

# Shire of Cocos (Keeling) Islands

## Shire of Cocos (Keeling) Islands

### Agenda

### Ordinary Meeting of Council

Wednesday 29 March 2023, 1.00pm

Council Chamber, Shire Administration Building

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.

## 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
Cr Young	24 February 2023 – 16 March 2023	27 January 2023
Cr Knight	3 February 2023 – 3 May 2023	27 January 2023

## 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 27 January 2023 - 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 29 MARCH 2023, 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 FROM COMMITTEES AND OFFICERS

## 10.1 CHIEF EXECUTIVE OFFICER

### 10.1.1 CHIEF EXECUTIVE OFFICER REPORT

#### Report Information

Date: 14 March 2023  
 Location: Shire of Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Nil  
 Reporting Officer: Chief Executive Officer  
 Island: Shire wide  
 Attachments: 10.1.1.1 – 78-10224 Mr Aindil Minkom  
 10.1.1.2 – L8684 Shire of CKI – Home Island landfill – DWER Lt27-02-2023

#### 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 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 checked="" 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 to provide Council with an update of the actions of the Chief Executive Officer since the February 2023 reporting period.

#### Relevant Documents

Available for viewing at the meeting  
Nil



## **Background**

Two weeks leave then a period of recuperation and working remotely, I had daily contact and teams' meetings with staff discussing matters as varied as leases, IT, Council meetings, elections and so forth, a myriad of Commonwealth and State Government agencies, and some community members prior to returning to Cocos (Keeling) Islands on 21 March 2023. Of note for this month's report is the following:

### **Western Australia Department of Local Government**

Attended a meeting with Mustafa Yildiz the Acting Executive Director of Local Government, where we discussed a proposed visit to the Cocos (Keeling) Islands in May with the Grants Commission. We also discussed issues surrounding land tenure, funding we are not entitled to due to relationship with Commonwealth, Land Management Orders, and 40<sup>th</sup> anniversary of Integration into Australia for the Cocos Malay people. The service level agreements between WA and the Cocos and the Commonwealth were also discussed, and it was suggested that for the Cocos (Keeling) Islands community to progress forward we need the support and commitment of the WA Government and a meeting with the Minister for Local Government and the Premier.

In agreeance, a meeting request was sent to the Minister for Local Government to convene a meeting as a priority to discuss all matters related to the Shire of Cocos (Keeling) Islands, the State of Western Australia, and the Commonwealth.

Land Management Orders – correspondence (see attachment 10.1.1.1) has been received from the Ministers Office regarding Council's request to surrender land management orders (November 2022 Council Meeting). The matter is still ongoing and further advice required.

### **Focus IT Network**

Attended offices of Focus IT Network, Councils IT support agency to discuss future planning for IT and recently approved IT Strategic Plan.

### **Western Australia Department of Environment and Water Regulation**

Attended a team's meeting and held discussions with the Department of Water and Environmental Regulation (the department) regarding the expansion of the prescribed premises boundary at Home Island Transfer Station, located at Jalan Balok Mem, Home Island, Cocos (Keeling) Islands, Indian Ocean Territories (the premises) for the creation of new landfill trenches in this expanded area. This was in response to correspondence provided (see attachment 10.1.1.2) and fellow attendees Martin Faulkner and Thomas Battcher will evaluate all possibilities regarding the situation.

### **Commonwealth - Department of Infrastructure, Transport, Regional Development, Communications, and the Arts**

Advice received from Acting First Secretary of Indian Ocean Territories:

*IOT Waste Management Strategy - GHD are well progressed with the IOT Waste Management and Resource Recovery Strategy (the Strategy), specifically:*

- *GHD are currently working with the Department to incorporate the final feedback from both Shires and the WA Department of Water and Environmental Regulation on the Strategy document. This includes developing the Strategy Implementation Roadmap and Action Plan (the roadmap) to achieve the objectives of the Strategy.*
- *In developing the roadmap, we appreciate that both Christmas Island and the Cocos (Keeling) Islands have differing paths for the future of waste management. Consequently, we are working with GHD to ensure that there are separate Roadmaps for each Island. We will share the roadmap with you to seek your input once a draft is complete.*
- *GHD are also developing a separate report on organic waste recycling, in recognition of the importance of properly disposing of organics in the region. We expect to be able to share this with both Shires in the coming months.*

*My team have engaged with Tim Francis, who is happy to participate in a meeting between the Department and the Shire Councillors. If you would like me to attend this meeting, I will be available in the week of 11-14 April. If you have a preference for a specific day in that week, please let me know and my team will organise the teleconference details.*

*Shire staff also working with GHD are nearing completion and development of a recommended schedule of fees and charges for waste management and these will be fed into the IOT strategy when complete.*

**Service level agreements** – in response to a request for provisions of “Service Level Agreements between the Commonwealth and the Shire of Cocos Keeling Islands and the second one is the Service Level Agreement between the Commonwealth and the State of Western Australia relating to the Cocos (Keeling) Islands “advice has been received as follows:

*The Cocos (Keeling) Islands Act 1955 (CKI Act) is the source of the Commonwealth’s relationship with the Shire of Cocos (Keeling) Islands. The CKI Act establishes the administrative and legislative system for CKI, including by vesting powers of a local government body under an applied WA law in the Shire (see subsection 8G(5B)).*

*As of 1 June 2022, there are 39 arrangements with agencies of the Western Australia (WA) Government providing 51 services to the Indian Ocean Territories (IOT). Details are available at the Department’s website [Service delivery arrangements | Department of Infrastructure, Transport, Regional Development, Communications, and the Arts](#).*

Both the documents referred to articulate the “legislative” relationship between the Cocos (Keeling” Islands, the Shire, the West Australian Government, and the Commonwealth Government. The missing piece of the puzzle appears to be any form of service level agreement that permits the Commonwealth to override and/or not endorse past agreements between the Commonwealth with respect to issues such as tenure, funding, and levels of service delivery.

**Policy and Legislative Implications**

Nil

**Financial Implications**

Nil

**Strategic Implications**

Shire of Cocos (Keeling) Islands Strategic Plan 2022-2037

*L1: To be involved, respectful and inclusive and to facilitate diversity and representation within the decision-making process.*

*L2: To ensure that resources are utilised in a manner that represents the best interest of the whole community.*

**Risk Implications**

Nil

**Voting Requirements**

Simple majority

**OFFICER RECOMMENDATION – ITEM NO 10.1.1**

**THAT COUNCIL, BY SIMPLE MAJORITY, NOTE AND RECEIVE THE CEO’S REPORT.**

**10.1.2 COMMUNITY DEVELOPMENT REPORT – MARCH 2023**

**Report Information**

Date: 8 March 2023  
 Location: Cocos (Keeling) Islands  
 Applicant: Community Development Coordinator  
 File Ref: Nil  
 Disclosure of Interest: Nil  
 Reporting Officer: Community Development Coordinator  
 Island: Cocos (Keeling) Islands  
 Attachments: 10.1.2.1 – Adopt a Spot Guide  
 10.1.2.2 – Adopt a Spot Registration

**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 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 checked="" 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**

Monthly update to Councillors on various Community Development programs and projects for information only.

**Relevant Documents**

Available for viewing at the meeting

Nil

## **Background**

### Sport and Recreation Program

The following sporting clinics have been confirmed for 2023. The dates and clinics are tabled below:

Volleyball – 7<sup>th</sup> to 10<sup>th</sup> March

Rugby - 21<sup>st</sup> to 28<sup>th</sup> April

Tennis – 28<sup>th</sup> April to 4<sup>th</sup> May

Olympians – 9<sup>th</sup> to 12<sup>th</sup> May

Soccer – 20<sup>th</sup> May to 9<sup>th</sup> June

Sailing – 4<sup>th</sup> to 11<sup>th</sup> July

The clinics brings experienced sports coaches who have played or playing at a national and international level. They also bring an opportunity to support community groups in building capacity, governance, and support to the school physical education teachers and community coaches.

### School Holiday Program

The five-day program will be advertised in the Atoll and information will also be distributed to the school. The Community Development Team is investigating strategies to attract volunteers to run after school activities and school holiday activities. All volunteers are required to have a current Working with Children Check, it could be beneficial for the Shire to reimburse the cost for volunteers if they are undertaking consistent children-based activities for the Shire as an incentive.

The proposed April School Holiday Program will consist of the following activities:

Bike riding

Visiting a Farm

Basket making

Build a cubby house

Cake topping

Beach fishing

The April School holiday Program fall within the month of Ramadan. a two-week sailing clinic has been confirmed for the next school holiday program. Instructors from Australia Sailing will be teaching basic sailing skills on the T2 Hobie Catamaran. Children will have the opportunity to learn roping, points of sailing and looking after the sailing equipment.

### Adopt a Spot Funding

The Community Development Coordinator (CDC) visited the West Island Campus and the Seniors Group to deliver information regarding the Adopt a Spot funding. The information sessions sparked good interest and the outcome very rewarding. The Senior's group on Home Island have commenced by adopting Kampong Atas beachfront. Their first cleaning up session was held on the 1<sup>st</sup> of March. Photos of their clean up were posted on the Shire's Facebook page. The response on Facebook was overwhelming and appreciative.

The primary school has yet to decide on a clean-up spot but have indicated the old rifle range beach is a popular area for visitors and residents alike.

The CDC will continue to provide information on Adopt a Spot with community groups and interested businesses. The funding program is an incentive to look after our environment and encourages ownership.

**Comment**

The community development programs are aligned with the following plans and through feedback from several meetings with community groups and relevant key agencies. The Community development section adheres to the Shire’s Strategic Community Plan and Corporate Business Plan for guidance and direction.

**Policy and Legislative Implications**

Nil

**Financial Implications**

In the event of an increase in costs for the Community Garden Program, the Community Development Coordinator will review the budget as per the Mid-Year Budget Review in December 2022 in consultation with the Executive Team.

