

Shire of Cocos (Keeling) Islands

Shire of Cocos (Keeling) Islands

Agenda

Special Meeting of Council

3 February 2021, 4.15pm

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

5.2 APPLICATION FOR LEAVE OF ABSENCE

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)

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

10.2 LEASES

10.3 PLANNING/BUILDING

10.4 ADMINISTRATION

10.4.1 CEO RECRUITMENT AND SELECTION

Report Information

Date: 28 January 2021
 Location: N/A
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: A. Selvey, Chief Executive Officer
 Island: N/A
 Attachments: 10.4.1 Recruitment and Selection Committee Terms of Reference; CEO Position Description; and Proposals from Recruitment Consultants

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</i>

		<i>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 CEO’s resignation to Council and seeks Council to consider the establishment of a Recruitment and Selection Committee as the selection panel and appointment of members, **including one independent member**, to that Committee. It also seeks a Council decision on the appointment of a recruitment consultant to assist the Recruitment and Selection Committee with the recruitment process and consideration and approval of the CEO Position Description.

Relevant Documents

[Available for viewing at the meeting](#)

Background

The CEO tendered her resignation effective from 09 April 2021, two months short of her three-year contract. To ensure timely recruitment and appointment of a new CEO, this report brings proposals from three consultants who specialise in recruitment of Local Government CEO for Council to consider. It also seeks Council to consider and resolve on the establishment of a Recruitment and Selection Committee as an advisory committee as per the attached terms of reference and in accordance with S5.8 of the *Local Government Act 1995 (WA)(CKI)* and the newly adopted model standards prescribed in the *Local Government (Administration) Amendment Regulations 2021*

Comment

Consultant

Due to the specialised nature of recruiting Council’s principal employee, it is commonplace for a Council to engage the services of a suitably qualified independent recruitment consultant, licensed under the *Employment Agents Act 1976 (WA)*, to guide Council through the process and ensure there is legislative compliance, equity and fairness. The proposals from the consultants are attached for Council’s consideration. Actions that the consultant should assist Council’s Committee with include:

- Draft Job Advertisement and Information Package
- Conduct Executive Search
- Perform Preliminary Assessments and Background Checks
- Assist Council develop interview questions and prepare for conduct of interviews
- Coordinate the interview process
- Conduct referee checks
- Prepare the selection summary and assessment report inclusive of the Committee's recommendation to Council
- Prepare a contract of Employment for the successful candidate.

To ensure a timely recruitment process, the CEO has sought quotes from suitably qualified recruitment consultants who have a record in assisting local governments with CEO recruitment. These are presented for consideration by Council. Council may choose to appoint one of these consultants or can defer a decision today and seek additional proposals from other consultants.

Committee

Under S5.8 of the *Local Government Act 1995 (WA)(CKI)* Council can appoint a Committee of three or more to assist the Council with recruitment. The Committee is proposed to be advisory in nature. The Committee terms of reference include keeping Council informed throughout the process, whilst maintaining confidentiality of individual applicants. The Committee would formally bring a recruitment report and recommendation for an appointment to Council for final decision-making. See attached Terms of Reference.

The newly adopted model standards prescribed in the *Local Government (Administration) Amendment Regulations 2021*, requires that the selection panel be established to conduct and facilitate the recruitment process. NB: While Local Governments have 3 months within which to adopt the model standards, it is the officer's recommendation that the recruitment and selection process already recommended, requires little change to be compliant with these new requirements; therefore these changes are reflected in the updated officer's recommendation – see further explanatory notes below.

1. The Committee is referred to as the selection panel in the new standards. It is to be made up of elected members, (the number of which is determined by Council) and must include at least one independent person. The independent person cannot be a current elected member or staff member of the local government, nor can the person be the consultant engaged to assist with the process.
2. Terms of Reference: The Terms of Reference have been updated to include the appointment of an independent member to the Committee. They have also been updated to ensure that it is explicit that the Committee is responsible for the

assessment of applicants and for making a recommendation to Council regarding the most suitable applicant or applicants.

