



MINUTES

ORDINARY MEETING OF COUNCIL

Held at the Council Chambers, Home Island
Wednesday 4 December 2019 commencing at 4.00pm

DISCLAIMER

The advice and information contained herein is given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

Please note this agenda contains recommendations which have not yet been adopted by Council. 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.

TABLE OF CONTENTS

1	OPENING/ANNOUNCEMENTS OF VISITORS
2	ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)
3	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE
4	PUBLIC QUESTION TIME
5	LEAVE OF ABSENCE
5.1	LEAVE OF ABSENCE (PREVIOUSLY APPROVED)
5.2	APPLICATION FOR LEAVE OF ABSENCE
6	PETITIONS/DEPUTATIONS/PRESENTATIONS
7	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS
7.1	Ordinary Council Meeting held on 6 November 2019
8	ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS
9	DECLARATION OF INTERESTS
10	REPORT AND RECOMMENDATIONS
REPORTS OF OFFICERS	
10. FINANCE	
10.1.1	Monthly statement of Financial Activity for the Month Ending 31 October 2019
10.1.2	Scheduled of Accounts Paid for Period 1 October to 31 October 2019
10.2 LEASES	
10.2.1	Direction Island Resort Development Proposal
10.3 PLANNING/BUILDING	
10.3.1	Holiday Home-130 Air Force Road West Island
10.4 ADMINISTRATION	
10.4.1	Presentation of the 2018/2019 Annual Report Incorporating The 2018/2019 Annual Financial Statements and Auditors Report
10.4.2	Appointment of Delegates to External Committees -Western Australian Local Government Association (WALGA) Kimberley Country Zone Representation
10.5 MINUTES TO BE RECEIVED	
10.5.1	Minutes from Audit and Governance Committee Meeting to be Received
11	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
12	MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL
13	MATTERS BEHIND CLOSED DOORS
14	CLOSURE OF BUSINESS

1. OPENING/ANNOUNCEMENTS OF VISITORS

The Presiding member declared the meeting open at 4.00pm and welcome Councillors, staff and members of the public to the meeting.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

President Cr A Minkom

Deputy President Cr S Iku

Councillors Cr J Ibram
Cr N Anthoney
Cr S Charlston
Cr T Lacy
Cr M Hamiril

Staff J Soderlund, Acting Chief Executive Support Officer
I Macrae, Governance and Risk Coordinator

Public 5

Apologies: I Evans, Manager Works and Services

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

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

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

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

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

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

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

Nil

5. LEAVE OF ABSENCE

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

5.1 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Councillor	Date of Leave	Approved by Council
NIL		

5.2 APPLICATION FOR LEAVE OF ABSENCE

Cr Charlston submitted application for leave for the period of 14 January 2020 to 31 January 2020.

Cr Hamiril submitted application for leave for the period of 22 January 2020, however unaware of the return date at this stage.

COUNCIL RESOLUTION

MOVED CR ANTHONY, SECONDED CR IBRAM

THAT CR CHARLSTON BE GRANTED LEAVE OF ABSENCE IN ACCORDANCE TO SECTION 2.25 OF THE LOCAL GOVERNMENT ACT 1995 FOR THE 14 JANUARY 2020 TO 31 JANUARY 2020 INCLUSIVE.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

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

COUNCIL RESOLUTION

MOVED CR ANTHONY, SECONDED CR LACY

THAT CR HAMIRIL BE GRANTED LEAVE OF ABSENCE IN ACCORDANCE TO *SECTION 2.25 OF THE LOCAL GOVERNMENT ACT 1995* FOR THE ORDINARY MEETING OF COUNCIL SCHEDULED TO BE HELD ON THE 22 JANUARY 2020.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

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

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)

7.1 Ordinary Council Meeting held on 6 November 2019 -Attachment 7.1

COUNCIL RESOLUTION

MOVED CR IKU, SECONDED CR CHARLSTON

THAT, BY SIMPLE MAJORITY PURSUANT TO *SECTIONS 5.22(2) AND 3.18 OF THE LOCAL GOVERNMENT ACT 1995*, THE MINUTES OF THE ORDINARY COUNCIL MEETING 6 NOVEMBER 2019, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

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

OFFICER'S RECOMMENDATION

THAT, BY SIMPLE MAJORITY PURSUANT TO *SECTIONS 5.22(2) AND 3.18 OF THE LOCAL GOVERNMENT ACT 1995*, THE MINUTES OF THE ORDINARY COUNCIL MEETING 6 NOVEMBER 2019, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

Nil

9. DECLARATION OF INTERESTS

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

Name	Item No	Interest	Nature
NIL			

10. REPORT AND RECOMMENDATIONS OF COMMITTEE

10.1 FINANCE

10.1.1 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDING 31 OCTOBER 2019

Report Information

Date: 28/11/2019
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.1.1-Statement of Financial Activity with accompanying notes 30 October 2019

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

To inform Council of the financial position of the Shire at 31 October 2019 in compliance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Monthly Financial Statements for the period 1st July 2019 to 31 October 2019 are presented for consideration.