**Strategic Implications**

Shire of Cocos (Keeling) Islands Strategic Plan 2022-2037  
*Objective C2: To support the integration the Home Island and West Island communities.*  
*Objective S4: To support and encourage community events that bring us together.*

**Risk Implications**

<b>Risk Category</b>	<b>Description</b>	<b>Rating (consequence x likelihood)</b>	<b>Mitigation Action</b>
Financial	Cost of labour hours and use of plant and equipment increase	Moderate 6	Increase in budget allocation for the following financial year.
Health & Safety	Community activities and events.	Moderate 6	Risk assessment plan conducted prior to commencing events and activities
Reputation	Shire to take a leading role and setting high standards.	Low 3	Transparency and management of programs in accordance with Policies and Strategic direction.

Compliance	Programs undertaken by Shire to adhere to Work, Health & Safety Policy.	Low 3	Risk assessment, JSA and HR policies.
Property	Programs and events conducted on Shire owned property or land (where possible)	Low 3	Written permission and follow procedures when undertaken events on non-Shire property.
Environment	Adhere to Shire's Strategic Plan – environment.	Low 3	Consult with parks Australia North on environmental impacts.
Fraud	Compliance with Shire's Policy and Procedures.	Low 3	Void program and investigate cause.

**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.

**OFFICER RECOMMENDATION – ITEM NO 10.1.2**

**THAT COUNCIL, BY SIMPLE MAJORITY, NOTE AND RECEIVES THE COMMUNITY DEVELOPMENT REPORT.**

### 10.1.3 PROPOSED CARETAKER'S ROOM – LOT 173 CLUNIES ROSS AVENUE, WEST ISLAND

#### Report Information

Date: 9 March 2023  
 Location: Lot 173 Clunies Ross Avenue, West Island  
 Applicant: Design Theory on behalf of Jean Morgan  
 File Ref: WL173  
 Reporting Officer: Chief Executive Officer  
 Island: West 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 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 an application for development approval for the conversion of existing storage room into a caretaker's room within 'The Breakers' tourist complex.

#### Relevant Documents

Available for viewing at the meeting  
 Development plans and cover letter



## Background



*Location Map – Lot 173 Clunies Ross Avenue, West Island*

There is an existing short stay tourist facility development and land use on the subject property which is zoned 'Commercial' under the *Shire of Cocos (Keeling) Islands Local Planning Scheme No.1* (Scheme).

The proposal seeks to change the use of an existing storage room to a new caretaker's room. The proposal is to assist the existing tourist facility's caretakers in maintaining the tourist accommodation within the property.

The applicant has outlined that the proposal has been positioned within the existing footprint of a storage room to ensure minimal to no impact to the existing building.

## Comment

The caretaker's room will be a modest 14m<sup>2</sup> and be located to the rear of the site to be incidental to the predominant tourist accommodation land use.

The development complies with all relevant Scheme site and development requirements of the commercial zone.

Furthermore, the development is considered essential to support the ongoing upkeep of the tourist accommodation which has been in operation for several years.

Given the above it is recommended Council approve the development application subject to conditions.

## Policy and Legislative Implications

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

### 4.6 COMMERCIAL ZONE

#### 4.6.1 Site and Development Requirements

*The following site and development requirements shall apply within the Commercial zone with the exception of residential development, which subject to clauses 4.2 and 4.3, shall be in accordance with the provisions of the R-Codes:*

*(a) Building Design -*

*Buildings shall be well maintained and demonstrate attractive and practical designs, including:*

- (i) inviting facades which address the street and public spaces;*
- (ii) climate control features, including sheltered pedestrian walkways and wide eaves;*
- (iii) use of a variety of building materials*
- (iv) use of building materials and designs which harmonise with the natural setting;*
- (v) incorporation of design features that reflect the cultural background of the Island residents and where appropriate reflect and complement existing designs in or adjacent to heritage precincts; and*
- (vi) incorporate water sensitive urban design best management practices.*

*(b) Building Height, Site Coverage and Setbacks -*

*Buildings, including ancillary buildings, shall:*

- (i) be limited to a maximum height of two storeys;*
- (ii) not cover a total of more than 60% of the area of any lot; and*
- (iii) be setback to be compatible with existing development within the locality.*

*(c) Access -*

*Development within the Commercial zone shall provide:*

- (i) focal points for public meeting areas;*
- (ii) pedestrian links and cycleways;*
- (iii) access and loading/unloading areas for service vehicles; and*
- (iv) sufficient car parking areas.*

*(d) Storage Space -*

*The Local government will:*

- (i) require provision for internal storage space in the design of all developments; and*
- (ii) prohibit the use of external open space for storage.*

## Financial Implications

None identified.

## Strategic Implications

None identified.

### Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Compliance	Building permit not obtained prior to construction	Low (1)	Advice note added to planning approval

### Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
Almost Certain (5)	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely (4)	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible (3)	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely (2)	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare (1)	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

### Voting Requirements

Simple Majority

### Conclusion

Given there is no relevant planning concerns the officer supports the proposal.

