

Shire of Cocos (Keeling) Islands

Shire of Cocos (Keeling) Islands

Agenda

Ordinary Meeting of Council

Wednesday 25 May 2022, 4.00pm

Community Resource Centre Meeting Room

West 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.

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)

7.1 Special Council Meeting held on 11 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 SPECIAL COUNCIL MEETING HELD ON 11 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
NIL			

10. REPORT AND RECOMMENDATIONS OF COMMITTEE

10.1 FINANCE

10.1.1 MONTHLY FINANCIAL REPORT – APRIL 2022

Report Information

Date: 13 May 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 - April 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 April 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 April 2022. The current closing municipal surplus for this period is \$2,004,056 compared to a budget position of \$980,392. This is considered a satisfactory result for the Shire as it is maintaining a healthy surplus position.

Income for the April 2022 period year to date is \$6,961,420 which is made up \$6,336,481 in operating revenues, \$606,439 in non-operating grants, contributions, and subsidies and \$18,500 in proceeds from sale of assets. The budget estimated \$6,881,434 would be received for the same period. The variance to budget is \$79,986.

Expenditure for the April 2022 period year to date is \$6,885,011. This is made up of \$5,427,980 in operating expenditure and \$1,457,031 in capital expenditure. The budget estimated \$7,865,779 would be spent for the same period. The variance to budget is \$980,768.

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 30 April 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 30 APRIL 2022, AS CONTAINED IN ATTACHMENT 10.1.1.1; AND
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 30 APRIL 2022, AS CONTAINED IN ATTACHMENT 10.1.1.1.

10.1.2 SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD 1 APRIL 2022 TO 30 APRIL 2022

Report Information

Date: 11 May 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 April 2022 to 30 April 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	\$283,375.86
Direct Debit Payment	\$56,543.25
Cheque Payment	\$3,142.19
Total Payments	\$343,061.30

Contained within Attachment 10.1.2.1 is a detailed transaction listing of credit card expenditure for the period ended 30 April 2022. This amount is included within the total payments, listed 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	Low (3)	There are processes in place to ensure

	order to comply with relevant legislation.		compliance with legislation.
Fraud	That the report is manipulated.	Low (3)	Interim and end of year audits along with sequence checks.

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

It is recommended that Council receives the reports provided for the period ended 30 April 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 APRIL 2022 TO 30 APRIL 2022 TOTALLING \$343,061.30 AS CONTAINED IN ATTACHMENT 10.1.2.1

2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 30 APRIL 2022, AS CONTAINED IN ATTACHMENT 10.1.2.1.

10.1.3 WRITE OFF SMALL RATES BALANCES

Report Information

Date: 17 May 2022
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Manager Finance & Corporate Services
 Island: Shire Wide
 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

The purpose of this report is ascertain approval to write off small Rates debtor balances below \$10.00 prior to the end of financial year.

Relevant Documents

Available for viewing at the meeting.

Nil

Background

In accordance with s6.12(1)(c) of the *Local Government Act 1995 (WA) (CKI)*, a local government may write off any amount of money which is owed to the local government.

Under s6.51(3) accrued interest is, for the purpose of its recovery, taken to be a rate or service charge, that is due and payable. Delegation 2.1.11 – Defer, grant Discounts, Waive or Write off Debts does not apply to debts, which are prescribed debts that are taken to be a rate or service charge and thus Council approval is sought to write off small interest balances on rates debtors.

Comment

Due to the charging of interest on overdue rates, where the payment may have been made shortly after the due date, there are some small amounts showing as outstanding on a number of assessments.

Below is a list of the amounts outstanding that are less than \$10.00 each, with the total amount being \$79.19. Writing off these debts maintains the Rates Ledger and allows for a clear opening balance for the next financial year. The amounts are insignificant for accounting purposes and will eliminate needless enquiries when rates notices are issued for the 2022/23 financial year.