3. The role of Council: Council role is to establish the Committee (selection panel) and then draw upon the advice of its Committee to make the decision about who to appoint to the position of the CEO of the local government.

Position Description

The Regulations requires Council to carefully consider the functions of the CEO, including the skills and experience required of their head of the administrative arm of the local government. The requirement is for Council to articulate requirements in the selection criteria which are to be included in the Position Description (called a JDF in the model standards). The Position Description is to be approved by Council by Absolute Majority. See attached draft (Attachment One) for endorsement by Council.

Policy and Legislative Implications

Under S5.36 of the *Local Government Act 1995 (WA)(CKI)* the Council is responsible for the employment of a person to be the CEO of the local government and the newly adopted *Local Government (Administration) Amendment Regulations 2021* further detail the requirements of how that process should be undertaken. The recruitment consultant's scope of work will be to continue to advise Council on legislative requirements to ensure the recruitment and selection process is compliant with all legislation.

Financial Implications

\$25,000 was allocated in the 2020/21 for Staff Appointment/Leaving Account. This will be sufficient to commence the recruitment process and additional funds can be considered during the Budget review.

Strategic Implications

Key Result Area Four: *Civic Leadership*

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Insufficient funds for the recruitment process	Low (4)	The expiry of the CEO's contract period was considered during the 2020/21 budget period and sufficient funds are in the budget to commence the process. Should additional funds be required, these can be included during the budget review.
Health & Safety	N/A		
Reputation	N/A		
Service Interruption	Change in senior leadership can result in disruption to projects and services.	High (12)	The outgoing CEO will ensure that the Acting CEO and other key staff have a full understanding of all projects. The recruitment process is commenced as soon as possible to minimise disruption.
Compliance	Changes to the legislation for recruitment of CEOs	High (12)	The contract for the recruitment consultant will include a requirement to ensure the process is compliant.
Property	N/A		
Environment	N/A		
Fraud	N/A		

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

- Part One: Absolute Majority is required to establish the Recruitment and Selection Committee (selection panel).
- Part Two: Absolute Majority is required to approve the CEO Position Description
- Part Two: Simple Majority is required to appoint the consultant to assist with the recruitment.

Conclusion

This report is presented to allow Council to commence the recruitment process in a timely manner which will assist with minimising any disruption to services or projects. However, Council has the option to defer consideration of the recruitment consultant until the Committee has formed and to seek additional proposals.

OFFICER'S RECOMMENDATION – ITEM NO 10.4.1

PART ONE:

1. THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT ACT 1995 (WA)(CKI) AND THE LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021* RESOLVES TO ESTABLISH THE CHIEF EXECUTIVE OFFICER RECRUITMENT AND SELECTION COMMITTEE AS PER THE ATTACHED TERMS OF REFERENCE; AND
2. APPOINTS THE FOLLOWING ELECTED MEMBERS AND INDEPENDENT MEMBER TO THE COMMITTEE:

CR _____;

CR _____;

CR _____;

INDEPENDENT MEMBER: _____

PART TWO:

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021*, APPROVES THE CEO POSITION DESCRIPTION (ATTACHMENT ONE) WHICH OUTLINES THE QUALIFICATIONS, SELECTION CRITERIA AND RESPONSIBILITIES OF THE POSITION.

PART THREE:

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO *S5.36 OF THE LOCAL GOVERNMENT ACT 1995 (WA)(CKI)* RESOLVES TO APPOINT THE FOLLOWING SUITABLE QUALIFIED, INDEPENDENT AND EXPERIENCED RECRUITMENT CONSULTANT, LICENSED UNDER THE EMPLOYMENT AGENTS ACT 1976 (WA), TO ASSIST THE CEO RECRUITMENT AND SELECTION COMMITTEE TO CONDUCT THE RECRUITMENT AND SELECTION PROCESS FOR THE SHIRE CEO:

10.5 MINUTES TO BE RECEIVED

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

12. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL

13. MATTERS BEHIND CLOSED DOORS

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 LEASE

14.3 TRUSTS FINANCE

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

16. CLOSURE