

# Shire of Cocos (Keeling) Islands

## Shire of Cocos (Keeling) Islands

### Agenda

#### Ordinary Meeting of Council

Wednesday 22 June 2022, 4.00pm

Council Chambers, Shire Administration Building

via Teleconference Platform

Lot 256 Jalan Bunga Melati, Home Island

### **Disclaimer**

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

## 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.

### **OFFICER RECOMMENDATION**

**THAT COUNCIL SUSPEND THE OPERATION OF CLAUSES C1.5.7-PUBLIC QUESTION TIME, C1.5.9-DEPUTATIONS, C1.5.11 PRESENTATIONS, C1.5.13-PUBLIC INSPECTIONS OF AGENDA MATERIALS, C1.7.1-MEMBERS TO BE IN THEIR PROPER PLACES, C1.9.1(b)-MOTIONS TO BE STATED IN WRITING, C1.12.4-METHOD OF TAKING VOTE AND C113.3-PUBLIC INSPECTIONS OF UNCONFIRMED MINUTES OF THE SHIRE OF COCOS (KEELING) ISLANDS MEETING PROCEDURES LOCAL LAW 2019 FOR THE DURATION OF THIS ELECTRONIC MEETING AND THAT THESE MATTERS BE DETERMINED AT THE DISCRETION OF THE PRESIDING MEMBER.**

## 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 25 May 2022 - Attachment 7.1

### OFFICER RECOMMENDATION

**THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 5.22(2) AND 3.18 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI), RESOLVES THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 25 MAY 2022, 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 FINANCIAL REPORT – MAY 2022

##### Report Information

Date:	10 June 2022
Location:	Not Applicable
Applicant:	Not Applicable
File Ref:	
Disclosure of Interest:	
Reporting Officer:	Manager Finance & Corporate Services
Island:	Shire Wide
Attachments:	10.1.1.1 - Monthly Financial Report - May 2022

##### 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

The purpose of this report is to provide a monthly financial report for May 2022, which includes rating, investment, reserve, debtor, and general financial information to Elected Members in accordance with Section 6.4 of the *Local Government Act 1995 (WA) (CKI)*.



## 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 (WA) (CKI)*, and Regulation 34 of the *Local Government (Financial Management) Regulations 1996* and provides oversight of the Shire's finances to Council.

## Comment

The period of review is May 2022. The current closing municipal surplus for this period is \$1,781,020 compared to a budget position of \$496,000.

Income for the May 2022 period year to date is \$7,211,745 which is made up \$6,487,272 in operating revenues, \$705,973 in non-operating grants, contributions, and subsidies and \$18,500 in proceeds from sale of assets. The budget estimated \$6,988,956 would be received for the same period. The variance to budget is \$222,789.

Expenditure for the May 2022 period year to date is \$7,523,653. This is made up of \$5,998,443 in operating expenditure and \$1,525,210 in capital expenditure. The budget estimated \$8,528,924 would be spent for the same period. The variance to budget is \$1,005,271.

Details of all significant variances against the current budget are provided in the notes to the Monthly Financial Report contained within Attachment 10.1.1.1.

## 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.

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.
Reputation	The monthly financial statements are open to public scrutiny.	Low (3)	Procedures in place to ensure all expenditure is justifiable.
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.
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 Monthly Financial Report for the period ending 31 May 2022, including explanations of material variances, be received.

### OFFICER RECOMMENDATION – ITEM NO 10.1.1

#### THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDING 31 MAY 2022, AS CONTAINED IN ATTACHMENT 10.1.1.1; AND
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 31 MAY 2022, AS CONTAINED IN ATTACHMENT 10.1.1.1.

### 10.1.2 SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD 1 MAY 2022 TO 31 May 2022

#### Report Information

Date: 10 June 2022  
 Location: Not applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Senior Finance Officer  
 Island: Shire Wide  
 Attachments: 10.1.2.1 - 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

The purpose of this report is to present to Council a list of accounts paid under delegated authority for the period 1 May 2022 to 31 May 2022, as required by the *Local Government (Financial Management) Regulations 1996*.

#### Relevant Documents

Available for viewing at the meeting

Nil

## Background

Council has delegated, to the Chief Executive Officer, the exercise of its power to make payments from the Shire's Municipal and Trust funds. In accordance with Regulation 13 of the *Local Government (Financial Management) Regulations 1996* a list of accounts paid is to be provided to Council, where such delegation is made.

## Comment

The following table summarises the payments for the period by payment type, with full details of the accounts paid contained within Attachment 10.1.2.1.

Payment Type	Amount (\$)
EFT Payments #8903 to #8984	\$164,341.49
Direct Debit Payment	\$46,832.29
Cheque Payment	\$9,645.87
<b>Total Payments</b>	<b>\$220,819.65</b>

Contained within Attachment 10.1.2.1 is a detailed transaction listing of payments, including credit card expenditure, for the period ended 31 May 2022 as per the Summary table above.

## Policy and Legislative Implications

Nil

## 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 monthly for corrective action.
Reputation	The accounts paid report is open to public scrutiny.	Low (3)	Procedures in place to ensure all expenditure is justifiable.
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.

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**

It is recommended that Council receives the reports provided for the period ended 31 May 2022.