Assessment Number	Outstanding Balance
A6035	\$ 0.02
A6040	\$ 0.36
A6080	\$ 7.98
A6083	\$ 2.40
A6102	\$ 1.68
A6126	\$ 3.75
A6151	\$ 0.12
A6156	\$ 9.78
A6169	\$ 0.78
A6180	\$ 4.59
A6191	\$ 0.07
A6201	\$ 3.88
A6225	\$ 4.59
A6226	\$ 4.59
A6230	\$ 4.59
A6231	\$ 0.12
A6234	\$ 8.23
A6236	\$ 7.71
A6240	\$ 5.75
A6242	\$ 2.84
A6244	\$ 3.13
A6247	\$ 2.01
A6248	\$ 0.22
	\$ 79.19

Policy and Legislative Implications

Local Government Act 1995 (WA) (CKI) s6.12(1)(c)

Local Government Act 1995 (WA) (CKI) s6.51 (3)

Strategic Implications

Nil

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Income varies significantly from Budget	Low (2)	Write-offs are limited to small, immaterial amounts.

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 detailed small balances be approved for write-off.

OFFICER RECOMMENDATION – ITEM NO 10.1.3

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO THE SECTION 6.12(1)(C) LOCAL GOVERNMENT ACT 1995 (WA)(CKI), APPROVES THE WRITE-OFF OF SMALL RATES BALANCES TOTALLING \$79.19 PER TABLE BELOW:

Assessment Number	Outstanding Balance
A6035	\$ 0.02
A6040	\$ 0.36
A6080	\$ 7.98
A6083	\$ 2.40
A6102	\$ 1.68
A6126	\$ 3.75
A6151	\$ 0.12
A6156	\$ 9.78
A6169	\$ 0.78
A6180	\$ 4.59
A6191	\$ 0.07
A6201	\$ 3.88
A6225	\$ 4.59
A6226	\$ 4.59
A6230	\$ 4.59
A6231	\$ 0.12
A6234	\$ 8.23
A6236	\$ 7.71
A6240	\$ 5.75
A6242	\$ 2.84
A6244	\$ 3.13
A6247	\$ 2.01
A6248	\$ 0.22
	\$ 79.19

10.1.4 PAYMENT OF CREDITOR OUTSIDE OF PURCHASING POLICY

Report Information

Date: 20 May 2022
 Location: Not Applicable
 Applicant: Mr Greg Cahill, Cocos Plumbing and Gas
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Manager Finance & Corporate Services
 Island: Shire Wide
 Attachments: 10.1.4.1 Confidential Attachment – Cocos Plumbing and Gas Supporting Information

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 is provided for Council to consider the approval to pay a creditor outside of the Shires normal Purchasing Policy guidelines.

Relevant Documents

Available for viewing at the meeting.

Nil

Background

On December 2020 Cocos Plumbing and Gas issued 19 invoices totalling \$22,200 for works ranging from March 2015 up to December 2019. Three of the invoices, totalling \$597 were authorised for payment by the then Deputy CEO on 17 December 2020.

Cahill Plumbing had since followed up on the outstanding invoices with the Deputy CEO but had not been advised as to why the invoices remained unpaid.

Mr Cahill raised the issue during public question time at the November 2021 OCM. The CEO responded to his questions referring to the lack of Purchase Orders or evidence of authorisation and completion of works as well as highlighting the fact that the invoices, at the time of being received, related to prior financial years.

After meeting with the current Manager Finance & Corporate Services, Mr Cahill has provided electronic copies of the nineteen invoices of which seven had purchase orders - totalling \$6,048. The Purchase Orders have been verified and the invoices paid on 24 March 2022. Shire officers have been unable to find any other related purchase orders or internal works requests to support authorisation of works for the remaining nine outstanding invoices. A summary of the relevant invoices and the documentation support provided by Mr Cahill to date is provided for Council consideration in Confidential Attachment 10.1.4.1

Comment

In accordance with the *Local Government (Financial Management) Regulations 1996*, regulation 11 (2), a local government is to develop procedures for the approval of accounts to ensure that before payment of an account, a determination is made that the relevant debt was incurred by a person who was properly authorised to do so.

The aim of the Shires Purchasing Policy is to ensure appropriate internal controls are maintained with regards to purchasing and the resulting payments made to suppliers. All purchases must be authorised by a delegated officer. Historically, purchase orders were written out manually in order books and signed by the relevant manager. Once works had been completed, this would be noted on the order and the invoice approved for payment. In July 2020 the Shire implemented the Altus Procurement system, to electronically raise purchase orders and request and record appropriate authorisations in accordance with the Purchasing Policy quote requirements and delegation limits.

