

Shire of Cocos (Keeling) Islands

Shire of Cocos (Keeling) Islands

Minutes

Ordinary Meeting of Council

Wednesday 19 April 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

The Presiding Member declares the meeting open at 1.05pm and welcomed Councillors and staff.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

President: Cr A Minkom

Deputy President: Cr S Iku

Councillors: Cr Knight (entered via video link at 1.00pm)
Cr T Lacy (entered via video link at 1.00pm)
Cr Young

Officers: Frank Mills, Chief Executive Officer
Vikki Lauritsen, Manager Finance and Corporate Services
M Faulkner, Manager Infrastructure
I Macrae, Governance Risk Coordinator

Public: Nil

Visitors: Ni

Apologies: Nil

Approved Leave of Absence: Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

In accordance with section 5.24(1) (a) of the *Local Government Act 1995*, time is allocated for questions to be raised by members of the public, as follows:

(1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.

(2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in sub regulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

Pursuant to regulation 7(4) (a) of the *Local Government (Administration) Regulations 1996*, questions from the public must relate to a matter affecting the local government.

In accordance with section 5.25 (1)(f) of the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996* regulation 11(e) a summary of each question raised by members of the public at the meeting and a summary of the response to the question will be included in the minutes of the meeting.

Where a question is taken on notice at the meeting, a summary of the response to the question will be included in the agenda for the following Council meeting.

5. LEAVE OF ABSENCE

The *Local Government Act 1995* (Section 2.25) provides that a Council may, by resolution, grant leave of absence to a member for Ordinary Council Meetings. A member who is absent, without first obtaining leave of the Council, throughout three consecutive Ordinary meetings of the Council is disqualified from continuing his or her membership of the Council. Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The leave cannot be granted retrospectively. An apology for non-attendance at a meeting is not an application for leave of absence.

5.1 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Councillor	Date of Leave	Approved by Council
NIL		

5.2 APPLICATION FOR LEAVE OF ABSENCE

Nil

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)

7.1 Audit and Governance Committee Meeting held on 27 March 2023 - Attachment 7.1.1

7.2 Ordinary Council Meeting held on 29 March 2023 - Attachment 7.1.2.

OFFICER RECOMMENDATION – ITEM NO 7.1

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 AUDIT AND GOVERNANCE COMMITTEE MEETING HELD ON 27 MARCH 2023 AS PRESENTED IN ATTACHMENT 7.1.1 AND THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 29 MARCH 2023, AS PRESENTED IN ATTACHMENT 7.1.2, BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

COUNCIL RESOLUTION – ITEM NO 7.1

MOVED CR IKU

SECONDED CR YOUNG

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 AUDIT AND GOVERNANCE COMMITTEE MEETING HELD ON 27 MARCH 2023 AS PRESENTED IN ATTACHMENT 7.1.1 AND THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 29 MARCH 2023, AS PRESENTED IN ATTACHMENT 7.1.2, BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: IKU, KNIGHT, LACY, MINKOM, YOUNG

AGAINST: NIL

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

Nil

9. DECLARATION OF INTERESTS

Councillors are to complete a Disclosure of Interest Form for each item they are required to disclose an interest in. The Form should be given to the Presiding Member before the meeting commences. After the meeting, the Form is to be provided to the Governance and Risk Coordinator for inclusion in the Disclosures Register.

Name	Item No.	Interest	Nature
Cr Lacy	15.2.1	Financial	He is the applicant and owner of Cocos Artisans Collective Pty Ltd.

10. REPORT FROM COMMITTEES AND OFFICERS

10.1 CHIEF EXECUTIVE OFFICER

10.1.1 CHIEF EXECUTIVE OFFICER REPORT

Report Information

Date: 24 March 2023
 Location: 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 - Joint Committee meeting papers.
 10.1.1.2 - WALGA Salary and Workforce Survey PowerPoint.
 10.1.1.3 – Ministerial Briefing Paper.
 10.1.1.4 – Hon Jon Carey MLA – Significant items in performance audit report tabled in parliament 060323.
 10.1.1.5 – SOCKI – Significant items in performance audit report tabled in parliament.

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 is to provide Council with an update of the actions of the Chief Executive Officer for the March/April 2023 reporting period.

Relevant Documents

Available for viewing at the meeting

Background

Amongst daily meetings with staff, community members, a myriad of Commonwealth and State Government agencies and their staff and visitors to the Cocos (Keeling) Islands, of note for this month’s report is the following.