**OFFICER RECOMMENDATION – ITEM NO 10.1.2**

**THAT COUNCIL:**

- 1. BY SIMPLE MAJORITY, PURSUANT TO REGULATION 13(1) OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO PAYMENTS MADE FROM MUNICIPAL OR TRUST FUNDS FOR THE PERIOD 1 MAY 2022 TO 31 MAY 2022 TOTALLING \$220,819.65 AS CONTAINED IN ATTACHMENT 10.1.2.1.**
  
- 2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 31 MAY 2022, AS CONTAINED IN ATTACHMENT 10.1.2.1.**

### 10.1.3 ADOPTION OF THE 2022/2023 ANNUAL BUDGET

#### Report Information

Date: 17 June 2022  
 Location: Not applicable  
 Applicant: Not applicable  
 File Ref:  
 Disclosure of Interest: Nil  
 Reporting Officer: Manager Finance & Corporate Services  
 Island: Whole Shire  
 Attachments: 10.1.3.1 – Annual Budget 2022-2023  
 10.1.3.2 – Schedule of Fees and Charges  
 10.1.3.3 – Capital Expenditure 2022-23

#### 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

The purpose of this report is for Council to consider and adopt the proposed budget for Municipal, Trust and Reserve Funds for the 2022/2023 financial year, together with supporting schedules, including imposition of rates and minimum payments, adoption of fees and charges, setting of Elected Members fees for the year, and other consequential matters arising from the budget papers.

#### Relevant Documents

Available for viewing at the meeting

Nil

## Background

The presented budget for 2022/2023 is a balanced budget. This Budget document has been prepared in accordance with the *Local Government Act 1995 (WA) (CKI)*, *Local Government (Financial Management) Regulations 1996* and Australian Accounting Standards.

## Comment

The following information is provided in support of the Budget being presented for consideration.

### 2021/2022 Forecast Carried Forward Surplus

The estimated surplus to be carried forward from 2021/2022 into this budget is \$467,013. The surplus is a combination of savings against budget expectations, and projects and services budgeted in 2021/2022 not yet completed. These projects and services have been re-budgeted in the 2022/2023 budget for completion.

### Major Projects, Services and Programs

The major projects, services and programs that have been included in the 2022/2023 Budget include:

Project/Initiative	Budget Allocation (\$)
Tokoh refurbishment – Home Island	\$1,101,666
Plant Replacement	\$1,447,371
Home Island Retail Precinct	\$829,376
Road Reconstruction Jalan Bunga Mawar	\$270,276
Resheeting of Bungalows	\$235,424
Kampong – Kitchens & Window Renewals	\$196,553
Kampong – Bathroom Renewals	\$104,269
Waste Management	\$1,082,748
Off Island Disposal of Waste/Asbestos	\$132,628
Road Maintenance	\$338,824
Parks and Reserves (including Playgrounds) Maintenance	\$988,529
Kampong Housing Maintenance	\$981,185
Community Development, events and festivals	\$363,131
Boat Ramp Maintenance	\$53,140

### Proposed Rates

At the Ordinary Council Meeting held on 27 April 2022 Council resolved to provide local public notice of its intention to adopt differential rates and minimum payments for the 2022/2023 financial year. Ratepayers were provided 21 days to make a submission. No submissions were received by the Manager Finance & Corporate Services during the submission period.

If adopted the proposed rates would yield revenue of \$442,694 comprising a 2.7% increase in total rates revenue raised compared to the 2021/2022 year. This includes the amalgamation of the GRV Holiday Accommodation into the GRV Business category.

The following rating categories, rates in the dollar and minimum payments for 2022/2023 are recommended for adoption:

RATING CATEGORY	RATE IN \$ 2022/23	MINIMUM RATE 2022/23
GRV General Developed	0.1161	\$751
GRV Vacant Land	0.2318	\$854
GRV Business	0.1225	\$751

### Capital Expenditure

Total capital expenditure for 2022/2023 is budgeted to be \$4.3 million, with \$2.13 million being funded from non-operating grants and contributions, \$0.8 million from reserve funds and the balance (\$1.3 million) from municipal funds. Due to the number of projects still ongoing from 2021/2022, the focus has been to complete the major projects carried forward with minimal new projects considered. Should resources become available throughout the year, new projects can be considered by Council. Details of the capital works schedule for 2022/23 is attached at 10.1.3.3

### Schedule of Fees and Charges

A minor review of the Fees and Charges has occurred as part of the budget process. Most fees have resulted in a 5% increase with fees for camping, hall hire and photocopying not being increased. Rental fees for the Kampong houses have increased by \$10 per week.

All fees and charges were checked against associated legislation and any required amendments have been made.

### Cash Backed Reserves

The Shire's Plant, Building and Community reserves have been utilised to fund capital projects totalling \$823,672.

### Policy and Legislative Implications

This Budget has been prepared in accordance with the *Local Government Act 1995 (WA) (CKI)*, the *Local Government (Financial Management) Regulations 1996* and Australian Accounting Standards.

Section 6.2 of the *Local Government Act 1995 (WA) (CKI)* requires Council to prepare an annual budget.

Section 6.16 of the *Local Government Act 1995 (WA) (CKI)* Imposition of fees and charges

### Financial Implications

The proposed budget is a balanced budget for the 2022/2023 financial year.



## Strategic Implications

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

*Outcome 4.1 - An Informed Council working with other to advance our islands*

*Objective 4 – Ensure efficient and effective management of the organisation and financial resources.*

## Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	The budget does not accurately reflect actual expenditure and revenue	Low (3)	The budget has been prepared with sufficient rigour to provide a high level of confidence in all estimates
Reputation	The budget does not reflect community aspiration and priority	Moderate (3)	The budget has been prepared to align with the CBP
Compliance	The budget does not comply	Low (4)	The budget has been prepared in accordance with all legislative requirements

## 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

Officers submit the Shire's 2022/2023 Annual Budget for adoption as required under Section 6.2 of the *Local Government Act 1995 (WA) (CKI)*.