Comment

The Monthly Financial Report is prepared in accordance with the requirements of the Local Government Act 1995 and Local Government (Financial Management) Regulations.

A statement of Financial Activity with accompanying notes is attached for the period 1 July 2019 to 31 October 2019.

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 in question.

Financial Management Regulation 34 also requires this statement to be accompanied by:-

- a. An explanation of the composition of the net current assets, less committal assets and restricted assets;
- b. An explanation of material variances; and
- c. Such supporting information that is relevant to the Local Government

Strategic Implications

Nil

Voting Requirements

Simple majority

Conclusion

That the financial statements for the period 1 July 2019 to 31 October 2019 be received.

COUNCIL RESOLUTION – ITEM NO 10.1.1

MOVED CR LACY SECONDED CR CHARLSTON

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE FINANCIAL STATEMENTS FOR THE PERIOD 1ST JULY 2019 TO 31ST OCTOBER 2019.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

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

OFFICER'S RECOMMENDATION – ITEM NO 10.1.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE FINANCIAL STATEMENTS FOR THE PERIOD 1ST JULY 2019 TO 31ST OCTOBER 2019.

10.1.2 SCHEDULED OF ACCOUNTS PAID FOR PERIOD 1 OCTOBER TO 31 OCTOBER 2019

Report Information

Date: 28 November 2019
 Location: Not applicable
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Senior Finance Officer
 Island: Shire Wide
 Attachments: Schedule of accounts paid
 Credit MasterCard

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

To inform Council of funds disbursed for the period 1 October 2019 -31 October 2019.

Relevant Documents

Available for viewing at the meeting

Nil

Background

A list of accounts paid between 1 October and 31 October 2019 is attached.

Comment

The schedule of accounts paid is submitted in accordance with *Regulation 13(1) of the Local Government (Financial Management) Regulations 1996*.

Policy and Legislative Implications

Nil

Strategic Implications:

Nil

Voting Requirements

Simple majority

Conclusion

That Council receives the list stating all accounts paid for October 2019.

COUNCIL RESOLUTION – ITEM NO 10.1.2

MOVED CR ANTHONY SECONDED CR HAMIRIL

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO CREDITOR PAYMENTS FROM THE MUNICIPAL FUND FOR THE PERIOD 1 OCTOBER TO 31 OCTOBER 2019 INCLUSIVE OF TRUST CHEQUE 77, EFT 6855 TO 6913, MASTER CARD, VIVA ENERGY & DIRECT DEBIT SUPERANNUATION TOTALLING \$496,589.53

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

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

OFFICER'S RECOMMENDATION – ITEM NO 10.1.2

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO CREDITOR PAYMENTS FROM THE MUNICIPAL FUND FOR THE PERIOD 1 OCTOBER TO 31 OCTOBER 2019 INCLUSIVE OF TRUST CHEQUE 77, EFT 6855 TO 6913, MASTER CARD, VIVA ENERGY & DIRECT DEBIT SUPERANNUATION TOTALLING \$496,589.53.

10.2 LEASES

10.2.1 DIRECTION ISLAND RESORT DEVELOPMENT PROPOSAL

Report Information

Date: 27 November 2019
 Location: Lot 102 Direction Island
 Applicant: Cocos Boronia Resort Pty Ltd
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Acting Chief Executive Officer
 Island: Direction Island
 Attachments: 10.2.1-Stakeholder and Community Engagement Outcomes Report- April 2019
 10.2.1-Negotiation discussion paper
 10.2.1-Confidential - Response to negotiation discussion paper
 10.2.1-Maps showing public access
 10.2.1-Formal Request
 10.2.1-Confidential - Valuation;
 10.2.1-Confidential - Colvins QC advise
 10.2.1-Confidential - Community Engagement Plan
 10.2.1-Confidential - Gantt 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 type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

This report formally brings a request from Cocos Boronia Resort Pty Ltd for the lease of Part of Lot 102 Direction Island to develop a Luxury Resort. This process outlined below will meet all statutory requirements for disposal of property as per the Local Government Act 1995 (WA) (CKI). It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the Land Trust as the Land (Lot 102) is held in Trust; however the process as outlined in this report applies all requirements of the *Local Government Act 1995 (WA) (CKI)* to provide transparency and as a best practice process. Council, in making any decision in relation to the Trust, must give due consideration of the purpose of the Trust that is “*for the benefit, advancement and wellbeing of the Cocos Islanders resident in the Territory*” and ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to dispose of Land held in Trust to the Lessee.