### OFFICER RECOMMENDATION – ITEM NO 10.1.3

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR A CARETAKER'S ROOM UPON 173 CLUNIES ROSS AVENUE, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTE:

#### CONDITIONS:

1. ALL DEVELOPMENT SHALL BE CARRIED OUT ONLY IN ACCORDANCE WITH THE DETAILS OF THE APPLICATION AS APPROVED HEREIN AND ANY APPROVED PLAN. SUBJECT TO ANY MODIFICATIONS REQUIRED AS A CONSEQUENCE OF ANY CONDITIONS OF THIS APPROVAL THE APPROVED PLANS SHALL NOT BE ALTERED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.
2. THE DEVELOPMENT SHALL BE LIMITED TO USE BY EMPLOYEES OF THE ESTABLISHED TOURIST FACILITY ON THE SITE ONLY, TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.

#### ADVICE NOTE:

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.**

### 10.1.4 LOCAL GOVERNMENT ORDINARY ELECTION 2023

#### Report Information

Date: 22 March 2023  
 Location: Cocos (Keeling) Islands  
 Applicant: West Australian Electoral Commission  
 File Ref: Nil  
 Disclosure of Interest: Nil  
 Reporting Officer: Chief Executive Officer  
 Island: Cocos (Keeling) Islands  
 Attachments: 10.1.4.1 – Letter – Local Government Ordinary Election 2023

#### Authority / Discretion

#### Definition

<input checked="" 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 type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

#### Report Purpose

To seek a resolution of Council for the West Australian Electoral Commission to be responsible for the conduct of the 2023 local government ordinary election.

#### Relevant Documents

Available for viewing at the meeting

Nil

#### Background

Local Government Ordinary Elections are due to be held on 21 October 2023. For the Shire of Cocos (Keeling) Islands there are 3 full term vacancies and one-half term vacancy.

Advice has been received from the West Australian Electoral Commissioner (see attached) requesting Council endorsement for the Commissioner to be responsible for the conduct of the 2023 ordinary election together with any other elections or polls which may also be required.

**Comment**

The recommended course of action to have a voting in person election conducted by the Electoral Commissioner will provide an independent, transparent, and accountable election.

**Policy and Legislative Implications**

The number of vacancies is legislated and required to be filled.

**Financial Implications**

Estimated cost of the election is \$22,000 incl GST and the Commission is to conduct elections on a full cost recovery basis.

**Strategic Implications**

Shire of Cocos (Keeling) Islands Strategic Plan 2022-2037

*L1: To be involved, respectful and inclusive and to facilitate diversity and representation within the decision-making process.*

Elections are essential to fill current vacancies and retiring Councillor vacancies.

**Risk Implications**

<b>Risk Category</b>	<b>Description</b>	<b>Rating (consequence x likelihood)</b>	<b>Mitigation Action</b>
Reputation	Experience of all the election officials is not sufficient to conduct the elections should the WAEC not conduct the elections resulting in reputation damage to both the Shire and potential candidates.	High	Council to declare the Electoral Commissioner responsible for the 2023 Elections.
Compliance	Experience of all the election officials is not sufficient to conduct the elections should the WAEC not conduct the elections. Resulting in non-compliances	High	Council to declare the Electoral Commissioner responsible for the 2023 Elections.

	from both the Shire and potential candidates.		
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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)

Council requires all vacancies to be filled to be able to provide the highest standard of leadership possible to the Cocos (Keeling) Islands

**Voting Requirements**

Absolute majority

**OFFICER RECOMMENDATION – ITEM NO 10.1.4**

**THAT COUNCIL, BY ABSOLUTE MAJORITY, RESOLVE TO DECLARE, IN ACCORDANCE WITH SECTION 4.20 (4) OF *THE LOCAL GOVERNMENT ACT 1995*, THE ELECTORAL COMMISSIONER TO BE RESPONSIBLE FOR THE CONDUCT OF THE 2023 ORDINARY ELECTION TOGETHER WITH ANY OTHER ELECTIONS OR POLLS WHICH MAY ALSO BE REQUIRED.**



## 10.2 MANAGER FINANCE AND CORPORATE SERVICES

### 10.2.1 MONTHLY FINANCIAL REPORT – FEBRUARY 2023

#### Report Information

Date: 6 March 2023  
 Location: Not Applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Manager Finance & Corporate Services  
 Island: Shire Wide  
 Attachments: 10.2.1.1 - Monthly Financial Report – February 2023

#### 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 February 2023, 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)*.

This report is a summary of the financial activities of the Shire as at the reporting date.



## 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 February 2023. The current closing municipal surplus for this period is \$2,256,757 compared to a budget position of \$543,151.

Income for the period year to date is \$6,832,676 which is made up \$6,014,463 in operating revenues and \$818,213 in non-operating grants, contributions, and subsidies. The budget estimated \$6,777,355 would be received for the same period. The variance to budget is \$55,321.

Expenditure for the period year to date is \$6,294,781. This is made up of \$4,377,473 in operating expenditure and \$1,917,308 in capital expenditure. The budget estimated \$7,962,718 would be spent for the same period. The variance to budget is \$1,667,937.