**OFFICER RECOMMENDATION – ITEM NO 10.1.3**

**THAT COUNCIL, BY ABSOLUTE MAJORITY:**

1. PURSUANT TO SECTION 6.2 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* AND PART 3 OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996*, RESOLVES TO ADOPT THE 2022/2023 BUDGET, INCLUDING THE STATEMENT OF COMPREHENSIVE INCOME BY NATURE AND TYPE, STATEMENT OF COMPREHENSIVE INCOME BY PROGRAM, STATEMENT OF CASH FLOWS, RATE SETTING STATEMENT, SUPPORTING NOTES TO AND FORMING PART OF THE STATUTORY BUDGET, CAPITAL EXPENDITURE BUDGET BY PROJECT AND TRANSFERS TO/FROM RESERVE FUNDS FOR THE YEAR ENDING 30 JUNE 2023, AS DETAILED IN ATTACHMENT 10.1.3.1.
  
2. PURSUANT TO SECTIONS 6.32, 6.34, 6.35, 6.37 AND 6.38 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* AND REGULATION 54 OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996*, RESOLVES TO ADOPT THE 2022/2023 GENERAL RATE AND MINIMUM PAYMENT FOR THE SHIRE OF COCOS (KEELING) ISLANDS AS FOLLOWS:

RATING CATEGORY	RATE IN \$ 2022/23	MINIMUM RATE 2022/23
GRV General Developed	0.1161	\$751
GRV Vacant Land	0.2318	\$854
GRV Business	0.1225	\$751

3. PURSUANT TO THE PROVISIONS OF THE *WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007* PART 6, DIVISION 3, SECTION 67:
  - A) LEVY A CHARGE OF \$373 IN RESPECT OF THE REMOVAL OF THE CONTENTS OF ONE 240L REFUSE BIN FROM RESIDENTIAL PROPERTY UP TO TWICE PER WEEK; AND
  
  - B) LEVY A MINIMUM CHARGE OF \$373 IN RESPECT OF THE REMOVAL OF THE CONTENTS OF ONE 240L REFUSE BIN FROM COMMERCIAL PROPERTY UP TO TWICE PER WEEK, ANY ADDITIONAL BINS OR COLLECTIONS WILL RESULT IN ADDITIONAL CHARGES;
  
4. INSTALMENTS  
ENDORSE THE DUE DATES FOR PAYMENT OF INSTALMENT OPTIONS AS:
  - A) ONE (1) INSTALMENT OPTION – WEDNESDAY 31 AUGUST 2022: AND
  
  - B) FOUR (4) INSTALMENT OPTION - FIRST INSTALMENT WEDNESDAY 31 AUGUST 2022, SECOND INSTALMENT WEDNESDAY 30 NOVEMBER 2022, THIRD INSTALMENT TUESDAY 31 JANUARY 2023, AND FOURTH INSTALMENT FRIDAY 31 MARCH 2023;

5. **INSTALMENT ADMINISTRATION FEE**  
PURSUANT TO SECTIONS 6.45 AND 6.50 OF *THE LOCAL GOVERNMENT ACT (WA) (CKI) 1995* AND REGULATION 67 OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RESOLVES TO ADOPT AN INSTALMENT ADMINISTRATION CHARGE WHERE THE OWNER HAS ELECTED TO PAY RATES (AND SERVICE CHARGES) BY WAY OF AN INSTALMENT OPTION OF \$5 FOR EACH INSTALMENT AFTER THE INITIAL INSTALMENT IS PAID, BEING \$15.00;
  
6. **INSTALMENT INTEREST**  
PURSUANT TO REGULATION 68 OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996, RESOLVES TO ADOPT AN INSTALMENT INTEREST RATE OF 5.5% WHERE THE OWNER HAS ELECTED TO PAY RATES AND SERVICE CHARGES THROUGH AN INSTALMENT OPTION;
  
7. **PENALTY INTEREST**  
PURSUANT TO SECTIONS 6.51(1) AND 6.51(4) OF *THE LOCAL GOVERNMENT ACT (WA) (CKI) 1995* AND REGULATION 70 OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996, RESOLVES TO ADOPT AN INTEREST RATE OF 11% PER ANNUM FOR RATES AND CHARGES THAT REMAIN UNPAID AFTER BECOMING DUE AND PAYABLE;
  
8. **ELECTED MEMBERS' FEES AND ALLOWANCES**  
PURSUANT TO SECTION 5.99 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)*, RESOLVES TO SET THE ANNUAL ATTENDANCE FEE FOR ALL COUNCILLORS TO \$5,500 AND THE SHIRE PRESIDENT'S ALLOWANCE TO \$5,500 FOR THE 2022/2023 FINANCIAL YEAR.
  
9. **FEES AND CHARGES**  
PURSUANT TO SECTION 6.16 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)*, ADOPTS THE FEES AND CHARGES SET OUT IN ATTACHMENT 10.1.3.2 AND
  
10. **MATERIAL VARIANCE FOR 2022/2023 FINANCIAL YEAR**  
PURSUANT TO REGULATION 34(5) OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* ADOPTS THE LEVEL TO BE USED IN THE MONTHLY STATEMENTS OF FINANCIAL ACTIVITY IN 2022/2023 FOR REPORTING MATERIAL VARIANCES TO BE THE GREATER OF:
  - I) 10%; OR
  - II) \$20,000;

APPLICABLE TO EACH REVENUE AND EXPENDITURE ITEM WITHIN THE NATURE AND TYPE CLASSIFICATION AND CAPITAL INCOME AND EXPENDITURE.