Relevant Documents

Available for viewing at the meeting

Concept plans

Background

At the Ordinary Meeting of Council on 24 January 2019, Council resolved to:

1. *IMPLEMENT THE COMMUNITY AND STAKEHOLDER ENGAGEMENT STRATEGY AS PER ATTACHMENT 10.2.2 TO SEEK COMMUNITY AND STAKEHOLDER VIEWS ON THE REQUEST FROM CHRIS BLAKEMAN OF COCOS BORONIA RESORT PTY LTD THAT COUNCIL COMMITS TO NEGOTIATING EXCLUSIVELY WITH COCOS BORONIA RESORT PTY LTD IN GOOD FAITH, SUBJECT TO STATUTORY PROCESSES, FOR LEASING LAND ON DIRECTION ISLAND TO DEVELOP A RESORT;*
2. *CONSIDER THE RECOMMENDATIONS FROM THE COMMUNITY AND STAKEHOLDER ENGAGEMENT AND ANY PUBLIC SUBMISSIONS AT AN ORDINARY MEETING OF COUNCIL IN MAKING A DETERMINATION ON THE REQUEST FROM COCOS BORONIA RESORT PTY LTD; AND*
3. *ADVISE THE PROPONENT THAT ANY DECISION TO PROGRESS WITH A LEASE WOULD NEED TO ADHERE TO THE STATUTORY PROCESSES AS REQUIRED BY SECTION 3.58 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) AND ASSOCIATED REGULATIONS.*

This resolution of Council was in response to a request from Mr Blakeman in November 2018 for a level of assurance from Council that they would be willing to consider leasing land on Direction Island to Cocos Boronia Resort Pty Ltd (CBR) for the purpose of developing a resort. The specific request from Mr Blakeman was that Council would deal exclusively with CBR as a proponent for the potential to lease a parcel of land on Direction Island.

Following the Community and Stakeholder engagement process at the Ordinary meeting of Council on the 22 May 2019, Council resolved to:

1. *RECEIVE THE STAKEHOLDER AND COMMUNITY ENGAGEMENT OUTCOMES REPORT, APRIL 2019 AS PER ATTACHMENT 10.2.2 THAT PROVIDES INFORMATION ON COMMUNITY AND STAKEHOLDER VIEWS ON THE REQUEST FROM CHRIS BLAKEMAN OF COCOS BORONIA RESORT PTY LTD THAT COUNCIL COMMITS TO NEGOTIATING EXCLUSIVELY WITH COCOS BORONIA RESORT PTY LTD IN GOOD FAITH, SUBJECT TO STATUTORY PROCESSES, FOR LEASING LAND ON DIRECTION ISLAND TO DEVELOP A RESORT;*
2. *ACKNOWLEDGE THE PARTICIPANTS FOR THEIR INPUT;*
3. *INVITE COCOS BORONIA RESORT PTY LTD TO ENTER INTO NEGOTIATIONS REGARDING A POTENTIAL LEASE FOR A RESORT ON DIRECTION ISLAND AND CONSIDER THE RESULTS OF NEGOTIATIONS AT AN ORDINARY MEETING OF COUNCIL AS SOON AS POSSIBLE.*

In summary, the stakeholder and community engagement process resulted in:

Public Submissions - a total of 18 public submissions were received, 5 were in support, 10 were against, 1 was in support of some level of development but of a lesser scale than the current proposal, and 2 made observations rather than stating a position.

Community Reference Group (CRG) - of the 23 participants, 20 supported the proposal in some form while 3 did not support the current proposal. Of the 20 who supported the proposal in some form, 12 recommended that Council support the CBR proposal, with conditions, while 8 felt that Council should not deal exclusively with CBR.

Of those 12 who supported the current proposal, the conditions they recommended Council consider were:

- Size and scale – 5 felt it should be smaller while 7 recommended that 60 rooms was acceptable.
- Local employment – an overwhelming condition recommended by the CRG was a commitment to local employment and up-skilling of local people.
- Halal section – the majority of the CRG felt that any resort development should include a Halal section. Associated conditions included the requirement for a social impact study and cultural awareness officer.
- Environment – environmental studies were an important consideration.
- Flights and freight – a condition that the resort comes with its own flight and freight services was another recurring theme.

The 3 people who voted against the proposal gave the scale of the proposal as their primary concern.

In June 2019 CBR were supplied with a negotiation discussion paper to provide structure and guidance to the negotiation process (see attachment 10.2.1-Negotiation discussion paper). The items for negotiation came out of the feedback from the CRG and Councillors.

The Shire of Cocos (Keeling) Islands (SoCKI) has requested advice from the Commonwealth on the allowable lease term under the Trust Deed as well as requesting their sanction for this lease to proceed as is required under the Trust Deed. An independent valuation of the site for lease purposes has also been commissioned.

