report, generally by the 31 of December after the financial year end.
Service Interruption	N/A		
Compliance	Council is required to accept an Annual Report by the 31 December following the financial year end.	Low (4)	Ensure annual report is presented for adoption before the 31 <sup>st</sup> of December.
Property	N/A		
Environment	N/A		
Fraud	That the annual report incorporating the annual financial statements includes material misstatements and misrepresentations.	Moderate (8)	The annual financial statements are audited by the Office of the Auditor General and the statements included in the annual report show their stamp to verify they are the correct statements.

### 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

## Conclusion

The process has been compliant with statutory processes and the Audit Report states that the audit has been based on proper accounts and records. Therefore, the officer's recommendation is that Council accepts the 2019/2020 Annual Report of the Shire of Cocos (Keeling) Islands and authorises the CEO to give notice of the Annual Electors Meeting.

### OFFICER'S RECOMMENDATION – ITEM NO 10.4.1

**THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTION 5.54 OF THE LOCAL GOVERNMENT ACT (WA)(CKI) 1995, RESOLVES TO:**

- 1. ACCEPT THE REPORT PROVIDED BY THE SHIRE AUDITOR VINCE TURCO ACTING ASSISTANT AUDITOR GENERAL FOR WESTERN AUSTRALIA;**
- 2. ACCEPT THE SHIRE OF COCOS (KEELING) ISLANDS ANNUAL REPORT FOR THE 2019/2020 FINANCIAL YEAR; AND;**
- 3. SET THE DATE FOR THE ANNUAL ELECTORS GENERAL MEETING AS WEDNESDAY 3 FEBRUARY 2021 AT 4.00PM AT THE HOME ISLAND COUNCIL CHAMBERS AND AUTHORISE THE CEO TO GIVE PUBLIC NOTICE OF THE MEETING AND THE AVAILABILITY OF THE ANNUAL REPORT.**



## 10.4.2 PRESENTATION OF THE 2019/2020 AUDITORS REPORT

### Report Information

Date: 2 December 2020  
 Applicant: Shire of Cocos (Keeling) Islands  
 File Ref:  
 Location: Not Applicable  
 Disclosure of Interest: Nil  
 Reporting Officer: Deputy Chief Executive Officer  
 Island: Shire Wide  
 Attachments: 10.4.2 2019/2020 Audit Report

### 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 receive the Audit Report for the 2019/2020 Financial Year and recognise the meeting held with the Shire's Auditors.

### Relevant Documents

Available for viewing at the meeting

Nil

### **Background**

The Office of the Auditor General (OAG) is now responsible for all Western Australian Local Government Audits. The OAG conducted an on-site Audit from the 30 October to the 10 November 2020. The Auditors are required to produce an Audit Report which was received on the 26 November 2020.

### **Comment**

The Audit Report received shows an unqualified audit opinion of the 2019/2020 Annual Financial Statements for the Shire. The report highlighted three adverse trends in the Shires Ratios, the Asset Sustainability Ratio, the Operating Surplus Ratio and the Own Source Revenue Ratio.

The Asset Sustainability Ratio is affected by the portion of new verses renewal capital expenditure. Whilst the 2019/20 ratio was an improvement on the previous year .65 compared to .34 respectively it was still below the Department of Local Government, Sports and Cultural Industries (DLGSCI) benchmark of .90.

The Operating Surplus Ratio demonstrates the ability to service its day to day operational costs, including asset depreciation from its revenue base. Following the fair value of building assets in June 2017 the Shires depreciation costs (a non-cash expense) increased by 32% for the year ended 30 June 2018. This has put pressure on the Shires ability to have an operating surplus and meet the departments benchmark target, however it should be noted that this ratio has improved year on year over the last three years.

The Own Source Revenue ratio is affected by the level of private works obtained from year to year and also the level of operational grant funding received. The 40% increase in the 2017/2018 FY in the level of the Shires Financial Assistance grant has had a negative affect on this ratio. The Shires limited rates base means that it is likely to always be a challenge to mean the DLGSCI benchmark for this ratio.

Following the conclusion of the Audit an Audit Exit Meeting was held on the 18 November 2020 between the Shire of Cocos (Keeling) Island Audit and Governance Committee and Efthalia Samaras – Director of Financial Audit at the OAG. It is a requirement under *Section 7.12A (2) of the Local Government Act 1995 (CKI)* that the Audit and Governance Committee meets with the Local Governments Auditor at least once every 12 months.