## 10.2 LEASES

## 10.3 PLANNING/BUILDING

### 10.3.1 PROPOSED GUEST HOUSE – LOT 142 (#42) BEACON HEIGHTS ROAD, WEST ISLAND

#### Report Information

Date:	26 May 2022
Location:	Lot 142 (#42) Beacon Heights Road, West Island
Applicant:	Megan Clunies-Ross
File Ref:	WL142
Reporting Officer:	Chief Executive Officer
Island:	West Island
Attachments:	10.3.1.1 – Application Development Approval – 42 Beacon Heights Rd West Island

#### 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 the existing four-bedroom, two-bathroom dwelling on the subject property as a short stay accommodation guest house from time to time for up to eight guests.

## Relevant Documents

### Available for viewing at the meeting

Property management plan  
Guest code of conduct  
Fire and emergency plan

## Background

The subject property of Lot 142 (#42) Beacon Heights Road, West Island is zoned Residential under the Shire's *Local Planning Scheme No.1* (the Scheme).

Currently only a single house and associated outbuildings exist on the property. The landowner intends to use the single house for short stay accommodation from time to time. The specific land use term for this development under the Scheme is 'guest house', which is defined as the following:

*'means the use of premises for a commercial accommodation establishment compatible in character and scale with residential housing'.*

A property management plan, fire and emergency plan and a guest code of conduct have been submitted in support of the development application as attached to this item.

The application was referred to the Department of Infrastructure, Transport, Regional Development and Communications (Comm) regarding any essential service implications. This organisation raised no concerns with the application.

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

## Comment

The proposed maximum guest capacity of eight person is logical and therefore supported for the four-bedroom dwelling (two guests per bedroom).

If the property is managed to the protocols stated, the tourist use is deemed compatible with the surrounding residential locality. Nonetheless it is recommended that Council grant an initial two-year approval for the guest house, which on cessation can be extended by Council if deemed appropriate and/or requested by the landowner.

It is recommended Council retains a degree of control by making the approval subject to various conditions. Should a breach of these conditions occur, Council, in accordance with the enforcement provisions of the Scheme can cancel the guest house approval.

## Policy and Legislative Implications

Shire of Cocos (Keeling) Islands Local Planning Scheme No.1

## 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
Health & Safety	House fire	Moderate (5)	Approval condition – property management plan
Compliance	Building permit not obtained prior to construction	Low (1)	Advice note added to planning approval
	Unruly behaviour of guests in a residential area	Moderate (9)	Approval condition enforcement

## 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 officer supports the proposals subject to conditions being imposed on the applicant.

It is recommended the guest house is approved for an initial two-year period. Council has the option of granting a five-year extension at the completion of the two-year period at the request of the landowner.

**OFFICER RECOMMENDATION – ITEM NO 10.3.1**

**THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR THE RESIDENTIAL ADDITIONS AND GUEST HOUSE LAND USE AT LOT 142 BEACON HEIGHTS ROAD, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTES:**

- 1. DEVELOPMENT MAY BE CARRIED OUT ONLY IN ACCORDANCE WITH THE DETAILS OF THE APPLICATION AS APPROVED HEREIN AND ANY APPROVED PLAN.**
- 2. ANY ADDITIONAL DEVELOPMENT WHICH IS NOT IN ACCORDANCE WITH THE APPLICATION THE SUBJECT OF THIS APPROVAL OR ANY CONDITION OF APPROVAL WILL REQUIRE THE FURTHER APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.**
- 3. THE APPROVED USE AS GUEST HOUSE IS LIMITED FOR A PERIOD OF TWO YEARS FROM THE DATE OF THIS APPROVAL.**
- 4. THE TOTAL NUMBER OF PEOPLE TO BE ACCOMMODATED IN THE GUEST HOUSE SHALL NOT EXCEED EIGHT (8) GUESTS AT ALL TIMES.**
- 5. THE DEVELOPMENT MUST NOT CAUSE NUISANCE OR DEGRADE THE AMENITY OF THE LOCALITY IN ANY WAY, INCLUDING BY REASON OF THE EMISSION OF NOISE, LIGHT, ODOUR, FUMES, SMOKE, VAPOUR OR OTHER POLLUTANT, OR IMPACT ON PUBLIC SAFETY OR OTHERWISE; TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.**
- 6. BARBEQUES ARE TO BE LIMITED TO GAS OR ELECTRIC ONLY.**
- 7. ACCOMMODATION FOR GUESTS IS LIMITED TO SHORT STAY ONLY, BEING A MAXIMUM BOOKING TIME OF THREE MONTHS IN ANY TWELVE-MONTH PERIOD.**
- 8. THE GUEST HOUSE SHALL BE OPERATED BE IN ACCORDANCE WITH THE ‘CODE OF CONDUCT’, AND THE ‘FIRE AND EMERGENCY PLAN’ SUBMITTED WITH THE SUBJECT DEVELOPMENT APPLICATION DATED 12 MAY 2022.**
- 9. THE LISTED ‘PROPERTY MANAGER’ SHALL UNDERTAKE THE DUTIES LISTED ON THE ‘PROPERTY MANAGEMENT PLAN’ SUBMITTED WITH THE SUBJECT DEVELOPMENT APPLICATION DATED 12 MAY 2022.**