Details of all significant variances against the current budget are provided in the notes to the Monthly Financial Report contained within Attachment 10.2.1.1.

## 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 (Reserves);
- b. An explanation of material variances; and
- c. Such supporting information that is relevant to the Local Government

## Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2022-2037

*Objective L2: To ensure that the Shire resources are utilised in a manner that represents the best interest of the whole community.*

### 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)
<b>Almost Certain (5)</b>	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
<b>Likely (4)</b>	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
<b>Possible (3)</b>	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
<b>Unlikely (2)</b>	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
<b>Rare (1)</b>	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

### Conclusion

That the Monthly Financial Report for the period ending 28 February 2023, including explanations of material variances, be received.

### OFFICER RECOMMENDATION – ITEM NO 10.2.1

#### THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDING 28 FEBRUARY 2023, AS CONTAINED IN ATTACHMENT 10.2.1.1; AND
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 28 FEBRUARY 2023, AS CONTAINED IN ATTACHMENT 10.2.1.1.

## 10.2.2 SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD FEBRUARY 2023

### Report Information

Date: 15 March 2023  
 Location: Not applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Senior Finance Officer  
 Island: Shire Wide  
 Attachments: 10.2.2.1 - 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 February 2023, 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 further details of the accounts paid contained within Attachment 10.2.2.1.

Payment Type	Amount (\$)
EFT Payments #9602 to #9651	\$307,782.11
Direct Debit Payment	\$53,061.59
Cheque Payment 11700 to 11702	\$13,146.61
<b>Total Payments</b>	<b>\$373,990.31</b>

Contained within Attachment 10.2.2.1 is a detailed transaction listing of payments, including credit card expenditure as per the Summary table above.

## Policy and Legislative Implications

Nil

## Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2022-2037

*Objective L2: To ensure that the Shire resources are utilised in a manner that represents the best interest of the whole community.*

## 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)
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 periods February 2023.

### OFFICER RECOMMENDATION – ITEM NO 10.2.2

#### 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 FEBRUARY 2023 TOTALLING \$373,990.31 AS CONTAINED IN ATTACHMENT 10.2.2.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD FEBRUARY 2023, AS CONTAINED IN ATTACHMENT 10.2.2.1.

### 10.2.3 MID YEAR BUDGET REVIEW 2022/2023

#### Report Information

Date: 16 March 2023  
 Location: Not Applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Manager Finance & Corporate Services  
 Island: Shire Wide  
 Attachments: 10.2.3.1 - 2022-23 Budget Review – Shire of Cocos (Keeling) Islands  
 10.2.3.2 - Shire of Cocos (Keeling) Islands – Organisation Chart

#### 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

This report presents the statutory review of the 2022/23 Budget. A number of budget variations are proposed as part of this review, which results in an overall favourable change of projected net current assets of \$80,500 as at 30 June 2023.

#### Relevant Documents

Available for viewing at the meeting.

Nil

## Background

The Budget Review is a statutory review that is undertaken in accordance with the Local Government Act 1995 and Regulation 33 of the Local Government (Financial Management) Regulations 1996. The purpose of this review is to identify significant variations from the Annual Budget and to recommend any amendments that may be necessary.

Changes to the Annual Budget are required during the year as circumstances change from when the Annual Budget was adopted by Council at the beginning of the financial year. Amendments to the Annual Budget will ensure that tight fiscal control is maintained over the Shire’s finances.

The Budget Review for 2022/23 includes a number of significant variations. The below table summarises the estimated closing surplus position as a result of this review and the variance to the original Adopted Budget.

<b>Budget Review 2022-23</b>	<b>Adopted Budget</b>	<b>Budget Review</b>	<b>Variance</b>
<b>Opening Surplus</b>	<b>467,014</b>	<b>564,176</b>	<b>97,162</b>
Revenue from Operating Activities (incl. Rates)	5,925,521	6,816,795	891,274
Expenditure from Operating Activities	(6,536,928)	(7,095,506)	(558,578)
Exclude non-cash items	1,160,740	1,367,767	207,027
Investing Activities (Capital)	(1,831,763)	(2,086,685)	(254,922)
Financing Activities (Reserves)	815,416	513,954	(301,462)
<b>Closing Surplus Funding</b>	<b>-</b>	<b>80,500</b>	<b>80,500</b>

Council has adopted a 10% or \$20,000 (whichever is the greater) threshold for material variances for management reporting, as is used in the statements of financial activity and the annual budget review.

A summary of the major variances and subsequent budget variations are outlined in ‘Note 4 - Variances’ of the attached report 10.2.3.1 2022/23 Budget Review – Shire of Cocos (Keeling) Islands

## Recommendation

That Council adopt the Budget variations as itemised in Note 4 of the Budget Review Report and note the forecast \$80,500 surplus.

### Recommended option for utilising surplus:

The forecast surplus is \$80,500, potential options for utilising this surplus have been workshoped with Council on 15<sup>th</sup> March 2023 with the preferred option detailed below.