CKI EMC Meeting

Participated in the Cocos (Keeling) Islands Emergency Management Committee on 29 March 2023. The meeting agenda, discussions and next meeting date are as per attached documents.

Joint Committee meeting IOT Supply Chain Review

Participated in the Joint Committee IOT Supply Chain Review as Council’s delegate on 4 April 2023. The intent and purpose of the meeting is clearly spelt out in the attached meeting papers.

WALGA Salary and Workforce Survey

Participated in a webinar on 4 April 2023 that was conducted by the West Australian Local Government Association with respect to its annual salary and workforce survey. The results of the survey can be seen in the attachment to this report and will be taken into consideration when Council's Workforce Plan is reviewed prior to the June 2023 Council meeting.

AIR555 Forward Operating Base

Advice has been received from the Project Management Team, regarding the AIR 555 Forward Operating Base due for construction next to the current RAAF building as follows:

The project had some last-minute re-design to do, and this has resulted in a delay to the planned commencement of work on the AIR555 FOB.

We wish to advise that Manteena will be establishing on site this week and works will commence shortly thereafter. Completion is now expected in Feb 24.

Telstra

Initiated contact with the Telstra Manager for the Cocos (Keeling) Islands, with the intent of setting a meeting time between Council and the Manager, Eva Colic. This will be a good opportunity to discuss the future planning for Telstra Services for the Cocos (Keeling) Islands and Council will be advised in due course of a meeting date.

Significant Items in Performance Audit Report Tabled in Parliament

During the audit carried out for the 2021 – 2022 financial year, several significant matters were identified by the auditors. The auditor's report was tabled in Parliament and consequently the Shire had to respond to the Minister on the actions taken to address the identified significant matters. Correspondence (10.1.1.4) was forwarded to the Minister that outlined the actions taken to address the identified significant matters and a response from the Minister has now been received (10.1.1.5). Shire administrations are now well on track to mitigate future significant issues being identified during audits.

Other meetings

Arranged at the time of this report being submitted that Council will be advised the outcomes of include:

Fisheries - Working arrangements – sea country solutions

Teams meeting convened by Kendra Thomas Travaille, Sea Country Solutions to discuss the role of the Fisheries Officer, Technical Officer and how a model to fit within Council is appropriate.

Office of Marion Scrymgour MP

Initiated contact with Marion Scrymgour MP the Federal Minister for the seat of Lingiari to arrange a meeting with Council. The focus of the meeting once arranged will be twofold:

1. To arrange a meeting with the Minister and Council's elected representatives to discuss the service level agreement between West Australia and the Commonwealth concerning the Cocos (Keeling) Islands, and
2. To give an outline of the current issues and the enormity of challenges currently facing the Cocos (Keeling) Islands and seek a commitment from the Minister to represent the Cocos (Keeling) Islanders in discussions with parliamentary colleagues. This includes the Prime Minister, the Minister for Climate Change, and the Minister for Territories.

Office of the Hon John Carey MLA

On 13 April 2023, participating in a meeting with the Chief of Staff, Claire Comrie, and Senior Policy Adviser - Local Government, Sam McLeod from the office of the Hon John Carey MLA – Minister for Local Government in West Australia. Focus of the meeting being twofold:

1. To arrange a meeting with the Minister and Council's elected representatives to discuss the service level agreement between West Australia and the Commonwealth concerning the Cocos (Keeling) Islands, and
2. To give an outline of the current issues and the enormity of challenges currently facing the Cocos (Keeling) Islands as per briefing notes attached hereto 10.1.1.3.

WALGA Kimberley Zone

On 13 April 2023, participating in the Kimberley Zone for West Australia Local Government Association (WALGA). The meeting for April, is to be held via Zoom. Amongst business for the meeting, is a suggestion that as the Cocos (Keeling) Islands and Christmas Island Local Governments are part of the Kimberley Zone, a proposed name change to "Kimberley and Indian Ocean Territories Zone". Reports to be discussed will be from WALGA, Regional Development Australia Kimberley, the Department of Local Government, Sport and Cultural Industries, Kimberley Development Commission, Regional Road Safety and Australia's Northwest will be heard as part of the Zone meeting.