### **Policy and Legislative Implications**

*Section 7.12A of the Local Government Act 1995 (CKI)*

*Local Government (Audit) Regulations 1996*

**Financial Implications**

Nil

**Strategic Implications**

Strategic Community Plan: Civic Leadership

**Risk Implications**

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	For transparency it is important that the audit report is presented to the audit and governance committee.	Moderate (6)	There is a process in place to ensure the audit report to presented to the audit committee.
Service Interruption	N/A	N/A	N/A
Compliance	The Report is to be presented to the Audit Committee annually in order to comply with relevant legislation.	Low (4)	There are processes in place to ensure compliance with relevant legislation.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A
Fraud	That the annual financial statements	Moderate (8)	Annual statements are audited by the office of the auditor general.

	are materially misstated.		
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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)

### Conclusion

Following their meeting on 18 November 2020, Audit and Governance Committee recommended that Council receives the 2019/2020 Auditors Report of the Shire of Cocos (Keeling) Islands and notes the meeting held with the Shire's external auditors. This report acts on the Committee's recommendation.

### AUDIT AND GOVERNANCE COMMITTEE RECOMMENDATION – ITEM NO 10.4.2

1. THAT COUNCIL, PURSUANT TO *SECTION 7.12A (3) OF THE LOCAL GOVERNMENT ACT 1995 (CKI)*, RECEIVES THE AUDIT REPORT FOR THE SHIRE OF COCOS (KEELING) ISLANDS FOR THE YEAR 2019/2020.
2. THAT COUNCIL, PURSUANT TO *SECTION 7.12A (2) OF THE LOCAL GOVERNMENT ACT 1995 (CKI)*, RECOGNISES THE EXIT MEETING HELD BY THE AUDIT AND GOVERNANCE COMMITTEE MEETING WITH THE OFFICE OF THE AUDITOR GENERAL ON THE 18 NOVEMBER 2020 AS A MEETING WITH THE AUDITOR OF THE LOCAL GOVERNMENT.

### 10.4.3 ELECTED MEMBER SITTING FEES

#### Report Information

Date: 2 December 2020  
 Location: N/A  
 Applicant: The Shire of Cocos (Keeling) Islands  
 File Ref:  
 Disclosure of Interest: Nil  
 Reporting Officer: Deputy Chief Executive Officer  
 Island: N/A  
 Attachments: Nil

#### 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 brings information regarding elector member sitting fees and a proposed increase from April 2021 to coincide with when the next payment is scheduled to be made.

#### Relevant Documents

[Available for viewing at the meeting](#)

**Background**

The Salaries and Allowances Tribunal (SAT) is charged with the responsibility of annually reviewing and setting the range for remuneration of elected members and also for Chief Executive Officers. The SAT classifies all WA Local Governments, including the Indian Ocean Territories, into Bands ranging from 1 to 4 giving consideration to their nature and size. A different remuneration range is allocated to each band.

While the band ranges dictate a minimum and maximum level of remuneration, individual local governments have retained the ability for remuneration movement within a band to suit individual circumstances. The Tribunal remains cognisant of its duties to ensure that the remuneration of elected members remains within public expectations and within the framework of other public officers, while being sufficient enough to attract well qualified candidates.

Each Local Government can also decide between a per meeting Elected Member remuneration structure or an annual attendance fees remuneration structure.

**Comment**

The Shire of Cocos (Keeling) Islands is classified by the SAT as a band 4 council. The Local Government Chief Executive Officers and Elected Members Determination No 1 of 2020 sets out the following ranges for elected member remuneration for a Band 4 Council:

**Per Meeting Structure**

	For a Council member other than the Shire President		For a Council member who holds to Office of Shire President	
	Minimum	Maximum	Minimum	Maximum
Council Meeting	\$91	\$238	\$91	\$490
Committee Meeting	\$46	\$119	\$46	\$119

**Annual Attendance Structure**

For a Council member other than the Shire President		For a Council member who holds to Office of Shire President	
Minimum	Maximum	Minimum	Maximum
\$3,589	\$9,504	\$3,589	\$19,534

The Shire currently operates on an annual attendance fee structure with Elected Members being paid at six monthly intervals in advance. The level of remuneration has remained at the

same level of \$5,000 per annum for each Council member including the Shire President with the President also receiving an additional \$5,000 Presidents Allowance since 2014.

To ensure that Elected Member Remuneration maintains current value it is recommended that an increase of \$500 per year is made to both the Councillor sitting fees and the Shire Presidents allowance. This would result in Councillors other than the Shire President receiving \$5,500 per annum with the Shire President receiving \$11,000 per annum. Both of these amounts are well within the range set by the Salary and Allowances Tribunal. It is recommended that this increase take effect from 1 April 2021 to align with the next scheduled payment of fees.

### Policy and Legislative Implications

Local Government Act 1995, Local Government (Administration) Regulations 1996, Salaries and Allowances Act 1975, and Local Government Chief Executive Officers and Elected Members Determination No. 1 of 2020.

Section 5.98 of the Local Government Act 1995 specifically refers to the setting of Meeting Fees for Council and Committee Meetings.

Section 5.99 provides authority for Council to determine (by Absolute Majority) the payment of an Annual Fee to Councillors rather than a Meeting Fee based on attendance

### Financial Implications

The Council's adopted budget included a provision for an increase in Elected Member Sitting Fees. Therefore, the increase in sittings fees for 2020/21 by \$500 per Councillor and \$500 for the Shire President can be accommodated within the existing budget.