Current officers are unable to ascertain evidence of appropriate authorisation and completion of works for the outstanding invoices however do note the potential lack of Shire records or appropriate purchasing procedures at the time of the alleged works (Mr Cahill has advised that historically much of the works undertaken on Government House were requested over the phone and some by the then CEO's wife - not a delegated officer). Officers also note that the invoices were issued up to five years after the works were supposedly carried.

Mr Cahill is a long-standing resident and business owner on the Islands.

As the payment of the invoices in question fall outside the scope of the current purchasing policy, officers request the payments be authorised, or alternatively, not authorised by Councillor discretion (with regard to the relevant support provided in Confidential attachment 10.1.4.1).

It should be noted that the should Council approve some or all of the requested invoices for payment, that this should not set a precedent for future requests. Invoices for works completed should be presented in a timely manner and should note the approved purchase order number on the invoice.

Policy and Legislative Implications

Shire of Cocos (Keeling) Islands Purchasing Policy CPF4
State Records Act 2000
Local Government Act 1995 (WA) (CKI)
Local Government Act (Functions and General) Regulations 1996 – Part4
Local Government (Financial Management Regulations) 1996

Financial Implications

As the outstanding invoices relate to works carried out in prior years, the current budget has not made provision for the expense (total outstanding invoices being \$15,555.00).

Strategic Implications

Nil

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Reputation	If the invoices remain unpaid Shire vendors or other members of the community may develop a poor opinion of Council.	Low (3)	The appropriate evidence, or lack thereof, is to be considered when allowing or disallowing payment of an invoice.
Compliance	That the Shire has not historically maintained a level of appropriate internal control over purchasing and supplier payments.	Low (3)	This report is prepared to provide an auditable trail of evidence and transparent decision making.

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

To ensure transparency and maintain an auditable record, the officers recommend Council either approve or disapprove the payment of the outstanding invoices based on the evidence of works provided in confidential attachment 10.1.4.1.

OFFICER'S RECOMMENDATION – 10.1.4

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 6.33, 6.35 AND 6.36 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI):

1. APPROVE / DO NOT APPROVE THE PAYMENT OF INVOICE 16500 FOR \$13,480.00;
2. APPROVE / DO NOT APPROVE THE PAYMENT OF INVOICE 16501 FOR \$392.00;
3. APPROVE / DO NOT APPROVE THE PAYMENT OF INVOICE 16502 FOR \$128.00;
4. APPROVE / DO NOT APPROVE THE PAYMENT OF INVOICE 17500 FOR \$520.00;
5. APPROVE / DO NOT APPROVE THE PAYMENT OF INVOICE 17501 FOR \$130.00;
6. APPROVE / DO NOT APPROVE THE PAYMENT OF INVOICE 17503 FOR \$330.00;
7. APPROVE / DO NOT APPROVE THE PAYMENT OF INVOICE 18502 FOR \$156.00;
8. APPROVE / DO NOT APPROVE THE PAYMENT OF INVOICE 18503 FOR \$128.00;
9. APPROVE / DO NOT APPROVE THE PAYMENT OF INVOICE 19502 FOR \$291.00;

10. NOTES THAT THIS WILL NOT SET A PRECEDENT FOR FUTURE REQUESTS FOR PAYMENT AS INVOICES ARE TO BE PRESENTED IN A TIMELY MANNER AND INCLUDE REFERENCE TO THE APPROVED PURCHASE ORDER NUMBER ON THE INVOICE.

10.2 LEASES

Nil

10.3 PLANNING/BUILDING

Nil

10.4 ADMINISTRATION

10.4.1 APPOINTMENT OF COUNCIL REPRESENTATIVES TO COMMITTEES AND ORGANISATIONS

Report Information

Date: 11 May 2022
 Applicant: The Shire of Cocos (Keeling) Islands
 Location: N/A
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: N/A
 Attachments: 10.4.1.1-Terms of Reference Community Funding Program Committee

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 seeks Council’s consideration of establishing Council Committees and appointments to each Committee.

Relevant Documents

Available for viewing at the meeting

Nil

Background

Section 5.8 of the *Local Government Act 1995 (WA) (CKI)* allows Council to establish, by absolute majority, Committees of three or more persons to assist Council and to exercise the powers and discharge the duties of the local government that can be delegated to Committees. At its Ordinary Council Meeting held on 27 October 2021 Council re-established its two committees, being the Audit and Governance Committee and the Community Funding Program Committee, and appointed members of Council to these committees and to external committees of which Council is invited to hold membership.