The Shire is investigating options for winding up the two Land Trusts currently administered by Council. Administration of these Land Trusts is cumbersome, complicates land leases and prevents private ownership of land, particularly by the Cocos Malay population on Home Island. Whilst the Shire intends to pursue Commonwealth support in winding up the Land Trusts, this process is likely to require extensive legal advice and assistance. It is therefore recommended that a new Reserve Fund be established to set aside funds to cover future Land

Trust administration costs and that the surplus funds are to be transferred into this Reserve.

Other Budget Variations for adoption:

1. Due to delays in vehicle deliveries, it is also recommended that the Shire draws upon the Plant Replacement Reserve funds to bring forward the purchase of two Home Island works vehicles due for replacement in the 2023/24 Budget. As the expenditure will be funded from Reserve, this does not affect the \$80,500k available surplus.
2. An updated Organisation Chart is included at attachment 10.2.3.2 for Council endorsement. The updated Organisation Chart incorporates two new positions as included in the Budget Review forecast 'Employee Expenditure' as follows;
  - Human Resources Officer/Trainee for May/June.  
Recruitment of this position was highlighted as a required action in the Workforce Plan 2022-2037 adopted by Council in December 2022. The Shire may be eligible for 1000 Grant funding to cover up to 90% of minimum wage for the first two years. The funding has not been recognised in the forecast for 2022/23 as is not yet confirmed and recruitment of the role is not dependant on the funding.
  - Fisheries Ranger April/May/June  
The Fisheries Ranger position is a 12month contract funded under the Commonwealth Fisheries Services Contract endorsed by Council at the February 2023 Ordinary Council Meeting.

**Policy and Legislative Implications**

Regulation 33A of the *Local Government (Financial Management) Regulations 1996* requires that;

- (1) *Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year.*
- (2A) *The review of an annual budget for a financial year must –*
  - (a) *Consider the local government's financial performance in the period beginning on the 1 July and ending no earlier than 31 December in that financial year; and*
  - (b) *Consider the local government's financial position as at the date of the review; and*
  - (c) *Review the outcomes for the end of that financial year that are forecast in the budget.*
- (2) *Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.*
- (3) *A council is to consider a review submitted to it and is to determine\* whether or not to adopt the review, any parts of the review or any recommendations made in the review.*

*\*Absolute majority required*

- (4) *Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.*



**Financial Implications**

The financial implications related to the review are outlined in this report.

Based on the review and the recommended allocation of the surplus, there is projected to be a balanced budget with zero budget surplus at 30 June 2023.

**Strategic Implications**

Shire of Cocos (Keeling) Islands Strategic Community Plan 2022-2037

*Objective L2: To ensure that the Shire resources are utilised in a manner that represents the best interest of the whole community.*

**Risk Implications**

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Changes do not reflect current position of Council.	Low (1)	Ensure that existing policies and processes are implemented and are compliant with relevant legislation and that there are sufficient funds to meet estimated expenditure for the remainder of the year.
Reputation	The Budget Review report is open to public scrutiny.	Low (3)	Procedures in place to ensure all expenditure is justifiable.
Compliance	That budget review is not completed in accordance with the Local Government Act.	Low (1)	The budget review is included in the Compliance Calendar to ensure it is completed in a timely manner. An industry template is used to ensure the format complies with 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

**OFFICER RECOMMENDATION – ITEM NO 10.2.3**

THAT COUNCIL, BY ABSOLUTE MAJORITY,

1. PURSUANT TO REGULATION 33A OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 (WA) (CKI)*, RECEIVES THE 2022/23 BUDGET REVIEW REPORT AS ATTACHED.
2. PURSUANT TO PART 6 DIVISION 4 s6.8(1) OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* ADOPTS THE BUDGET ADJUSTMENTS TO THE 2022/23 STATUTORY BUDGET AS DETAILED IN NOTE 4 OF THE 2022/23 BUDGET REVIEW REPORT AS ATTACHED.
3. NOTES THAT THE 2022/23 BUDGET REVIEW RESULTS IN A FAVOURABLE BUDGET SURPLUS AS AT 30 JUNE 2023, WITH A FORECAST UNALLOCATED SURPLUS OF \$80,500.
4. PURSUANT TO SECTION 6.11 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)*, CREATE A NEW RESERVE FUND CALLED ‘LAND TRUST ADMINISTRATION RESERVE’ WITH THE PURPOSE OF PROVIDING FUNDS FOR THE FUTURE ADMINISTRATION AND WINDING UP OF THE 1979 AND 1984 LAND TRUSTS.
5. PURSUANT TO PART 6 DIVISION 4 s6.8(1) OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* APPROVES THE ALLOCATION THE \$80,500 SURPLUS TO THE NEWLY CREATED ‘LAND TRUST ADMINISTRATION RESERVE’.
6. PURSUANT TO PART 6 DIVISION 4 s6.8(1) OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* ADOPTS THE ADDITIONAL BUDGET VARIATIONS TO THE CURRENT BUDGET FOR 2022/23 AS FOLLOWS;