**ADVICE NOTES:**

- A. 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.**
- B. THE APPLICANT IS TO IMPLEMENT AND MAINTAIN REPORTING MECHANISMS FOR COMPLAINTS CONCERNING THE OPERATION OF THE GUEST HOUSE. IN THE EVENT OF A SUBSTANTIATED COMPLAINT BEING RECEIVED THE APPLICANT IS REQUIRED TO DEMONSTRATE MITIGATION RESPONSE(S) TO THE APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.**
- C. 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.**

- D. THIS APPROVAL IS ISSUED TO THE CURRENT APPLICANT AND IS NOT TRANSFERABLE TO ANOTHER PERSON OR ANOTHER PARCEL OF LAND.**
- E. DEVELOPMENT APPROVAL AS GUEST HOUSE DOES NOT AFFECT THE EXISTING AND FUTURE USE OF THE PREMISES AS A SINGLE HOUSE.**
- F. THE FOLLOWING WORKS WILL NEED TO BE COMPLETED TO THE DWELLING, IF NOT ALREADY COMPLETED:**
- 1) SMOKE DETECTORS AND EVACUATION LIGHTING WILL NEED TO BE INSTALLED AND CONFIGURED IN THE DWELLING TO ACHIEVE COMPLIANCE WITH PART 3.7.2.5 OF THE *NATIONAL CONSTRUCTION CODE OF AUSTRALIA* FOR A CHANGE OF BUILDING CLASSIFICATION FROM A CLASS 1A 'SINGLE DWELLING' TO A CLASS 1B 'BOARDING HOUSE, GUEST HOUSE OR HOSTEL USE' RESIDENCE.**
  - 2) A MINIMUM OF TWO RCDS WILL NEED TO BE FITTED TO PROTECT ALL POWER POINT AND LIGHTING CIRCUITS AS PRESCRIBED UNDER REGULATION 12 OF THE *ELECTRICITY REGULATIONS 1947*.**



## 10.4 ADMINISTRATION

### 11. MINUTES TO BE RECEIVED

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

##### Report Information

Date: 9 June 2022  
 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: 11.1.1 - Audit and Governance Committee Meeting Minutes  
 27 April 2022  
 11.1.2 - Audit and Governance Committee Meeting Minutes  
 18 May 2022 (Unconfirmed)

##### 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 and 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 confirmed and unconfirmed minutes of the meeting of Audit and Governance Committee of Council held on the 27 April 2022 and 18 May 2022.

## **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 27 April 2022 and 18 May 2022 be received.

### **OFFICER RECOMMENDATION – ITEM NO 11.1**

**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 27 APRIL 2022 AND 18 MAY 2022.**

## 11.2 MINUTES FROM CEO RECRUITMENT AND SELECTION COMMITTEE MEETING TO BE RECEIVED

### Report Information

Date: 9 June 2022  
 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: 11.2.1 – CEO Recruitment and Selection Committee Meeting Minutes 11 April 2022 (Confirmed)

### 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 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 is the confirmed minutes of the meeting of CEO Recruitment and Selection Committee of Council held on the 11 April 2022.

### **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 11 April 2022 be received.

**OFFICER RECOMMENDATION – ITEM NO 11.2**

**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 11 APRIL 2022.**

- 12. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
  
- 13. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL**
  
- 14. MATTERS BEHIND CLOSED DOORS**
  
- 15. 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.'



## 15.1 TRUSTS ADMINISTRATION

## 15.2 TRUSTS LEASES

### 15.2.1 REQUEST TO AMEND LEASE FOR PORTION OF LOT 103 HOME ISLAND – ISLAND POWER CO PTY LTD

#### Report Information

Date: 7 June 2022  
 Applicant: Island Power Co Pty Ltd  
 File Ref:  
 Location: Portion of Lot 103 Home Island  
 Disclosure of Interest: Nil  
 Reporting Officer: Leasing Officer  
 Island: Home Island  
 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 formally brings a request from Island Power Co Pty Ltd for the lease of Part of Lot 103 to amend a condition in Phase One milestone for the purpose of development of a renewable energy facility. This process outlined below will meet all statutory requirements for disposal of property as per the *Local Government Act 1995 (WA) (CKI)*. It should be noted

that Council, in this instance, is acting in its capacity as the Trustee of the Land Trusts as the Land (Lot 103) is held in Trust; however the process as outlined in this report applies all requirements of the *Local Government Act 1995 (WA) (CKI)* to provide transparency and as a best practice process. Council, in making any decision in relation to the Trusts, must give due consideration of the purpose of the Trusts that is *“the benefit, advancement and wellbeing of the community formed by Kampong residents; and the wellbeing of Cocos Islanders”* and ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to dispose of Land held in Trust to the Lessee.

### Relevant Documents

Nil

### Background

At the Ordinary Meeting of Council on 23 January 2019, Council resolved to:

1. GIVE LOCAL PUBLIC NOTICE OF THE INTENT TO DISPOSE (BY LEASE) OF A PORTION OF LOT 103 IN TWO PARTS (PART ONE: 7,500SQM AND PART TWO: 12,500SQM GIVING A TOTAL LEASE AREA OF 2.00 HECTARES) TO ISLAND POWER CO PTY LTD FOR THE PURPOSE OF DEVELOPING A RENEWABLE ENERGY FACILITY AS PER THE FOLLOWING LEASE CONDITIONS:
  - LEASE VALUE OF \$4,200 (\$0.21PSQM) PER ANNUM AS DETERMINED BY THE INDEPENDENT PROFESSIONAL VALUATION BY OPTEON AND SUBJECT TO ANNUAL CPI REVIEW;
  - LEASE TERM OF 15 YEARS PLUS 15 YEARS;
  - THE LEASE APPLICATION IS MADE BY ISLAND POWER CO PTY LTD ON BEHALF OF PROJECT COMPANY ISLAND POWER CO HI PTY LTD WHICH WILL BE USED TO DELIVER THE PROJECT (HEREAFTER THEY ARE REFERRED TO TOGETHER AS THE “LESSEE”).
  - DEVELOPMENT WILL BE CARRIED OUT IN TWO STAGES WITH TIMEFRAMES AS FOLLOWS:

#### PHASE ONE:

- A. LODGE DEVELOPMENT APPLICATION: WITHIN 24 MONTHS FROM THE COMMENCEMENT DATE.
- B. COMPLETE THE NEGOTIATIONS ON THE DEVELOPMENT APPLICATION TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS IN ITS CAPACITY AS CONSENT AUTHORITY TO THE DEVELOPMENT APPLICATION: WITHIN 6 MONTHS FROM THE DATE OF LODGEMENT OF THE DEVELOPMENT APPLICATION OR AS EXTENDED BY THE LESSOR IN ITS ABSOLUTE DISCRETION.
- C. LODGE BUILDING PERMIT APPLICATION: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A DEVELOPMENT APPROVAL.
- D. COMMENCE LESSEE’S WORKS: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A BUILDING PERMIT.

- E. PRACTICAL COMPLETION OF LESSEE'S WORKS: WITHIN 24 MONTHS FROM THE DATE OF ISSUE OF COMMENCING LESSEE'S WORKS.

PHASE TWO:

- A. LODGE DEVELOPMENT APPLICATION: WITHIN 5 YEARS AFTER THE COMMENCEMENT DATE.
- B. COMPLETE THE NEGOTIATIONS ON THE DEVELOPMENT APPLICATION TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS IN ITS CAPACITY AS CONSENT AUTHORITY TO THE DEVELOPMENT APPLICATION: WITHIN 6 MONTHS FROM THE DATE OF LODGEMENT OF THE DEVELOPMENT APPLICATION OR AS EXTENDED BY THE LESSOR IN ITS ABSOLUTE DISCRETION.
- C. LODGE BUILDING PERMIT APPLICATION: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A DEVELOPMENT APPROVAL.
- D. COMMENCE LESSEE'S WORKS: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A BUILDING PERMIT.
- E. PRACTICAL COMPLETION OF LESSEE'S WORKS: WITHIN 24 MONTHS FROM THE DATE OF ISSUE OF COMMENCING LESSEE'S WORKS.
2. CONCURRENTLY WITH THE STATUTORY REQUIREMENT OF GIVING LOCAL PUBLIC NOTICE, IMPLEMENT THE STAKEHOLDER AND COMMUNITY ENGAGEMENT AS OUTLINED IN ATTACHMENT 10.2.1 AS A VALUE-ADDED PROCESS THAT, IN RECOGNITION OF THE COMPLEXITY AND IMPORTANCE OF THIS PROPOSAL, EXCEEDS STATUTORY REQUIREMENTS.
3. CONSIDER THE REPORT ON THE RESULTS OF THE STAKEHOLDER AND COMMUNITY CONSULTATION AND ALL PUBLIC SUBMISSIONS AT AN ORDINARY MEETING OF COUNCIL AS SOON AS POSSIBLE TO DETERMINE WHETHER TO EXECUTE A LEASE WITH ISLAND POWER CO PTY LTD.

At the Ordinary Meeting of Council on 27 March 2019, Council resolved to:

1. RECEIVE AND ACKNOWLEDGE THE REPORT ON THE RESULTS OF THE STAKEHOLDER AND COMMUNITY CONSULTATION ON THE INTENT TO LEASE A PORTION OF LOT 103 FOR THE RENEWABLE ENERGY FACILITY;
2. AUTHORISE THE CEO TO DISPOSE (BY LEASE) OF A PORTION OF LOT 103 IN TWO PARTS (PART ONE: 7,500SQM AND PART TWO: 12,500SQM GIVING A TOTAL LEASE AREA OF 2.00 HECTARES) TO ISLAND POWER CO PTY LTD FOR THE PURPOSE OF DEVELOPING A RENEWABLE ENERGY FACILITY SUBJECT TO THE FOLLOWING LEASE CONDITIONS:
  - LEASE VALUE OF \$4,200 (\$0.21PSQM) PER ANNUM AS DETERMINED BY THE INDEPENDENT PROFESSIONAL VALUATION BY OPTeon AND SUBJECT TO ANNUAL CPI REVIEW;
  - LEASE TERM OF 15 YEARS PLUS 15 YEARS;
  - THE LEASE APPLICATION IS MADE BY ISLAND POWER CO PTY LTD ON BEHALF OF PROJECT COMPANY ISLAND POWER CO HI PTY LTD WHICH WILL BE USED TO DELIVER THE PROJECT (HEREAFTER THEY ARE REFERRED TO TOGETHER AS THE "LESSEE").

- DEVELOPMENT MAY BE CARRIED OUT IN TWO STAGES WITH TIMEFRAMES AS FOLLOWS:

PHASE ONE:

- A. LODGE DEVELOPMENT APPLICATION: WITHIN 24 MONTHS FROM THE COMMENCEMENT DATE.
- B. COMPLETE THE NEGOTIATIONS ON THE DEVELOPMENT APPLICATION TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS IN ITS CAPACITY AS CONSENT AUTHORITY TO THE DEVELOPMENT APPLICATION: WITHIN 6 MONTHS FROM THE DATE OF LODGEMENT OF THE DEVELOPMENT APPLICATION OR AS EXTENDED BY THE LESSOR IN ITS ABSOLUTE DISCRETION.
- C. LODGE BUILDING PERMIT APPLICATION: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A DEVELOPMENT APPROVAL.
- D. COMMENCE LESSEE'S WORKS: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A BUILDING PERMIT.
- E. PRACTICAL COMPLETION OF LESSEE'S WORKS: WITHIN 24 MONTHS FROM THE DATE OF ISSUE OF COMMENCING LESSEE'S WORKS.