### Strategic Implications

Corporate Business Plan:

*Civic Leadership Objective: 4.1 Attract and retain quality staff and elected members.*

### Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	The cost of the increase in elected member remuneration puts a financial strain on the Shire that is not	Low (2)	The recommended increase has already been allowed for in the current adopted budget.

	manageable and adversely effects the Shire's finances.		
Health & Safety	N/A		
Reputation	A Local Government needs to have a quorum of elected members to be able to operate and carry out its responsibilities as per the Local Government Act.	Moderate (8)	Ensure that Elected Members are fairly remunerated for their time to assist in attracting candidates to run during the two-yearly election cycle.
Service Interruption	N/A		
Compliance	A range for Elected Member remuneration is set by the Salary and Allowances Tribunal and must be within that range.	Low (4)	Checks performed to ensure that the increase proposed still fits within the Salary and Allowances Tribunal range.
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

### Conclusion

The officer's recommendation for Elected Member Sitting Fees remain as an annual attendance fee and be increased as per the report is put to Council in recognition that Elected Member remuneration has not increased since 2014.



**OFFICER'S RECOMMENDATION – ITEM NO 10.4.2**

**THAT COUNCIL, BY ABSOLUTE MAJORITY, UNDER *SECTION 5.99 OF THE LOCAL GOVERNMENT ACT*, RESOLVES TO INCREASE THE ANNUAL ATTENDANCE FEE FOR ALL COUNCILLORS TO \$5,500 AND THE SHIRE PRESIDENT'S ALLOWANCE TO \$5,500 WITH BOTH INCREASES TO TAKE EFFECT FROM 1 APRIL 2021.**

#### 10.4.4 STRATEGIC COMMUNITY PLAN PROPOSED ENGAGEMENT PROCESS

##### Report Information

Date: 2 December 2020  
 Location: Strategic Community Plan Proposed Engagement Process  
 Applicant:  
 File Ref:  
 Disclosure of Interest: Nil  
 Reporting Officer: A 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

This report presents a proposed outline for the development of a new Strategic Community Plan for the Shire of Cocos (Keeling) Islands and seeks Council's endorsement to proceed with the execution of the plan.

## Relevant Documents

Available for viewing at the meeting

Detailed Community Engagement Framework

## Background

The Local Government Act requires that each local government is to plan for the future and the minimum requirements for the process are outlined in the associated Regulations. The legislative requirement is for the Strategic Community Plan to be updated every four years. The current Shire of Cocos (Keeling) Islands Strategic Community Plan was developed in 2016; therefore, the Shire's Strategic Community Plan should have been renewed by the end of 2020.

## Comment

Given the disruptive year and the difficulty in carrying out community engagement during this year of social distancing, it is our preference to postpone the engagement until Feb/March 2021 when engagement can be done more effectively and can be more inclusive.

The proposal is to carry out the engagement in five phases.

### Phase One: Informing

In this phase we will ensure community members are well-informed about what activities the Shire engages in and the reason for those activities (i.e. what we do and why we do it). Information will include whether the service is mandatory or discretionary; what each service costs and what outcomes or deliverables that are achieved from that service. We will also provide information about the need for strategic planning, and the difference between this planning process and the Masterplan.

This document will be released and distributed widely and used to invite / encourage people to attend a forum on the services.

### Phase Two: Feedback

Day-long forum with as many people as we attract to discuss services. Likely need to have different groups looking at different services so all services can get reviewed in a single day.

Example questions to start the forum:

What do you value about living on Cocos? What is the thing that you would like to keep for the future generations to enjoy? What needs to change to make Cocos even better?

Examples of the types of questions to groups;

Is the service we provide in this area valuable and valued in the context of the answers to the above questions. What is the purpose of that having that service? Should we continue with that service? Should we offer more or less of that service, noting that every increase will come at a cost? Is this service a low, medium or high priority? What is the result we would like to achieve from having that service?

Questions to the whole room. Are there new services we should provide that we currently do not provide? Why is that service needed? What result would you like to achieve from that service? What is that service likely to cost?

#### Phase Three: Collating and costing

Use information from Phase Two, collate the desired result of each service as the objective, review feedback on the service level and priority. Calculate cost impacts of changing service level. Present a draft Report to Council.

#### Phase Four: Council review:

Council to consider impact on budget, service gaps and refine the report to inform staff in developing a draft Strategic Community Plan.

#### Phase Five: Draft Document

Release draft plan to Community for final review and feedback. Collate any feedback and return to Council for final review before presenting for adoption.

### **Policy and Legislative Implications**

S5.56 (1) of the Local Government Act 1995 require all local governments to create a plan for the future. Regulations have been made under S5.56(2) of the Act to briefly outline the minimum requirements to achieve this.