Description	Current Budget	Increase/ Decrease	Revised Budget
Capital Expenditure – 2x Home Island Vehicles	0	(\$100,000)	(\$100,000)
Transfer from Plant and Equipment Reserve	\$468,695	\$100,000	\$568,695

7. ENDORSE THE UPDATED SHIRE ORGANISATION CHART AS PER ATTACHMENT 10.2.3.2.

**10.3 MANAGER INFRASTRUCTURE**

**11. MINUTES TO BE RECEIVED**

Nil

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

Nil

**13. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL**

Nil

**14. MATTERS BEHIND CLOSED DOORS**

**14.1 COUNCILLOR COMPLAINT**

**Report Information**

Date: 13 March 2023  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Councillor Lacy  
 Reporting Officer: Chief Executive Officer  
 Island: Cocos (Keeling) Islands  
 Attachments: Distributed under separate cover

**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</i>

		<i>applications, building licenses, applications for other permits / licenses.</i>
<input checked="" 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>

*This report is confidential under Section 5.23 (2) of the Local Government Act 1995 and is circulated under a separate cover.*

- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following–*
- (b) *the personal affairs of any person.*

## 14.2 COUNCILLOR RESIGNATION

### Report Information

Date: 14 March 2023  
 Location: Shire of Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Nil  
 Reporting Officer: Chief Executive Officer  
 Island: Shire wide  
 Attachments: Distributed under separate cover

### 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>

*This report is confidential under Section 5.23 (2) of the Local Government Act 1995 and is circulated under a separate cover.*

(2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following–*

(b) *the personal affairs of any person.*

### 14.3 COMMONWEALTH CONTRACT – GOODS AND SERVICES

#### Report Information

Date: 23 March 2023  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref:  
 Disclosure of Interest: Nil  
 Reporting Officer: Chief Executive Officer  
 Island: West Island  
 Attachments: Distributed under separate cover

#### 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>

*This report is confidential under Section 5.23 (2) of the Local Government Act 1995 and is circulated under a separate cover.*

(2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following–*

(c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*

### 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

### 15.1.1 PROPOSED SHADE HOUSE & VERANDAH – LOT 220 MAHOON ROAD, WEST ISLAND

#### Report Information

Date: 16 March 2023  
 Location: Lot 220 Mahoon Road, West Island  
 Applicant: Mr Tony Lacy of Cocos Artisans Collective Pty Ltd  
 File Ref: WL219/220  
 Disclosure of Interest: Cr Lacy  
 Reporting Officer: Chief Executive Officer  
 Island: West 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 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 erection of shade house and veranda at Lot 220 Mahoon Road, West Island which forms part of the 'Wild Coconut Farm' which is a subsidiary of the Cocos Artisans Collective Pty Ltd.

The item was presented to Council at its meeting of 22 February 2023, where it was declared lapsed due to no seconder in accordance with Clause 9.3(2) of the Shire of Cocos (Keeling) Islands Meeting Procedure Local Law 2019.



The application was submitted on 23 January 2023. Under the *Planning and Development Act 2005*, development applications are required to be determined within 60 days from the date the application is accepted (if no community consultation is required) or 90 days from the date the application is accepted (if an application requires community consultation) therefore the item is presented back to Council for consideration.

### Relevant Documents

#### Available for viewing at the meeting

Application for Development Approval  
DA Plans Hydroponics Shed  
Surveyed Leased Area Lot 219 220  
Site Map

### Background

On 23 March 2022, Council granted development approval for a land use of ‘rural production’ upon lots 219 and 220 Mahoon Road, West Island subject to the following conditions:

- A. *The approved use shall be undertaken strictly in accordance with the documentation submitted in support of the application subject to any modifications required as a consequence of any condition/s of this approval or otherwise approved by the Shire of Cocos (Keeling) Islands.*
- B. *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.*
- C. *Onsite sales to public are restricted to the hours of 9am to 12pm Tuesday and Wednesdays.*
- D. *The approval for the use hereby permitted allows the use to be operated by Anthony Kevin Lacy. If the operator ceases to operate the use on the subject site, the approval for the use shall expire.*
- E. *The approved use must not cause nuisance or degrade the amenity of West Island 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.*

The land use of rural production is defined by the Shire’s Local Planning Scheme as the following:

*means the use of land for any of the purposes set out hereunder and shall include such buildings normally associated therewith:*

- (a) the cultivation of plants for fruit, vegetables and other produce; and*
- (b) the sale of produce grown solely on the lot;*

The subject building works development application seeks approval for the erection of 91m<sup>2</sup> timber framed veranda extension to an existing farm shed and erection of a 391m<sup>2</sup> timber framed freestanding shade house with a translucent polycarbonate roof.

The applicant is a leaseholder of Lots 219 and 220 Mahoon Road, West Island which forms part of parent Lot 100 which is under the care and control of Shire. As such, Council is required to give landowner’s consent for the application. Should Council not grant this consent, the application cannot proceed (determination of the application is then not required).

**Comment**

The proposed building works of the subject development application are in keeping with the approved rural production land use of the site as it will enable the cultivation of plants for produce.