On the 18 November 2019 the SoCKI received a formal request from CBR for a long-term lease at the Direction Island site (see attachment 10.2.1-Formal Request) which incorporates a community engagement plan.

Comment

CBR formally responded to the items in the negotiation discussion paper in August 2019 (see attachment 10.2.1-Response to negotiations discussion paper). After assessing the response the SoCKI asked for additional information on and clarified the following:

1. *Land Area: Maps were requested to show what areas would be off-limits to the public and what areas could still be utilised during the various stages i.e pre-construction, during construction and post-construction. It was also noted that the navigational beacon on the end of Direction Island will need to be considered.*
2. *Due Diligence: It was noted that the responses to the social and cultural environment performance (page 10 of the negotiation paper) will need to be expanded upon in the due diligence stage and that council will be seeking quantifiable and measurable targets. It was also clarified that the items listed for Due Diligence as per pages 7-10 of the negotiation paper would be the minimum due diligence that council would be seeking if the lease is granted, and that the evaluation process would be completed by an independent third party as outline on page 10 of the negotiation paper.*
3. *Timeframes: An updated Gantt Chart was requested to incorporate timeframes for the due diligence phases of the project.*

CBR have subsequently provided the requested maps and updated Gantt as per attachments 10.2.1-Maps showing public access and 10.2.1-Gantt Chart respectively. The maps demonstrate that the community will still have full access to the area during the pre-construction stage, there will be restricted access during the construction phase and some access post construction including unrestricted public access to the existing heritage trail and access to restaurant/pool area with a booking.

Lease Arrangements

An independent valuation was received in October 2019 and proposed an annual lease fee of \$225,000. This valuation was forwarded to CBR and the following is proposed:

Pre-construction:

- \$100,000 once-off payment made up-front.
- Pre-construction is defined as the period from the date the lease is signed until the date the Shire issues a Building Permit. Limit for this stage is 18 months. Should the pre-construction period exceed 18 months a \$5,000 per month fee will be charged until the pre-construction period is finalised.
- Plus Council Rates as determined by the Valuer-General paid to the Shire and any other applicable taxes.

Construction:

- \$10,000 per month. This stage is approx. 30 months as per the preliminary timeline provided by CBR.

- Plus Council Rates as determined by the Valuer-General paid to the Shire and any other applicable taxes.

Post-construction:

- \$18,750 per month, resulting in an annual payment of \$225,000, paid as ground rent/lease fee.
- A per guest / per night levy once occupancy reaches a target level to go into a community program fund.
- Plus Council Rates as determined by the Valuer-General paid to the Shire and any other applicable taxes.

If a lease was granted to CBR they are proposing to pay a one-off fee to the SoCKI of \$100,000 during the due diligence stage. It is recommended that a special condition be included in the lease stating that if the due diligence takes longer than 18 months to complete that a monthly lease fee of \$5,000 per month will be incurred until all due diligence is submitted. CBR recognises that the \$100,000 will not be returned if the proposal does not proceed past the due diligence phase. It is anticipated that the upfront payment will cover the cost to the SoCKI to engage the appointed independent consultant to evaluate the due diligence.

It is the position of the administration that the proposed payment structure is fair and reasonable to all parties.

The SoCKI has on three occasions received Queens Council (QC) advice who have concluded that a lease of a particular term would not be inconsistent with the Trust purposes and that there may be cases where, in order to advance the Trust purpose, a long term lease is necessary and appropriate to give effect to the purpose. QC Colvin's advice (see confidential attachment 10.2.1-Colvin's QC advise) stated that an assessment should be made on a case by case basis having regard to the consequences of the lease and the extent to which the proposal lease advantages the community. Obviously the longer the lease term, the more significant the required advantage to the community. The SoCKI is of the view that the investment and benefits to the community from a proposal of this size and scale has the potential to provide unprecedented economic development.

CBR requested a lease term of 50 years + 20 years + 20 years however it is being recommended that the SoCKI consider a term of 40 years + 20 years + 20 years. The initial 40-year lease term is in line with the lease term for the Kampong houses. It would also give a total term of 80 years which is consistent with the Express of Interest that was facilitated by the Commonwealth in 2004 through the then Department of Transport and Regional Development which invited expressions of interest for a tourism resort development on a different parcel of Trust Land under the same Trust Deed. It is noted that under the Trust Deed the Commonwealth still need to provide sanction for the lease to proceed. This sanction has been requested but a response was not received at the time of writing this agenda item.