PHASE TWO:

- F. LODGE DEVELOPMENT APPLICATION: WITHIN 5 YEARS AFTER THE COMMENCEMENT DATE.
- G. COMPLETE THE NEGOTIATIONS ON THE DEVELOPMENT APPLICATION TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS IN ITS CAPACITY AS CONSENT AUTHORITY TO THE DEVELOPMENT APPLICATION: WITHIN 6 MONTHS FROM THE DATE OF LODGEMENT OF THE DEVELOPMENT APPLICATION OR AS EXTENDED BY THE LESSOR IN ITS ABSOLUTE DISCRETION.
- H. LODGE BUILDING PERMIT APPLICATION: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A DEVELOPMENT APPROVAL.
- I. COMMENCE LESSEE'S WORKS: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A BUILDING PERMIT.
- J. PRACTICAL COMPLETION OF LESSEE'S WORKS: WITHIN 24 MONTHS FROM THE DATE OF ISSUE OF COMMENCING LESSEE'S WORKS.
- K. MONTHS FROM THE DATE OF ISSUE OF COMMENCING LESSEE'S WORKS.

In accordance with the Council resolution Phase One milestone specifies that the Lessee is to submit a Development Application 24 months from the commencement date by end of June 2022. Due to the complexity surrounding the project, this milestone has not been achieved.

The Lessee has requested for Council to consider extending the due date for this milestone for a further 12 months. The revised date being to lodge the development application within 36 months from the commencement date of this lease.

**Comment**

The proposed project offers significant benefit to the Community and progresses environment, social and economic goals of the Strategic Community Plan whilst putting land that has little, community, commercial or recreational value to good use. As noted above, in determining this matter, Council is acting in its capacity as the Trustee of the Land Trusts as the Land (Lot 103) is Land held in Trust; therefore Council, is required to have due consideration of the purpose of the Trust, that is *“the benefit, advancement and wellbeing of the community formed by Kampong residents; and the wellbeing of Cocos Islanders”* and ensure their decision-making is guided by this objective. The officer’s recommendation is based on the proposal’s alignment with community goals as articulated in the Strategic Community Plan as this provides a framework for Council (as Trustees) to be confident that the proposed lease is consistent with the purposes of the Trusts, that is, the advancement and well-being of the relevant community via the following:

Benefits to the community include: a cleaner, greener, more sustainable future for the island; specialised training and employment for local workers; lower diesel fuel usage; costs savings to government; and the payment of lease fees to the Shire. There appears to be sound support for this project in the community and no objections to the proposed lease.

**Policy and Legislative Implications**

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

**Financial Implications**

The proposed lease fee of \$4,200 per annum would provide an additional revenue stream for the Trusts.

**Strategic Implications**

Shire of Cocos (Keeling) Islands Strategic Community Plan 2013 – 2023 – Outcome 3.1.1. Increase the environmental credentials of the Islands.

**Risk Implications**

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Reputation	Not progressing with the lease in a timely manner could result in uncertainty for a key stakeholder who provides a good community service.	Moderate (8)	This item is being progressed as quickly as possible, while still observing legislative requirements.

Compliance	The process for leasing does not comply with legislation.	Low (3)	The process outlined in this report is consistent with legislative requirements.
Property	The property is being used other than what it has been intended for.	Low (3)	Property inspection to be conducted annually.

### 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 officer's recommendation supports the request to allow Island Power Co Pty Ltd to extend Phase One milestone to lodge the development application for a further 12 months from 30 June 2022. The recommendation has been made on the basis that the project offers significant social, environmental and economic benefits, progresses the objectives of the Trusts for the community and provides a financial return on otherwise under-utilised land.

### OFFICER RECOMMENDATION – ITEM NO 15.2.1

**THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.58 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) RESOLVES TO:**

- A. EXTEND PHASE ONE MILESTONE FOR A FURTHER 12 MONTHS, WITH REVISED MILESTONE BEING TO LODGE DEVELOPMENT APPLICATION WITHIN 36 MONTHS FROM THE COMMENCEMENT DATE.**

**15.2.2 APPLICATION FOR NEW LEASE PART LOT 18 HOME ISLAND RETAIL CENTRE –  
TENANCY 5 – TIDAL ACCENTS**

**Report Information**

Date: 20 June 2022  
 Location: Part Lot 18 Home Island Retail Centre – Tenancy 5 Tidal Accents  
 Applicant: Mrs S Yaserie  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Leasing Officer  
 Island: Home Island  
 Attachments: 15.2.2.1 - Leasing Proposal – Tidal Accents

**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 Mrs Yaserie to enter into a new lease at Part Lot 18 Home Island Retail Centre known as Tenancy 5 Tidal Accents to Council for consideration. It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the 1979 Land Trust as the Land (Part Lot 18) 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 “for the benefit, advancement and wellbeing of the community formed by the Kampong residents” 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

The lease at Part Lot 18 Home Island Tenancy 5 commonly known as Tidal Accents is currently in holding over arrangement. To formalise this arrangement the applicant Mrs Yaserie submitted a request to enter into a new lease agreement. See attachment 15.2.2.1.