### **Financial Implications**

The process is resource intensive and will require additional staffing resources. It is also the intention to engage an external professional facilitator to ensure there is a level of independent oversight of the process. All costs can be accommodated within the current budget allocation of \$35,000 for this project.

### **Strategic Implications**

Strategic Community Plan: *Key Result Area 4 – Civic Leadership*

### Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial			
Health & Safety	N/A	N/A	N/A
Reputation	The Shire's reputation can be enhanced or damaged by the way it conducts engagement and then incorporates input from the community in plans.	High (12)	Ensure engagement is well structured and is used in a meaningful way to inform planning.
Service Interruption	N/A	N/A	N/A
Compliance	Timeframes do not comply with legislative requirement	(Low) 4	By presenting the report, the shire will be compliant.
Property	N/A	N/A	N/A
Environment	N/A		
Fraud	N/A	N/A	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

**OFFICER'S RECOMMENDATION – ITEM NO 10.4.4**

**THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.18 OF THE *LOCAL GOVERNMENT ACT (WA) (CKI) 1995* RESOLVES TO ENDORSE THE PROPOSED APPROACH TO COMMUNITY ENGAGEMENT IN DEVELOPING THE SHIRE OF COCOS (KEELING) ISLANDS STRATEGIC COMMUNITY PLAN 2021 – 2031.**

## 10.4.5 BUILDING BETTER REGIONS FUND ROUND FIVE – PROPOSED APPLICATIONS

### Report Information

Date: 2 December 2020  
 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: 10.4.5 Water Corporation Briefing Note Cost Estimates  
 10.4.5 Waterfront Building Report and Concept Designs

### 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 provides a proposed strategy for the Shire's response to the announcement of a Round Five of the Building Better Regions Fund and seeks Council's endorsement of that strategy, being to submit two applications as follows:

1. Water Service to Lots 223 and 224 (Trannies Tourism Development Lots); and
2. The Tokoh - Home Island Heritage Waterfront Building Refurbishment.

### **Relevant Documents**

Available for viewing at the meeting

### **Background**

A new round (Round Five) of funding under the Building Better Regions Fund (BBRF) was announced by the Australian Government as part of the 2020 Budget. BBRF is one of the few large infrastructure funding programs for which the Shire of Cocos (Keeling) Islands is eligible.

The funding guidelines will be made available in mid-December with the Round Five likely to open at the same time. Preliminary advice to RDAs (and the RDO) about this round is that:

- There will be two streams; \$100million in a tourism projects stream, and \$100million broader community infrastructure (infrastructure and small projects) stream.
- If one stream is under-subscribed, funds will be pulled from the other stream, but it is likely both streams will be over-subscribed.
- Applicants can apply to have a project considered under both streams but each project will only be funded under one stream.
- While exact dates have not been announced, it is likely that Round Five will be open for a bit longer giving a few more weeks to apply; noting that Round Four was open for five weeks.

### **Comment**

If as anticipated, Round Five will be opened in the week before Christmas and stays open for six weeks, applications will need to be prepared in January for a potential closing date in early February. As Council is not scheduled to meet until late February this item is presented to seek Council's endorsement of progressing with two applications as follows:

1. Water Service to Lots 223 and 224 (Trannies Tourism Development Lots)  
Lots 223 and 224 have been identified in the Shire's Planning Scheme for future tourism resort development. The Lots are not serviced (water, power or sewerage). Several proponents have investigated development of that site over the years (Pulu



Cocos Resort Pty Ltd 1999, G. Short 2017, Hender Group 2017/18) along with several other informal enquiries; however, none have progressed to development. The officer's view is that this is due, in part to the high cost and risks associated with servicing the lots. This project was identified in the Shire's Corporate Business Plan (CBP) but, mindful of the high cost involved, the CBP identifies only the development of cost estimates, not actually installing the infrastructure. BBRF provides an opportunity to service this site with water, which at the same time will open development opportunities to the north of West Island.

The Water Corporation (Watercorp) has provided cost estimate for providing water services to this site. The cost estimate is on attachment 10.4.5. Shire officers had initially considered applying for both Water and Wastewater Servicing however, the cost estimate of \$4,467million is more than anticipated. Given the requirement of a 25% co-contribution required from the applicant (in this case the Shire), officers have revised their recommendation to Council to focus only on one service. Based on advice from Watercorp, it is recommended that the water main is the first priority. This would provide an immediate benefit in allowing existing sites such as the Clam Farm, Big Barge and Farm to connect and providing the option for water at The Spot, Trannies Beach and any other smaller development along the service alignment. The sewer main would need a resort development to operate effectively. Very small volumes of wastewater from the existing sites would sit for too long in the main causing operational issues.

