

Shire of Cocos (Keeling) Islands

Shire of Cocos (Keeling) Islands

Minutes

Special Meeting of Council

9 April 2021, 8.15am

**Council Chambers, Home Island and Via
Video Conferencing Platform**

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

The presiding member declare the meeting opened at 8.15am and welcome Councillors and staff to the meeting.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

Shire President: Cr A Minkom

Deputy President: Cr S Iku

Councillors: Cr J Ibram
Cr M Hamiril
Cr N Anthoney
Cr Charlston

Officers: I Minkom, Community Development Coordinator

Public: Nil

Visitors: Nil

Apologies: Nil

Approved Leave of Absence: Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

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.

Nil

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

Nil

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)

Nil

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

Nil

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
NIL			

10. REPORT AND RECOMMENDATIONS OF COMMITTEE

Nil

10.1 FINANCE

Nil

10.2 LEASES

Nil

10.3 PLANNING/BUILDING

Nil

10.4 ADMINISTRATION

Nil

10.5 MINUTES TO BE RECEIVED

10.5.1 MINUTES FROM CEO RECRUITMENT AND SELECTION COMMITTEE MEETING TO BE RECEIVED

Report Information

Date: 8 April 2021
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 CEO Recruitment and Selection Committee Minutes
(Confirmed) 10 February 2021

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input 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 CEO Recruitment and Selection Committee of Council from the previous meeting.

Background

The Shire has established the CEO Recruitment and Selection Committee as a Committee of Council. The CEO Recruitment and Selection 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 CEO Recruitment and Selection Committee of Council held on the 10 February 2021.

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 CEO Recruitment and Selection Committee meeting held on the 10 February 2021 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 CEO RECRUITMENT AND SELECTION COMMITTEE MEETING HELD ON 10 FEBRUARY 2021.

COUNCIL RESOLUTION – ITEM NO 10.5.1

MOVED: CR IBRAM

SECONDED: CR HAMIRIL

THAT COUNCIL, BY SIMPLE MAJORITY PURSUANT TO *SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995* RESOLVES TO RECEIVE THE MINUTES OF THE CEO RECRUITMENT AND SELECTION COMMITTEE MEETING HELD ON 10 FEBRUARY 2021.

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: ANTHONY, CHARLSTON, HAMIRIL, IBRAM, IKU, MINKOM

AGAINST: NIL

10.5.2 MINUTES FROM CEO RECRUITMENT AND SELECTION COMMITTEE MEETING TO BE RECEIVED

Report Information

Date: 8 April 2021
 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 CEO Recruitment and Selection Committee Minutes
 (Unconfirmed) 8 March 2021

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input 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 CEO Recruitment and Selection Committee of Council from the previous meeting.

Background

The Shire has established the CEO Recruitment and Selection Committee as a Committee of Council. The CEO Recruitment and Selection 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 CEO Recruitment and Selection Committee of Council held on the 8 March 2021.

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 CEO Recruitment and Selection Committee meeting held on the 8 March 2021 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 CEO RECRUITMENT AND SELECTION COMMITTEE MEETING HELD ON 8 MARCH 2021.

COUNCIL RESOLUTION – ITEM NO 10.5.2

MOVED: CR ANTHONY SECONDED: CR IKU

THAT COUNCIL, BY SIMPLE MAJORITY PURSUANT TO SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995 RESOLVES TO RECEIVE THE MINUTES OF THE CEO RECRUITMENT AND SELECTION COMMITTEE MEETING HELD ON 8 MARCH 2021.

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

**FOR: ANTHONY, CHARLSTON, HAMIRIL, IBRAM, IKU, MINKOM
AGAINST: NIL**

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

Nil

12. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL

Nil

13. MATTERS BEHIND CLOSED DOORS

13.1 APPOINTMENT OF NEW CHIEF EXECUTIVE OFFICER

Report Information

Date: 8 April 2021
 Location: N/A
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Governance and Risk Coordinator
 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</i>

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

Report Information

This matter will be considered behind closed doors in accordance with Section 5.23(2) (b) and (e) of the Local Government Act as it related to the personal affair of a person and a contract that may be entered into.