With the office of an elected member, former Cr Ibram, becoming vacant in April 2022, the following Committees require appointment of a member to replace his previous appointments:

- The Shire of (Cocos) Keeling Islands Community Funding Program Committee
- Pulu Keeling National Park Community Management Committee (PKNPCMC)

Comments

The primary objective of the Community Funding Program Committee is to assist with the facilitation of a fair, equitable and transparent process for Council funding of community projects, programs and initiatives. See attachment 10.4.1.1 - Terms of Reference for the Community Funding Program Committee.

The current members of the Community Funding Program Committee are:

POSITION / ORGANISATION	NAME
Councillor	Mazlan Hamiril
Councillor	Helen Liu
Councillor	Vacant

The Pulu Keeling National Park Community Management Committee (PKNPCMC) invites Council to hold membership of one position and one proxy. The current members of the PKNPCMC are:

POSITION / ORGANISATION	NAME
Councillor/Staff Member	Vacant
Councillor/Staff Member (As Proxy)	Aindil Minkom

Financial Implications

There are no direct financial implications associated with this report.

Policy and Legislative Implications

Section 5.8 of the *Local Government Act 1995 (WA) (CKI)* allows Council to establish Committees to assist it in discharging its duties under the Act, with a minimum number of three (3) or more persons.

Strategic Implications

Strategic Community Plan - *Key Result Area: Civic Leadership Outcome 4.1 – An informed Council leading working with others to advance our Islands.*

Risk Implications

Council Committees have an important role in assisting Council to undertake its duties efficiently and effectively.

Good risk management practice is for Committee workloads to be fairly shared across the elected members of Council. This ensures that individual Councillors do not suffer inequitable workload pressures. It also helps ensure that decision-making influence remains equitable across all Councillors.

Voting Requirements

Absolute Majority

Conclusion

It is recommended that Council appoint a member to each of the vacant positions identified.

OFFICER RECOMMENDATION – ITEM NO 10.4.1

THAT COUNCIL, BY ABSOLUTE MAJORITY, DUE TO POSITIONS ON THE FOLLOWING COMMITTEES BECOMING VACANT APPROVE THE ELECTED MEMBER APPOINTMENTS AS FOLLOWS:

COMMUNITY FUNDING PROGRAM COMMITTEE

POSITION / ORGANISATION	NAME
Councillor	Cr Mazlan Hamiril
Councillor	Cr Helen Liu
Councillor	

PULU KEELING NATIONAL PARK COMMUNITY MANAGEMENT COMMITTEE (PKNPCMC)

POSITION / ORGANISATION	NAME
Councillor/Staff Member	
Councillor/Staff Member (As Proxy)	Cr Aindil Minkom

10.4.2 ESTABLISHMENT OF THE CEO PERFORMANCE REVIEW COMMITTEE

Report Information

Date: 18 May 2022
 Applicant: The Shire of Cocos (Keeling) Islands
 Location: Not Applicable
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Not Applicable
 Attachments: 10.4.2.1 – Draft Terms of Reference CEO Performance Review Committee

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>
	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 seeks Council's consideration of establishing a Council Committee to assist Council in conducting CEO Performance Reviews, the associated Terms of Reference and to appointment members to the Committee.

Relevant Documents

Available for viewing at the meeting

Nil

Background

At the Special Council Meeting held on 11 May 2022, Council appointed a new CEO, Mr Frank Mills.

The appointment includes a requirement to set key performance indicators and to conduct a probationary period review. In addition, section 5.38. of the *Local Government Act 1995 (WA)(CKI)* requires a local government to review the performance of the CEO annually, if the CEO is employed for a term of more than one year. Performance reviews can also be conducted at any time should Council deem it necessary.

Section 5.8 of the *Local Government Act 1995 (WA) (CKI)* allows Council to establish, by absolute majority, Committees of three or more persons to assist Council and to exercise the powers and discharge the duties of the local government that can be delegated to Committees.

Comments

It is common practice for Councils to establish a Committee of Council to assist in the Performance Reviews of a CEO.