## Comment

The boutique is one of several places on Home Island that offers a range of fashion for all age group that includes traditional and modern apparels. They also offer tailored clothing, beauty and gifts, home living products that are often very popular in the market. A new service product they will offer is customised (on-demand) t-shirt and label printing soon to commence in mid-2022. The boutique in collaboration with Subtle Elegance and Seafront Restaurant will offer the community a one stop shop for their special occasion. Tourism will also benefit with local souvenirs (t-shirts, hats, towels and local carving) available at the boutique. The proponents have proven to be a successful small business and have extensive experience and knowledge in managing a business.

Local staff are employed to ensure this brings a positive economic outcome for the Community as per the Trust requirements.

In the new leasing policy shortly to be adopted by Council, an EOI is required where an occupancy agreement has reached the expiry date. In accordance with this upcoming new requirement, Officer's recommended the lease is extended on a periodic lease until the renovations to this retail space is complete. Only then an EOI is released to the public. The proponents have accepted this proposal.

The Shire have also imposed the following special condition for all new lease requests moving forward to ensure we receive the most benefit for the community:

*“Should the lessee not maintain the openings hours to the Lessor’s satisfaction the Lessor may terminate the lease. Minimum opening hours are as follows except where express authorisation has been provided by the Chief Executive Officer:”*

The proponent has proposed the following opening hours with intentions to increase on demand:

3 days a week – Monday, Thursday and Saturday with a minimum of 5 hours per day.

Milestones have not been requested however the lease will stipulate that the lease purpose continues to be met.



## Policy and Legislative Implications

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

## Financial Implications

Whilst Officers recognise that a market valuation should be sought for a new lease, the Shire recommends that for the interim period, prior to renovation works being completed at the Retail Centre, the current lease amount of \$1,942.60 per annum continues for the new lease, subject to an annual CPI increase.

It is also to be noted that the Shire has received a valuation on an 'as completed' basis for the new renovated shop with the new rent to become effective once the retail precinct works have been completed. The proponents acknowledge the annual fee will be reviewed once works are completed at Tenancy 5.

## Strategic Implications

Shire of Strategic Community Plan 2016-2026:

*Outcome 1.1 Encourage economic stability for the Islands.*

*1.1.1 Increase employment opportunities for local residents.*

## Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Reputation	Not progressing with the lease in a timely manner could result in uncertainty for a key stakeholder who provides a good community service.	Moderate (8)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Compliance	The process for leasing does not comply with legislation.	Low (3)	The process outlined in this report is consistent with legislative requirements.
Property	The property is being used other than what it has been intended for.	Low (3)	Property inspection to be conducted annually.

### 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 a new lease is presented to the Trust for consideration and the officer's recommendation is that the request is approved as it provides additional products and services to the Community.

### OFFICER RECOMMENDATION – ITEM NO 15.2.2.1

THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE 1979 LAND TRUST DEED, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.58 OF THE *LOCAL GOVERNMENT ACT 1995 (WA)* (CKI) RESOLVES:

1. TO GIVE LOCAL PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY WAY OF LEASE A PORTION OF PART LOT 18 HOME ISLAND RETAIL CENTRE TENANCY 5 TO MRS YASERIE AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE, SUBJECT TO THE FOLLOWING CONDITIONS:
  - a. THAT THE LEASE FEE BE SET AT THE CURRENT ANNUAL RENT AND A ONE-OFF LEASE PREPARATION FEE OF \$257;
  - b. THE LEASE TERM IS EXTENDED ON A PERIODIC AGREEMENT UNTIL SUCH TIME THE RENOVATIONS TO TENANCY 5 IS COMPLETE WHICH WILL BE RELEASED TO PUBLIC AS AN EOI;
  - c. SHOULD THE RENOVATIONS CONTINUE TO THE FURTHER TERM THE LEASE IS SUBJECT TO AN ANNUAL CPI REVIEW;
2. THE PURPOSE OF THE LEASE IS TO OPERATE A RETAIL SHOP KNOWN AS TIDAL ACCENTS;
3. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD; THE CHIEF EXECUTIVE OFFICER IS AUTHORISED TO ENTER INTO THE LEASE AS PER THE SHIRE'S STANDARD COMMERCIAL LEASE TEMPLATE AND WITH THE CONDITIONS AS OUTLINED ABOVE.
4. THAT IF OBJECTIONS ARE RECEIVED, TO CONSIDER ALL PUBLIC SUBMISSIONS AT THE FIRST ORDINARY MEETING OF COUNCIL FOLLOWING THE CLOSE OF THE PUBLIC SUBMISSION PERIOD;
5. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY BE UNDERTAKEN;
6. THE APPLICANT HAS NO OUTSTANDING DEBT AND;

7. SHOULD THE LESSEE NOT MAINTAIN THE OPENING HOURS TO THE LESSOR'S SATISFACTION, THE LESSOR MAY TERMINATE THE LEASE. MINIMUM OPENING HOURS OPENING HOURS ARE AS FOLLOWS EXCEPT WHERE EXPRESS AUTHORISATION HAS BEEN PROVIDED BY THE CEO: 3 DAYS A WEEK BEING MONDAY, THURSDAY AND SATURDAY WITH A MINIMUM OF 5 HOURS PER WEEK;
8. NEW RENT WILL COMMENCE ONCE THE RENOVATIONS TO TENANCY 5 ARE COMPLETED.

**15.3 TRUSTS FINANCE**

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

**17. CLOSURE**