Policy and Legislative Implications

1984 Trust Deed

Section 3.58 of the Local Government Act 1995 (WA)

Trustees Act 1962 (WA) (CKI)

Financial Implications

The Land Trust would receive \$225,000 per annum once the resort is constructed and \$10,000 per month while it is under construction. During the pre-construction period the trust would receive a \$100,000 up front payment while in the due diligence phase of the project capped at 18 months with \$5,000 / month payments thereafter if due diligence extends past this period. The SoCKI would raise rates based on a valuation from the Valuer General from the time the lease is executed. The SoCKI would potentially also receive additional revenue for community programs in years that a target occupancy threshold is met.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016 Outcome 1.1 Encourage economic stability for the Islands.

Voting Requirements

Simple majority

Conclusion

The officer's recommendation supports progressing to give local public notice of the intent to lease a portion of Lot 102 Direction Island to CBR. The recommendation has been made on the basis that the project offers significant social and economic benefits, progresses the objectives of the Trusts for the community and provides a financial return on otherwise under-utilised land.

COUNCIL RESOLUTION – ITEM NO 10.2.1

MOVED CR LACY SECONDED CR CHARLSTON

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

- 1. GIVE LOCAL PUBLIC NOTICE AND INVITE SUBMISSIONS ON THE INTENT TO DISPOSE (BY LEASE) OF A PORTION OF LOT 102 DIRECTION ISLAND GIVING A TOTAL LEASE AREA OF 18.01 HECTARES TO COCOS BORONIA RESORT FOR THE PURPOSE OF DEVELOPING A LUXURY RESORT AS PER THE FOLLOWING LEASE CONDITIONS:**
 - a) LEASE PAYMENTS AS PER THE FOLLOWING SCHEDULE:**
 - i. \$100,000 ONCE-OFF UPFRONT PAYMENT DURING THE PRE-CONSTRUCTION PHASE. PR- CONSTRUCTION IS DEFINED AS THE PERIOD FROM THE DATE THE LEASE IS EXECUTED UNTIL THE DATE THE SHIRE ISSUES A BUILDING PERMIT UP TO A MAXIMUM OF 18 MONTHS AFTER WHICH A \$5,000 MONTHLY FEE WILL BE ALSO PAYABLE;**
 - ii. \$10,000 PER MONTH DURING THE CONSTRUCTION PERIOD**

- iii. **\$225,000 PER ANNUM LEASE FEE POST CONSTRUCTION AS DETERMINED BY THE INDEPENDENT PROFESSIONAL VALUATION BY OPTEON AND SUBJECT TO ANNUAL CPI OR MARKET REVIEW;**
 - b) **LEASE TERM OF 40 YEARS PLUS 20 YEARS PLUS 20 YEARS;**
 - c) **THE LEASE APPLICATION IS MADE BY COCOS BORONIA RESORT PTY LTD, A WHOLLY OWNED SUBSIDIARY OF INDIAN OCEAN LEISURE PTY LTD.**
2. **RECOGNISE THAT SANCTION FROM THE COMMONWEALTH WILL BE REQUIRED BEFORE ANY LEASE CAN BE EXECUTED.**
 3. **CONSIDER THE REPORT ON THE RESULTS OF STAKEHOLDER AND COMMUNITY CONSULTATION AND ALL PUBLIC SUBMISSIONS AT AN ORDINARY MEETING OF COUNCIL AS SOON AS POSSIBLE TO DETERMINE WHETHER TO EXECUTE A LEASE WITH COCOS BORONIA RESORT PTY LTD.**

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

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

OFFICER'S RECOMMENDATION - ITEM NO 10.2.1

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

1. GIVE LOCAL PUBLIC NOTICE AND INVITE SUBMISSIONS ON THE INTENT TO DISPOSE (BY LEASE) OF A PORTION OF LOT 102 DIRECTION ISLAND GIVING A TOTAL LEASE AREA OF 18.01 HECTARES TO COCOS BORONIA RESORT FOR THE PURPOSE OF DEVELOPING A LUXURY RESORT AS PER THE FOLLOWING LEASE CONDITIONS:
 - a) LEASE PAYMENTS AS PER THE FOLLOWING SCHEDULE:
 - i. \$100,000 ONCE-OFF UPFRONT PAYMENT DURING THE PRE-CONSTRUCTION PHASE. PRE- CONSTRUCTION IS DEFINED AS THE PERIOD FROM THE DATE THE LEASE IS EXECUTED UNTIL THE DATE THE SHIRE ISSUES A BUILDING PERMIT UP TO A MAXIMUM OF 18 MONTHS AFTER WHICH A \$5,000 MONTHLY FEE WILL BE ALSO PAYABLE;
 - ii. \$10,000 PER MONTH DURING THE CONSTRUCTION PERIOD
 - iii. \$225,000 PER ANNUM LEASE FEE POST CONSTRUCTION AS DETERMINED BY THE INDEPENDENT PROFESSIONAL VALUATION BY OPTEON AND SUBJECT TO ANNUAL CPI OR MARKET REVIEW;
 - b) LEASE TERM OF 40 YEARS PLUS 20 YEARS PLUS 20 YEARS;
 - c) THE LEASE APPLICATION IS MADE BY COCOS BORONIA RESORT PTY LTD, A WHOLLY OWNED SUBSIDIARY OF INDIAN OCEAN LEISURE PTY LTD.
2. RECOGNISE THAT SANCTION FROM THE COMMONWEALTH WILL BE REQUIRED BEFORE ANY LEASE CAN BE EXECUTED.