It is noted that the advice from Watercorp is that the current water supply cannot support this service connection and would not be approved by Water Corporation. However, there is a current review of water services which is likely to result in a new water source, including desalination plant and transfer pump station being operational on West Island, from which this proposed service connection can leverage. Current planning for the proposed water supply is to locate the infrastructure to the north of the existing Wastewater Treatment Plant (WWTP), approximately 3.1km from the proposed Trannies service connection.

The Watercorp cost estimate for the provision of Water Service infrastructure to Lots 223 and 224 is \$2,132, 536, including a \$426,507 contingency. Based on these costs, the Shire's co-contribution as the applicant is \$533,134. The Shire has approached CKITA to consider a co-contribution to this project from CKITA. This option will be further investigated should Council resolve to proceed with this application.

**2. The Tokoh - Home Island Heritage Waterfront Building Refurbishment**

This heritage waterfront building is a two-storey structure constructed of both brick and steel framed structure with a concrete slab on ground, steel and timber framed first floors and predominately a timber framed roof with some steel members. The building is listed under the Federal Heritage Database. The Shire's CBP lists the following:

"S2.1.7.6 – Investigate options to restore and repurpose the heritage listed Tokok".

In response to this CBP action, in late 2019 the Shire engaged a Heritage architect and Structural engineer to carry out a building condition assessment and develop concepts for possible repurposing. To assist with the concepts, the architect proposed the building could house a Visitor Centre, Museum, Café, CRC, Gallery, Business Incubator and associated ablutions. The report from the architect and engineer was received in June 2020. The report states the following.

"In principle, this magnificent Heritage Listed building is worthy of renovation and restoration, as it reflects a significant chapter in the history of the Islands. The northern and southern portions of the building are structurally reasonably sound, but the roof over the middle portion requires replacement. With the proposed uses on the upper level some structural reinforcement will also be required to the floors to meet Code requirements for the anticipated loads.

Externally the whole building requires a reasonable amount of replacement of the external wall cladding and all of the roof sheeting. This extent of works would present the opportunity to ensure wall and roof insulation is installed to meet energy current standards.

Electrically, whilst the site main switch board is currently adequate, the whole building is in desperate need of being rewired and reorganised, complete with new switchboards. Replacement of all external cladding and existing open internal faces of stud works will give the ideal opportunity to do this easily.

Mechanically (Air-conditioning) the building currently has limited split units in the southern upper offices. These units could be retrieved and saved for use in other Shire premises and a new split ducted system installed to give even distribution of air though this area. The remaining indoor areas will be air-conditioned with a combination of simple split and ducted split units.

Hydraulically (Plumbing) any works will be the product of creating new spaces i.e. toilets, kitchen and cafe. Water and sewer are serviceable and all are accessible for the new works.

It is estimated the Total Project Cost of the renovation works would be approximately \$4,787,000 including professional fees, commercial kitchen fit out and allowing for regional loading and materials delivery.

The required co-contribution for a \$4.787million dollar project would be approx. \$1.2million, which in the professional view of Shire officers, is beyond this Council's financial capacity. Therefore, the officers have sought quotes to reverse engineer these plans to fit within a \$2million dollar budget, with a focus on the visitor centre/museum which is consistent with the focus of this BBRF round. This would result in the Shire's co-contribution to an application being \$500,000.

The officer's recommendation is that the Shire prepares the documents to apply for funding for both projects, noting that it is unlikely both applications will be successful but that the documents produced for the applications (i.e. Business Plans, Project Plans, Risk Plans and Cost Benefit Analysis) would result in a shovel ready project which would be invaluable for future funding opportunities. There are also economies of scale that can be realised by doing both applications and supporting documents concurrently as much of the background analysis, socio-economic analysis, strategic alignment and project manage will be duplicated.

If both applications are successful, the Shire's co-contribution would be significant at \$1,033million. At that stage, officers would bring the matter before Council along with a full financial analysis, to determine prioritisation and to seek direction regarding which grant to accept and progress.

The suite of documents required for the grant can be developed by Pracsys – an economics and strategy firm. The development of the suite of documents and preparation of the application is likely to cost \$70,000. The Shire is seeking a contribution from the RDO of \$30,000 and is in discussions with CKITA about their capacity to financially contribute to the application process to ensure that the application is of a high quality.

### **Policy and Legislative Implications**

*Local Government Act (WA) (CKI) 1995*

### Financial Implications

The cost to develop the application is \$70,000. While co-contributions will be sought to reduce the cost impact of developing the application documents, it is possible the full cost will need to be met by the Shire.

Details of the full financial impact of the projects will be developed as part of the application process and, should the Shire successfully secure a grant for one or both projects, the financial impacts will be presented in full for Council to determine whether or not the Shire should accept the funding.