Policy and Legislative Implications

With a lack of support from the Commonwealth Department of Infrastructure, Transport, Regional Development, Communications, and the Arts and the Office of the Administrator Indian Ocean Territories | Christmas and Cocos Keeling Islands and the Minister for Territories, policy and legislative support for the Shire and the people of the Cocos (Keeling) Islands is problematic at best.

Financial Implications

Nil

Strategic Implications

It is strategically advisable to align with both State and Commonwealth Ministers to support the goals and aspirations of the people of the Cocos (Keeling) Islands.

Risk Implications

As above

Voting Requirements

Simple majority

OFFICER RECOMMENDATION – ITEM NO 10.1.1

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

COUNCIL RESOLUTION – ITEM NO 10.1.1

MOVED CR YOUNG

SECONDED CR LACY

THAT COUNCIL:

BY SIMPLE MAJORITY, NOTE AND RECEIVE THE CEO'S REPORT.

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: IKU, KNIGHT, LACY, MINKOM, YOUNG

AGAINST: NIL

10.2 MANAGER FINANCE AND CORPORATE SERVICES

10.2.1 MONTHLY FINANCIAL REPORT – FEBRUARY 2023

Report Information

Date: 05 April 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 - Monthly Financial Report – March 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 provided 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 March 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 March 2023. The current closing municipal surplus for this period is \$2,273,519 compared to a budget position of \$1,770,190.

Income for the period year to date is \$7,228,623 which is made up \$6,410,410 in operating revenues and \$818,213 in non-operating grants, contributions, and subsidies. The budget estimated \$7,352,565 would be received for the same period. The variance to budget is (\$123,942).

Expenditure for the period year to date is \$6,790,362. This is made up of \$4,792,888 in operating expenditure and \$1,997,474 in capital expenditure. The budget estimated \$7,400,258 would be spent for the same period. The variance to budget is \$609,896.

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.

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

Conclusion

That the Monthly Financial Report for the period ending 31 March 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 31 MARCH 2023, AS CONTAINED IN ATTACHMENT 10.2.1; AND
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 31 MARCH 2023, AS CONTAINED IN ATTACHMENT 10.2.1

COUNCIL RESOLUTION – ITEM NO 10.2.1

MOVED CR IKU

SECONDED CR YOUNG

THAT COUNCIL:

- 1. BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDING 31 MARCH 2023, AS CONTAINED IN ATTACHMENT 10.2.1; AND**
- 2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 31 MARCH 2023, AS CONTAINED IN ATTACHMENT 10.2.1**

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: IKU, KNIGHT, LACY, MINKOM, YOUNG

AGAINST: NIL

10.2.2 SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD FEBRUARY 2023

Report Information

Date: 5 April 2023
 Location: Not applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Senior Finance Officer
 Island: Shire Wide
 Attachments: 10.2.2 - 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 March 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.

Payment Type	Amount (\$)
EFT Payments #9652 to #9712	\$360,598.46
Direct Debit Payment	\$61,876.36
Cheque Payment 11703 to 11706	\$3,920.30
Total Payments	\$426,395.12

Contained within Attachment 10.2.2 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 March 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 MARCH 2023 TOTTALLING \$426,395.12 AS CONTAINED IN ATTACHMENT 10.2.2.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD MARCH 2023, AS CONTAINED IN ATTACHMENT 10.2.2.

COUNCIL RESOLUTION – ITEM NO 10.2.2

MOVED CR LACY

SECONDED CR IKU

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 MARCH 2023 TOTTALLING \$426,395.12 AS CONTAINED IN ATTACHMENT 10.2.2.**
- 2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD MARCH 2023, AS CONTAINED IN ATTACHMENT 10.2.2.**

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: IKU, KNIGHT, LACY, MINKOM, YOUNG

AGAINST: NIL

10.3 MANAGER INFRASTRUCTURE

Nil

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

Nil

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

Nil

15.2 TRUSTS LEASES

Cr Lacy declared an interest on Item No 15.2.1. He is the applicant and owner of Cocos Artisans Collective Pty Ltd and left the meeting room. The video link was turned off at 1.18pm.

15.2.1 APPLICATION TO SURRENDER LOT 219 WEST ISLAND

Report Information

Date: 18 May 2023
 Location: Shire of Cocos (Keeling) Islands
 Applicant: Mr T Lacy
 C/o-Cocos Islands Artisans Collective
 File Ref:
 Disclosure of Interest: Councillor Lacy
 Reporting Officer: Chief Executive Officer
 Island: Lot 219 West Island
 Attachments: 15.2.1.1 – Request to Relinquish Lease Lot 219

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 present to Council a request from Cocos Artisans Collective to relinquish the current lease on Lots 219 West Island and to retain whole of Lot 220 West Island (excluding the lime trees).