Previously the Shire of Cocos (Keeling) Islands has established a Committee for the period of review only with that Committee being disbanded after the completion of each review.

To assist with continuity, and reduced administrative burden it is proposed that Council establish a new permanent Committee of Council that is reviewed at Ordinary Council Meeting following each ordinary election or earlier where required.

Attachment 10.4.2.1 contains the draft Terms of Reference for the proposed CEO Performance Review Committee, which has been drafted in accordance with the *Shire of Cocos (Keeling) Islands Standards of CEO Recruitment, Performance and Termination*, and the *Local Government Act 1995 (WA)(CKI)* and associated regulations.

Financial Implications

Utilising an independent consultant for each review will require funds to be set aside annually; in addition Committees established by Council all require allocation of officer resources, for secretariat support and Committee coordination and, in relation to the business of a Committee as provided in its terms of reference, allocation of officer resources for preparation of necessary reports.

Policy and Legislative Implications

Local Government Act 1995 (WA) (CKI):

Section 5.38 – Annual Review of Employees’ Performance

Section 5.8 – Establishment of Committees

Shire of Cocos (Keeling) Islands Standards for CEO Recruitment Performance and Termination

Strategic Implications

Strategic Community Plan 2016 -2026

Key Result Area 4: Civic Leadership

Objective 1: Attract and Retain Quality Staff and Elected Members

Voting Requirements

Absolute majority.

OFFICER RECOMMENDATION – ITEM NO 10.4.2

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTION 5.8. OF THE *LOCAL GOVERNMENT ACT 1995 (WA)(CKI)*, RESOLVES TO:

- 1. ESTABLISH THE CEO PERFORMANCE REVIEW COMMITTEE AND ADOPT THE TERMS OF REFERENCE AS SET OUT IN ATTACHMENT 10.4.2.1; AND**
- 2. APPOINT THE FOLLOWING FOUR ELECTED MEMBERS TO THE CEO PERFORMANCE REVIEW COMMITTEE:**
 - a. CR _____
 - b. CR _____
 - c. CR _____
 - d. CR _____

11. MINUTES TO BE RECEIVED

11.1 MINUTES FROM EXTERNAL COMMITTEE MEETINGS TO BE RECEIVED

Report Information

Date: 18 May 2022
 Location: Not applicable
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref: Not applicable
 Disclosure of Interest: Nil
 Reporting Officer: Governance and Risk Coordinator
 Island: Not applicable
 Attachments: 11.1.1 - Minutes of External Committees 1. PKNPCMC

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
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<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 report formally presents the minutes of external committee from previous month.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Shire has an official Council representative on the following committees which are external to the Shire (i.e. established and managed by an external agency).

1. The Pulu Keeling National Park Community Management Committee (PKNPCMC)
2. The IOT Regional Development Organisation (IOTRDO)
3. Cocos Keeling Islands Tourism Association (CKITA)
4. Indian Ocean Group Training Association (IOGTA)
5. Kimberley Zone

To ensure that Council is kept informed of the activities of these external committees in which it has an interest, the minutes from all external committees will be presented for Council to receive as soon as they are available from the secretariat of the group.

It should be noted that by receiving the minutes Council is not being asked to endorse a decision of the external committee, nor can it be implied that Council is committing resources in support of a recommendation by the external committee. Should a decision or resource allocation be required from Council on a specific matter, a separate agenda item will be prepared for Council consideration.

Council's representatives on the various external committees will be able to answer any questions arising from the minutes.

Comment

The attached minutes are the minutes of the following external committees:

1. PKNPCMC Committee held on the 30 March 2022.

Policy and Legislative Implications

Nil

Financial Implications

The Officer's recommendation to receive the minutes of external committee meetings carries no financial commitment for Council.

Strategic Implications

Strategic Community Plan - Key Result Area: Civic Leadership

OFFICER RECOMMENDATION – ITEM NO 11.1

THAT COUNCIL BY SIMPLE MAJORITY PURSUANT TO SECTION 3.18 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO RECEIVE THE MINUTES OF THE PKNPCMC COMMITTEE MEETING HELD ON THE 30 MARCH 2022 ON WHICH IT HAS A REPRESENTATIVE.

- 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

15.3 TRUSTS FINANCE

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

17. CLOSURE