### Strategic Implications

Strategic Community Plan:

Economic Development: *Economic stability and improved potential for economic development and diversity for the islands.*

### Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	The projects exceed the Shire's capacity for co-funding.	High (12)	Projects, with full financial impact assessments will be presented to Council for a formal decision prior to any agreements being signed.
Health & Safety	N/A		
Reputation	The deteriorated state of the invaluable heritage-listed Tokah reflects badly on the shire's reputation for managing its assets.	Moderate (6)	The structural engineer's assessment, the architects report and this proposed grant application are demonstrated efforts by the Shire to manage this asset.
Service Interruption	N/A		
Compliance	N/A		

Property	The deteriorated state of the invaluable heritage-listed Tokah reflects badly on the shire's reputation for managing its assets. There is a risk this building could deteriorate beyond repair.	High (16)	The structural engineer's assessment, the architects report and this proposed grant application are demonstrated efforts by the Shire to manage this asset.
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

#### OFFICER'S RECOMMENDATION – ITEM NO 10.4.5

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO S3.18 OF THE *LOCAL GOVERNMENT ACT (WA) (CKI) 1995* RESOLVES TO:

1. SUPPORT THE SHIRE'S BUILDING BETTER REGIONS FUND APPLICATION FOR THE PROVISION OF WATER SERVICE TO LOTS 223 AND 224 (TRANNIES TOURISM DEVELOPMENT LOTS) SUBJECT TO THE MATTER BEING PRESENTED TO COUNCIL WITH A FULL FINANCIAL ANALYSIS PRIOR TO AN AGREEMENT BEING SIGNED IF THE APPLICATION IS SUCCESSFUL.
2. SUPPORT THE SHIRE'S BUILDING BETTER REGIONS FUND APPLICATION FOR THE TOKOH HOME ISLAND HERITAGE WATERFRONT BUILDING REFURBISHMENT SUBJECT TO THE MATTER BEING PRESENTED TO COUNCIL WITH A FULL FINANCIAL

**ANALYSIS PRIOR TO AN AGREEMENT BEING SIGNED IF THE APPLICATION IS SUCCESSFUL.**

## 10.5 MINUTES TO BE RECEIVED

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

#### Report Information

Date: 2 December 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 and Governance Committee Meeting Minutes  
 (Confirmed) 18 November 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 (confirmed) 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 confirmed minutes of the meeting of Audit and Governance Committee of Council held on the 18 November 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 4.1.2 Continue to improve organisational planning.*

### **Voting Requirements**

Simple majority

### **Conclusion**

That the minutes of the Audit and Governance Committee meeting held on the 18 November 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 RECEIVE THE MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING HELD ON 18 NOVEMBER 2020.**

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

### Report Information

Date: 2 December 2020  
 Applicant: Shire of Cocos (Keeling) Islands  
 File Ref:  
 Location: N/A  
 Disclosure of Interest: Nil  
 Reporting Officer: Deputy Chief Executive Officer  
 Island: Shire Wide  
 Attachments: 10.5.2 Audit and Governance Committee Meeting Minutes  
 (Unconfirmed) 2 December 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 2 December 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 4.1.2 Continue to improve organisational planning.*

### **Voting Requirements**

Simple majority

### **Conclusion**

That the minutes of the Audit and Governance Committee meeting held on the 2 December 2020 be received.

### **OFFICER'S RECOMMENDATION – ITEM NO 10.5.2**

**THAT COUNCIL, BY SIMPLE MAJORITY PURSUANT TO SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995 RESOLVES TO RECEIVE THE MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING HELD ON 2 DECEMBER 2020.**

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

**PROPOSED NOTICE OF MOTION: CR IBRAM**

**THAT COUNCIL INVITE THE ASSISTANT MINISTER TO DISCUSS THE DRAFT FISHING ORDINANCE FOR THE COCOS (KEELING) ISLANDS.**

### **REASONS:**

The purpose of this meeting is to propose other solutions to better manage the fishing activities in the Cocos (Keeling) Islands

### **CEO'S COMMENT:**

The Shire recognises the highly contentious subject that is the draft Fishing Ordinance for the Cocos (Keeling) Islands. In considering Cr Ibram's notice of motion, the CEO is seeking Council's guidance on the Shire's role in this matter. Options include the following:

1. Acting only in the capacity of issuing the invitation on behalf of the community. The risk in this option is that Council is seen as avoiding its ability to represent the community and not using its leadership role to full advantage for the community.
2. Facilitating community engagement to gather a consensus view on the matter to present on behalf of the community. The risk in this option is that consensus view cannot be obtained and the Shire would be criticised by those who do not agree with the position put forward. However, the benefit is that a more structured and better managed engagement process may elicit a more structure response and community position to present to the Assistant Minister.
3. Advocating on a particular position. This option requires Council to clarify exactly what their position (solution) is and to formally vote on this position. This option comes with the risk of Council taking a position that is not fully informed and could carry the perception of siding with one group or another and of offering a solution that may not be acceptable to one or more parties. If this option is chosen, the CEO would recommend that Council spends some time becoming very well informed on all aspects of the matter before formalising their position.