Voting Requirement

Simple Majority

OFFICER'S RECOMMENDATION

THAT COUNCIL GO BEHIND CLOSED DOORS IN ACCORDANCE WITH SECTION 5.23(2)(B) AND (E) OF THE LOCAL GOVERNMENT ACT 1995.

COUNCIL RESOLUTION

MOVED: CR IBRAM SECONDED: CR IKU

THAT COUNCIL GO BEHIND CLOSED DOORS IN ACCORDANCE WITH SECTION 5.23(2)(B) AND (E) OF THE LOCAL GOVERNMENT ACT 1995.

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: ANTHONY, CHARLSTON, HAMIRIL, IBRAM, IKU, MINKOM
AGAINST: NIL

COUNCIL RESOLUTION

MOVED: CR IKU SECONDED: CR IBRAM

THAT COUNCIL PROCEED THE MEETING WITH OPEN DOORS IN ACCORDANCE WITH SECTION 5.23(2)(B) AND (E) OF THE LOCAL GOVERNMENT ACT 1995.

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: ANTHONY, CHARLSTON, HAMIRIL, IBRAM, IKU, MINKOM
AGAINST: NIL

RECOMMENDATION/COUNCIL DECISION – ITEM NO 13.1

THAT COUNCIL BY ABSOLUTE MAJORITY UNDER *SECTION 5.36 (2)(B) OF THE LOCAL GOVERNMENT ACT*:

1. APPOINTS MR/MS/MRS (FULL NAME) TO THE POSITION OF CHIEF EXECUTIVE OFFICER WITH THE SHIRE OF COCOS (KEELING) ISLANDS FOR A PERIOD OF THREE (3) AND/OR FIVE (5) YEARS COMMENCING ON DAY DATE MONTH YEAR AND CONCLUDING ON DAY DATE MONTH YEAR;
2. IS OF THE BELIEF THAT MR/M/MRS (FULL NAME) IS SUITABLY QUALIFIED FOR THE POSITION OF CHIEF EXECUTIVE OFFICER; AND
3. IS SATISFIED WITH THE PROVISIONS OF THE PROPOSED EMPLOYMENT CONTRACT TO BE ENTERED INTO WITH MR/MS/MRS (FULL NAME) WITH A TOTAL REWARD PACKAGE AS ADVERTISED AND IN LINE WITH THE SALARIES AND ALLOWANCES BAND 4.
4. AUTHORISES THE SHIRE PRESIDENT TO EXECUTE THE CONTRACT OF EMPLOYMENT UNDER THE COMMON SEAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.

COUNCIL RESOLUTION – ITEM NO 13.1

THAT COUNCIL BY ABSOLUTE MAJORITY UNDER *SECTION 5.36 (2)(B) OF THE LOCAL GOVERNMENT ACT*:

1. APPOINTS KELLI ANNE SMALL TO THE POSITION OF CHIEF EXECUTIVE OFFICER WITH THE SHIRE OF COCOS (KEELING) ISLANDS FOR A PERIOD OF THREE (3) YEARS COMMENCING ON 2 JUNE 2021 AND CONCLUDING ON 1 JUNE 2024;
2. IS OF THE BELIEF THAT KELLI ANNE SMALL IS SUITABLY QUALIFIED FOR THE POSITION OF CHIEF EXECUTIVE OFFICER; AND
3. IS SATISFIED WITH THE PROVISIONS OF THE PROPOSED EMPLOYMENT CONTRACT TO BE ENTERED INTO WITH KELLI ANNE SMALL WITH A TOTAL REWARD PACKAGE AS ADVERTISED AND IN LINE WITH THE SALARIES AND ALLOWANCES BAND 4.
4. AUTHORISES THE SHIRE PRESIDENT TO EXECUTE THE CONTRACT OF EMPLOYMENT UNDER THE COMMON SEAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.

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) Islander's resident in the Territory on land owned by the Council.'

14.1 TRUSTS ADMINISTRATION

Nil

14.2 TRUSTS LEASES

Nil

14.3 TRUSTS FINANCE

Nil

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

Nil

16. CLOSURE

The Presiding member declared the meeting closed at 8.29am.

These minutes were confirmed at a meeting on

SIGNED this day of 2021

as a true record of proceedings.

PRESIDING MEMBER