Relevant Documents

See attached.

Background

The applicant Mr Lacy for Cocos Islands Artisans Collective currently leases the land on Lot 219 and the land and building on Lot 220 Jalan Mahoon West Island for a period of 5 years with a 5 year option. The lease commenced on 1 May 2017 and the Leaseholder recently exercised the 5 year option from 1 May 2022 with an expiry date of 31 April 2027.

Comment

Mr Lacy requested to surrender Lot 219 as it is underutilised for the purpose of his business. He has submitted his application to the Shire as per attached. He wishes to retain Lot 220 and continue with his tourism production and expansion of hydroponics. The community lime trees on Lot 220 will not be considered part of Lot 220 and remain a communal property.

The request for Mr Lacy to relinquish Lot 219 West Island and retain Part Lot 220 West Island is presented to the Trust for consideration. The officer's recommendation is the request is approved as it will offer other applicants better use of Lot 219.

If approved by Council, in accordance with the Shire's processes an expression of interest will be advertised for Lot 219. The Shire notes there is a tenant utilising Lot 219 for the purpose of general plantation.

Policy and Legislative Implications

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

Financial Implications

The land on Lot 219 was valued at \$7,600.00 and the land and building on Lot 220 with a valuation of \$6,700.00. This figure will be adopted as the fee for the annual lease payment to respective applicants. It is to be noted the annual fee would be subject to an annual CPI review, and market review at the commencement of option of any further term.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2022 – 2033. Economic E2: To Work alongside local businesses to facilitate employment, growth, and development.

Risk Implications

Separation of the two properties reduces the risk of complications by two tenants vying for use of the properties.

Voting Requirements

Simple majority

Conclusion

It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the Land Trusts as the Land (Lots 219 and 220) is held in Trust. Council, in making any decision in relation to the Trusts, must give due consideration of the purpose of the Trusts that is “the benefit, advancement and wellbeing of the community formed by Kampong residents; and the wellbeing of Cocos Islanders” and ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to consider matters relating to Land held in Trust.

OFFICER RECOMMENDATION – ITEM NO 15.2.1

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

1. TO APPROVE MR LACY REQUEST TO RELINQUISH LOT 219 WEST ISLAND AND RETAIN PART LOT 220 WEST ISLAND,
2. TO ADVERTISE TO THE PUBLIC AN EXPRESSION OF INTEREST TO LEASE LOT 219 WEST ISLAND,
3. THE ANNUAL LEASE PAYMENT FOR LOT 219 AT \$7,600.00 AND LOT 220 AT \$6,700.00 AS DETERMINED BY THE INDEPENDENT PROPERTY VALUER AND,
4. APPROVE THE SHIRE PRESENT AND OR CHIEF EXECUTIVE OFFICER TO SIGN AND AFFIX THE SHIRE OF COCOS (KEELING) ISLANDS COMMON SEAL FOR THE NEW LEASE FOR LOT 220 WITH MR LACY.

COUNCIL RESOLUTION – ITEM NO 15.2.1

MOVED CR IKU

SECONDED CR YOUNG

THAT COUNCIL:

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

1. TO APPROVE MR LACY REQUEST TO RELINQUISH LOT 219 WEST ISLAND AND RETAIN PART LOT 220 WEST ISLAND,
2. TO ADVERTISE TO THE PUBLIC AN EXPRESSION OF INTEREST TO LEASE LOT 219 WEST ISLAND,

3. THE ANNUAL LEASE PAYMENT FOR LOT 219 AT \$7,600.00 AND LOT 220 AT \$6,700.00 AS DETERMINED BY THE INDEPENDENT PROPERTY VALUER AND,
4. APPROVE THE SHIRE PRESENT AND OR CHIEF EXECUTIVE OFFICER TO SIGN AND AFFIX THE SHIRE OF COCOS (KEELING) ISLANDS COMMON SEAL FOR THE NEW LEASE FOR LOT 220 WITH MR LACY.

THE MOTION WAS PUT AND DECLARED CARRIED (4/0)

FOR: IKU, KNIGHT, MINKOM, YOUNG

AGAINST: NIL

Cr Lacy returned to the meeting room. The video link was turned on at 1.23pm.