In summary, the CEO would recommend that some action is appropriate given the importance of this issue in the community and commends Council for taking this constructive and focussed step and for taking a professional and solution-focussed approach.

**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

## 14.2 TRUSTS LEASES

### 14.2.1 COCOS BORONIA RESORT - APPLICATION TO SEEK EXTENSION OF DEADLINE TO EXECUTE LEASE FOR PORTION OF LOT 103, DIRECTION ISLAND

#### Report Information

Date: 2 December 2020  
 Location: Portion of Lot 103 Direction Island  
 Applicant:  
 File Ref:  
 Disclosure of Interest: Nil  
 Reporting Officer: A Selvey, Chief Executive Officer  
 Island: Direction Island  
 Attachments: 14.2.3 Cocos Boronia Resort Pty Ltd lease extension request

#### 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 from Cocos Boronia Resort (CBR) in which CBR seeks an extension to the timeframe for executing the lease on a portion of Lot 103, Direction Island. It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the 1984 Land Trusts as the Land (part Lot 103) is held in Trust. Council, in making any decision in relation to the Trust, must give due consideration of the purpose of the Trust that is “the benefit, advancement and wellbeing of Cocos (Keeling) Islanders resident in the Territory on land owned by the Council” and ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to consider matters relating to Land held in Trust.

## Relevant Documents

[Available for viewing at the meeting](#)

## Background

Cocos Boronia Resort initially approached the Shire with a concept for a resort on Direction Island in November 2017. Late in 2018, Mr Blakeman once again approached the Shire to discuss options and the process. The matter was considered by Council formally in January 2019 and the Council resolution to commence negotiations triggered a community and stakeholder engagement process and the development of a full business plan.

After many months of deliberation that considered information from stakeholders and the community, Council, at its Ordinary Meeting on 25 March 2020, resolved to proceed with a lease, subject to various strict conditions.

**THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE 1984 LAND TRUST BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.58 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO:**

- 1. RECEIVE THE PUBLIC SUBMISSIONS LODGED IN RESPONSE TO STATUTORY ADVERTISING OF THE INTENT TO DISPOSE (BY LEASE) OF A PORTION OF LOT 102 DIRECTION ISLAND;**
- 2. NOTE THAT NO SUBMISSIONS WERE RECEIVED IN RESPONSE TO THE ADVERTISED BUSINESS CASE;**
- 3. DISPOSE (BY LEASE) OF A PORTION OF LOT 102 DIRECTION ISLAND GIVING A TOTAL LEASE AREA OF 16.116 HECTARES TO COCOS BORONIA RESORT FOR THE PURPOSE**

**OF DEVELOPING A LUXURY ECO-RESORT AS PER THE FOLLOWING LEASE CONDITIONS:**

**A. LEASE PAYMENTS AS PER THE FOLLOWING SCHEDULE:**

- i. \$100,000 ONCE-OFF UPFRONT PAYMENT AT THE COMMENCEMENT OF THE PRE-CONSTRUCTION PHASE. PRE-CONSTRUCTION IS DEFINED AS THE PERIOD FROM THE DATE THE LEASE IS EXECUTED UNTIL THE DATE THE SHIRE ISSUES A BUILDING PERMIT UP TO A MAXIMUM OF 18 MONTHS AFTER WHICH A \$5,000 MONTHLY FEE WILL BE ALSO PAYABLE;**
- ii. \$10,000 PER MONTH DURING THE CONSTRUCTION PERIOD;**
- iii. \$225,000 PER ANNUM LEASE FEE POST CONSTRUCTION AS DETERMINED BY THE INDEPENDENT PROFESSIONAL VALUATION BY OPTeon AND SUBJECT TO ANNUAL CPI OR MARKET REVIEW;**

**B. LEASE TERM OF 40 YEARS PLUS 20 YEARS PLUS 20 YEARS;**

**C. THE LEASE APPLICATION IS MADE BY COCOS BORONIA RESORT PTY LTD, A WHOLLY OWNED SUBSIDIARY OF INDIAN OCEAN LEISURE PTY LTD;**

**D. NOTE THAT COMMONWEALTH SANCTION WILL BE REQUIRED PRIOR TO THE LEASE BEING EXECUTED.**

- 4. SUBJECT TO POINT 'D' ABOVE (BEING THE RECEIPT OF COMMONWEALTH SANCTION FOR THE LEASE) EXECUTE THE LEASE WITHIN 9 MONTHS FROM THE DATE OF THIS COUNCIL RESOLUTION OR WITHIN TWO WEEKS OF THE OVER THE WATER LEASE BEING SECURED, WHICHEVER IS THE SOONER.**
- 5. FORMALLY APPROACH THE ASSISTANT MINISTER OF THE TERRITORIES TO PROVIDE THE SHIRE WITH A LEASE FOR THE OVER THE WATER SECTION OF 7.110 HECTARES FOR THE SHIRE TO SUB-LEASE TO COCOS BORONIA RESORT PTY LTD ALLOWING THE SHIRE TO MANAGE THE WHOLE PROPOSAL.**

Condition Number 4 requires that CBR and the Shire execute the lease within nine months of the Council resolution on 25 March – i.e. by 25 December 2020 or within two weeks of the over the water lease being secured, whichever is the sooner. The Commonwealth approval for the over the water lease has not been secured, therefore the nine-month deadline applies.