3. CONSIDER THE REPORT ON THE RESULTS OF STAKEHOLDER AND COMMUNITY CONSULTATION AND ALL PUBLIC SUBMISSIONS AT AN ORDINARY MEETING OF COUNCIL AS SOON AS POSSIBLE TO DETERMINE WHETHER TO EXECUTE A LEASE WITH COCOS BORONIA RESORT PTY LTD.

10.3 PLANNING/BUILDING

10.3.1 HOLIDAY HOME-130 AIR FORCE ROAD WEST ISLAND

Report Information

Date: 22 November 2019
 Applicant: Russell and Denise Mason
 Location: 130 Air Force Road, West Island
 File Ref: WL130
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: West Island
 Attachments: 10.31-Application letter
 10.3.1-Location plan
 10.3.1-WAPC Guidelines – Holiday Homes, September 2009

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

To provide Council with information to consider a request to grant development approval for the operation of a holiday home at 130 Air Force Road, West Island for a period of two years.

Relevant Documents

Available for viewing at the meeting

Support letter from Cocos Keeling Islands Tourism Association.
Letters of no objection from neighbour
Plans of the dwelling

Background

Council has previously granted approvals for holiday homes on West Island.

Past applications have been approved for an initial two-year period subject to conditions. Following the two-year period the Council may grant an approval for a further five years with conditions.

The applicants have submitted an emergency management plan and the following information in support of their application.

“The house at Location 130 Air Force Road would be a unique addition to the current holiday accommodation. it would be of significant interest to many potential tourists as accommodation (source: Cocos Islands Visitors Centre). The house is architecturally designed (Troppo Architects) in response to the climate, the views and low environmental impact. Tourist accommodation vs. residential housing: According to the Cocos Islands Visitor Centre, tourist accommodation on West Island is 100% booked for 5 months a year (June to October) and during all other WA school holidays, including Christmas and Easter. That is, demand for visitor accommodation exceeds current capacity. in addition, because booking for these high demand periods must occur many months in advance (source: Cocos Visitors Centre) it indicates that the demand significantly exceeds capacity. In contrast, demand for full-time rental housing on West Island is variable and at present appears to be satisfied. To our knowledge, there is one house that has been advertised for rent since April 2019 and is yet to secure a tenant and at least one other house that has previously been rented and is currently unoccupied. There are also several other private properties that are currently unoccupied (and untenanted — visitor or permanent) for all or part of the year. Precedent in an island setting: At present, the Cocos Islands have a total capacity to accommodate approximately 150 visitors/tourists (source: Cocos Islands Visitor Centre) with a total residential population of approximately 600 people (source: SCKI). This constitutes a resident to visitor ration of 4 to 1. In comparison, Lord Howe Island (a similar, tourism industry reliant Australian Island) has some 350 residents with a total capacity of 400 tourist/visitors

(source: Lord Howe Island website <https://lordhoweisland-australia.com/lord-howe-island-factsqq>).

This ratio is less than one resident for every possible visitor. Even with a (say) 150 bed development on Direction Island (Cocos Borenia Resort) the total ratio remains at 2 residents to 1 tourist/visitor for Cocos."

A neighbour submissions has been received advising that they have no objections to the use of the property as a holiday home. Copy of the submission are provided in the attachments.

A letter of support has also been received from the Cocos Keeling Islands Tourism Association

Comment

The WAPC Guidelines on Holiday Homes recommends an initial one-year approval period to allow the local government to assess compliance and to ensure that there has been minimal impact on the amenity of neighbouring properties before considering a longer approval period. The guidelines also recommend that where it can be demonstrated that there is a history of minimal or no conflicts, a longer approval period should be considered.

The proposed property has been well-maintained and does not impact on the visual amenity of the area. Therefore, the officer's recommendation reflects this by recommending a two-year approval period.

The local government retains a degree of control by making the approval subject to various conditions including adherence to the management plan submitted along with the application. A breach of these conditions, should that occur, can be dealt with in accordance with the enforcement provisions of the local planning scheme and cancellation of registration.