The location of the subject property outside the established urban area of West Island results in the development having minimal appearance or amenity impacts on the immediate locality or neighbouring properties. Nonetheless the approved rural production land use is subject to a condition which ensures the site does not cause a nuisance or degrade the amenity of West Island 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.

**Policy and Legislative Implications**

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

**Financial Implications**

The item has no financial implications.

**Strategic Implications**

*Shire of Cocos (Keeling) Islands Strategic Community Plan 2022-2037*

Objective E2: To work alongside local businesses to facilitate employment, growth, and development.

**Risk Implications**

<b>Risk Category</b>	<b>Description</b>	<b>Rating (consequence x likelihood)</b>	<b>Mitigation Action</b>
Compliance	Building permit not obtained prior to construction	Low (1)	Advice note added to planning approval

### 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

As the development is deemed compatible with the approved rural production land use for the site and any adverse impacts can be appropriately managed by enforcement of the approval conditions, the officer supports the development application, subject to the conditions outlined.

### OFFICER RECOMMENDATION – ITEM NO 15.1.1

THAT COUNCIL, BY SIMPLE MAJORITY:

1. AGREES TO PROVIDE LANDOWNER'S CONSENT FOR THE DEVELOPMENT APPLICATION FOR A PROPOSED SHADE HOUSE AND VERANDAH AT LOT 220 MAHOON ROAD, WEST ISLAND
2. PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR A PROPOSED SHADE HOUSE AND VERANDAH AT LOT 220 MAHOON ROAD, WEST ISLAND, SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTE:

#### CONDITIONS:

- A. ALL DEVELOPMENT SHALL BE CARRIED OUT ONLY IN ACCORDANCE WITH THE DETAILS OF THE APPLICATION AS APPROVED HEREIN AND ANY APPROVED PLAN. SUBJECT TO ANY MODIFICATIONS REQUIRED AS A CONSEQUENCE OF ANY CONDITIONS OF THIS APPROVAL THE APPROVED PLANS SHALL NOT BE ALTERED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.
- B. THE DEVELOPMENT IS NOT TO BE USED FOR HUMAN HABITATION, TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.

#### ADVICE NOTE:

IF THE APPLICANT/LANDOWNER IS AGGRIEVED BY THIS DETERMINATION, THERE IS A RIGHT OF REVIEW BY THE STATE ADMINISTRATIVE TRIBUNAL IN ACCORDANCE WITH PART 14 OF THE *PLANNING AND DEVELOPMENT ACT 2005*. AN APPLICATION MUST BE SUBMITTED WITHIN 28 DAYS OF THE DETERMINATION.

## 15.2 TRUSTS LEASES

### 15.2.1 SHIRE OF COCOCS (KEELING) ISLANDS RETAIL LEASE TEMPLATES

#### Report Information

Date: 21 March 2023  
 Location: Shire of Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Leasing and Policy Development Officer  
 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 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 seek Council approval of the new retail leasing templates as prepared by Civic Legal.

#### Relevant Documents

Available for viewing at the meeting

Yes

**Background**

In the past, the Shire utilised the same lease agreements for retail and commercial leases. The documents in use proved to be unsatisfactory and not meet legislative standards. Council engaged Civic Legal, to develop a new suite of lease documents and the retail lease documents have now been developed for Council approval.

The following draft lease documents for the purpose of a retail lease:

1. Template Retail Shop Disclosure Statement
2. Template Retail Lease Precedent Document

The Disclosure Statement must be signed by the tenants first following the execution of the Lease document no earlier than seven (7) days from the date the Disclosure Statement is signed.

In accordance with legislation the Shire is required to lodge a section 13(7) Application to the State Administrative Tribunal (SAT) for every retail lease agreement. The Shire have requested assistance from Civic Legal to prepare this document with an indicative cost of up to \$1,000 ex GST plus lodgement fees between \$100 and \$200 per application. These expenses will be passed on to the tenants.

Once approved by Council, new lease agreements for all retail leases will be prepared for signing by relevant parties.

**Policy and Legislative Implications**

Section 9.49(A) of the *Local Government Act 1995 (WA)*.

**Financial Implications**

The costs for Civic to prepare Section 13(7) Application to the SAT is up to \$1,000 plus the lodgement fee between \$100 and \$200 per application. The Shire will recover the expenses from the tenants.

**Strategic Implications**

Shire of Cocos (Keeling) Islands Strategic Community Plan 2022 – 2037  
*Objective E2: To work alongside local businesses to facilitate employment, growth and development.*

**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)

### Voting Requirements

Simple majority

### Conclusion

That Council accepts the templates for Retail leases as prepared by Civic Legal.

### OFFICER RECOMMENDATION – ITEM NO 15.2.1

**THAT COUNCIL, BY SIMPLE MAJORITY ENDORSE AND APPROVE THE NEW SHIRE OF COCOS (KEELING) ISLANDS RETAIL LEASE AGREEMENT DOCUMENTS AS TABLED.**

**15.3 TRUSTS FINANCE**

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

**17. CLOSURE**