**Comment**

The Shire and CBR have discussed this approaching deadline several times over the past months. The Shire is aware that CBR has also made several attempts to progress this matter via the Department of Infrastructure, Transport and Regional Development. On 9 November, the Assistant Secretary wrote to the Shire President in relation to the deadline and advised that the Department is progressing the various relevant legal and administrative processes for the over the water component but that the matter is complex. The letter proceeds to support Mr Blakeman's request for an extension to the 25 December 2020 deadline and states that the Department anticipates that the process will be finalised by the first quarter of 2021.

On 13 November 2020, the Shire received a letter from Mr Chris Blakeman on behalf of CBR advising of his communication with the Department and his efforts to progress this matter in a more timely manner but, that as a result of matters beyond his control, the decision on the over water component would not be completed by the 25 December timeframe. Mr Blakeman's letter includes with a request for an extension until 31 March 2021.

The Shire notes this delay with disappointment particularly as the initial discussions regarding the potential over water lease commenced in at least September 2019. Noting the importance of economic stimulus to mitigate the impact of Covid-19 on the economy of the IOT, it would be reasonable to expect a large private sector investment in the CKI economy would have been given some priority and not required an extension. However, the request for an extension is supported by the officer in recognition that:

- a. The matter is beyond the control of CBR; and
- b. The Assistant Secretary has committed to arriving at a position by the first quarter of 2021.

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 103) is Land held in Trust under the 1984 Land Trust Deed; therefore Council, is required to have due consideration of the purpose of the Trust, that is "upon trust for the benefit, advancement and wellbeing of the Cocos (Keeling) Islanders resident in the Territory on land owned by the Council."

### **Policy and Legislative Implications**

Section 3.58 of the *Local Government Act (WA) (CKI)* 1995 as amended

### **Financial Implications**

While there are financial implications and benefits arising from the potential lease as outlined below, the delay will not have an impact on the Shire's finances as funds were not included in the expected revenue for the 2020/21 financial year.

#### **Land Trust:**

The Land Trust would receive \$225,000 per annum once the resort is constructed and \$10,000 per month while it is under construction. During the pre-construction period the trust would receive a \$100,000 up front payment while in the due diligence phase of the project capped at 18 months with \$5,000 / month payments thereafter if due diligence extends past this period.

#### **Shire:**

The Shire would raise rates based on a valuation from the Valuer General from the time the lease is executed. The Shire would potentially also receive additional revenue for community programs in years that a target occupancy threshold is met.

### Strategic Implications

Strategic Community Plan: Key Result Area 1– Economic: Outcome 1.1. *Encourage economic stability for the Islands.*

### Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	That the project does not proceed if the water area lease is not approved in a timely manner, thus losing this revenue for the Trust and the Shire.	Moderate (6)	The Shire continues to proactively engage with the Assistant Minister to progress these items.
Health & Safety	N/A	N/A	N/A
Reputation	Should the project not proceed or fail, the Shire's reputation could be damaged.	Low (3)	Clear communication that the project is not guaranteed, and that the due diligence is a legitimate step to assess the project's viability.
Service Interruption	N/A	N/A	N/A
Compliance	Any deviation from legislation will expose the Shire and the project.	Low (3)	Process to-date has been compliant and there are processes in place to ensure compliance with legislation.
Property	N/A	N/A	N/A
Environment	The project has a negative impact on the environment.	Low (4)	The project will require full Environmental assessments and approvals before proceeding.

Fraud	N/A	N/A	N/A
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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

The request for an extension to the period for the execution of the lease is presented to Council for consideration and the officer's recommendation is that the request is approved based on the letter from Assistant Secretary that a decision can be expected in the foreseeable future.

### OFFICER'S RECOMMENDATION – ITEM NO 14.2.3

**THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE 1984 LAND TRUST DEED, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.58 OF THE LOCAL GOVERNMENT ACT (WA) (CKI) 1995 RESOLVES TO APPROVE THE REQUEST FROM COCOS BORONIA RESORT FOR AN EXTENSION FOR THE EXECUTION OF THE LEASE FOR FOUR MONTHS FROM 9 DECEMBER 2020 (I.E. THE DATE OF THIS COUNCIL MEETING) MAKING 9 APRIL 2021 THE NEW DEADLINE FOR THE LEASE TO BE EXECUTED.**

**14.3 TRUSTS FINANCE**

**15. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING (LATE ITEM)**

**16. CLOSURE**