Policy and Legislative Implications

The Shire of Cocos (Keeling) Islands Local Planning Scheme No. 1 has been considered in preparing this item to ensure the recommendation is compliant.

The definition of "Holiday Home" is not listed in the Shire's Local Planning Scheme Zoning Table of land uses (Table 1). The following definition is taken from the Deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.

holiday house means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast;

Clause 3.4.2 of the Scheme deals with this issue;

- 3.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may:
- a. determine that the use is consistent with the objectives of the particular zone and is therefore permitted;

- b. determine that the proposed use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 64 of the deemed provisions in considering an application for development approval; or
- c. determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.
- d. In this instance, the proposed development can be reasonably determined as falling within the category of “Guest House” which is listed in the Zoning Table as detailed below.

Guest House: means the use of premises for a commercial accommodation establishment compatible in character and scale with residential housing;

TABLE 1 – ZONING TABLE USE CLASSES	Residential	Commercial	Industrial	General
				Rural
Guest House	D	D	X	X

Zoning of the subject property is “Residential” R15

“D” means that the use is not permitted unless the local government has exercised its discretion by granting development approval;

There is no requirement to consult with neighbours for a “D” use under the Scheme, however the applicant has provided a letter of support from the neighbour.

Financial Implications

Nil

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016 -2026 Outcome 1.1.2 Encourage low impact tourism.

Voting Requirements

Simple majority

Conclusion

Holiday Homes have to date not caused any detrimental impacts on neighbours on the islands and support the economy of the islands from tourism. The officer supports this proposal for a two-year period. Council has the option of granting a five-year extension at the completion of the two-year period.

COUNCIL RESOLUTION – ITEM NO 10.3.1

MOVED CR CHARLSTON SECONDED CR IBRAM

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO. 1:

- 1. GRANTS DEVELOPMENT APPROVAL FOR THE OPERATION OF A HOLIDAY HOME (GUEST HOUSE) AT 130 AIR FORCE ROAD, WEST ISLAND TO RUSSELL AND DENISE MASON FOR A PERIOD OF TWO YEARS COMMENCING 4 DECEMBER 2019 SUBJECT TO THE FOLLOWING CONDITIONS:**
 - a. A MAXIMUM OCCUPANCY OF 6 PEOPLE AT ANY ONE TIME;**
 - b. SUBMISSION OF A MANAGEMENT PLAN TO THE SATISFACTION OF THE CHIEF EXECUTIVE OFFICER;**
 - c. EMERGENCY RESPONSE PLAN/EVACUATION DIAGRAM TO BE CLEARLY DISPLAYED IN THE DWELLING;**
 - d. EACH BEDROOM TO BE FITTED WITH A HARD-WIRED SMOKE DETECTOR;**
 - e. A FULLY MAINTAINED AND COMPLIANT FIRE EXTINGUISHER TO BE IN A CLEARLY VISIBLE AND ACCESSIBLE LOCATION;**
 - f. BBQS TO LIMITED TO GAS OR ELECTRIC ONLY;**
 - g. ALL PARKING BE CONTAINED ON-SITE;**
 - h. SIGNAGE BE RESTRICTED TO ONE SIGN ON SITE NOT EXCEEDING 0.5M² IN SIZE AND INCORPORATED INTO THE FRONT FENCE OR FRONT OF THE BUILDING.**

- 2. ADVISES THAT THIS APPROVAL IS ISSUED TO THE CURRENT OWNER/S (RUSSELL AND DENISE MASON) FOR THIS LOCATION (130 AIR FORCE ROAD, WEST ISLAND) AND IS NOT TRANSFERABLE TO ANOTHER PERSON OR ANOTHER PARCEL OF LAND.**

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

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

OFFICER'S RECOMMENDATION – ITEM NO 10.3.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO. 1:

1. GRANTS DEVELOPMENT APPROVAL FOR THE OPERATION OF A HOLIDAY HOME (GUEST HOUSE) AT 130 AIR FORCE ROAD, WEST ISLAND TO RUSSELL AND DENISE MASON FOR A PERIOD OF TWO YEARS COMMENCING 4 DECEMBER 2019 SUBJECT TO THE FOLLOWING CONDITIONS:
 - a. A MAXIMUM OCCUPANCY OF 6 PEOPLE AT ANY ONE TIME;
 - b. SUBMISSION OF A MANAGEMENT PLAN TO THE SATISFACTION OF THE CHIEF EXECUTIVE OFFICER;
 - c. EMERGENCY RESPONSE PLAN/EVACUATION DIAGRAM TO BE CLEARLY DISPLAYED IN THE DWELLING;
 - d. EACH BEDROOM TO BE FITTED WITH A HARD-WIRED SMOKE DETECTOR;
 - e. A FULLY MAINTAINED AND COMPLIANT FIRE EXTINGUISHER TO BE IN A CLEARLY VISIBLE AND ACCESSIBLE LOCATION;
 - f. BBQS TO LIMITED TO GAS OR ELECTRIC ONLY;
 - g. ALL PARKING BE CONTAINED ON-SITE;
 - h. SIGNAGE BE RESTRICTED TO ONE SIGN ON SITE NOT EXCEEDING 0.5M² IN SIZE AND INCORPORATED INTO THE FRONT FENCE OR FRONT OF THE BUILDING.

2. ADVISES THAT THIS APPROVAL IS ISSUED TO THE CURRENT OWNER/S (RUSSELL AND DENISE MASON) FOR THIS LOCATION (130 AIR FORCE ROAD, WEST ISLAND) AND IS NOT TRANSFERABLE TO ANOTHER PERSON OR ANOTHER PARCEL OF LAND.

10.4 ADMINISTRATION

10.4.1 PRESENTATION OF THE 2018/2019 ANNUAL REPORT INCORPORATING THE 2018/2019 ANNUAL FINANCIAL STATEMENTS AND AUDITORS REPORT

Report Information

Date: 28 November 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.4.1-2018/2019 Shire of Cocos (Keeling) Islands Annual Report

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

To seek Council acceptance of the Annual Report and Annual Financial Statements for the 2018/2019 financial year and to receive the Audit Report on those Financial Statements.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The *Local Government Act 1995* requires Councils to prepare and accept an Annual Report for each financial year by 31 December following the financial year end or no later than two months after receiving the Audit Report.

Comment

The Annual Report, prepared in accordance with the requirements of the Local Government Act, is included with the Agenda for Councillors' perusal, consideration and acceptance.

Council's Auditors, the Office of the Auditor General, have completed an audit of council's financial records for the financial year ending 30 June 2019. The Auditors Report was received on the 19th November 2019.

Once the Annual Report has been accepted Council is required to give local public notice of the availability of the annual report as soon as practicable.

Policy and Legislative Implications

Section 5.53(1) of the *Local Government Act 1995* requires a Local Government to prepare an annual report for each financial year. Section 5.53(2) (f) of the Local Government Act 1995 specifies that the annual report is to contain the financial report of the financial year and Section 5.53(2) (h) specifies that it must contain the auditor's report for the financial year.

In accordance with Section 5.54 of the *Local Government Act 1995* an annual report for the financial year is to be accepted by the Local Government by the 31 December after that financial year or no later than 2 months after the auditor's report becomes available.

Financial Implications

Nil

Strategic Implications

Nil

Voting Requirements

Absolute majority

Conclusion

The process has been compliant with statutory processes and the Audit Report states that the audit has been based on proper accounts and records. Therefore, the officer's recommendation is that Council accepts the 2018/2019 Annual Report of the Shire of Cocos (Keeling) Islands and authorises the CEO to give notice of the Annual Electors Meeting.

COUNCIL RESOLUTION – ITEM NO 10.4.1

MOVED CR IKU SECONDED CR ANTHONY

THAT COUNCIL BY ABSOLUTE MAJORITY, PURSUANT TO SETION 5.54 OF THE LOCAL GOVERNMENT ACT 1995, RESOLVES TO:

- 1. ACCEPT THE REPORT PROVIDED BY THE SHIRE AUDITOR CAROLINE SPENCER AUDITOR GENERAL FOR WESTERN AUSTRALIA;**
- 2. ACCEPT THE SHIRE OF COCOS (KEELING) ISLANDS ANNUAL REPORT FOR THE 2018/2019 FINANCIAL YEAR; AND**
- 3. SET THE DATE FOR THE ANNUAL ELECTORS GENERAL MEETING AS WEDNESDAY 22 JANUARY 2020 AT 3.45PM AT THE HOME ISLAND COUNCIL CHAMBERS AND AUTHORISE THE CEO TO GIVE PUBLIC NOTICE OF THE MEETING AND THE AVAILABILITY OF THE ANNUAL REPORT.**

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

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

OFFICER'S RECOMMENDATION – ITEM NO 10.4.1

THAT COUNCIL BY ABSOLUTE MAJORITY, PURSUANT TO SETION 5.54 OF THE LOCAL GOVERNMENT ACT 1995, RESOLVES TO:

- 1. ACCEPT THE REPORT PROVIDED BY THE SHIRE AUDITOR CAROLINE SPENCER AUDITOR GENERAL FOR WESTERN AUSTRALIA;**
- 2. ACCEPT THE SHIRE OF COCOS (KEELING) ISLANDS ANNUAL REPORT FOR THE 2018/2019 FINANCIAL YEAR; AND**
- 3. SET THE DATE FOR THE ANNUAL ELECTORS GENERAL MEETING AS WEDNESDAY 22 JANUARY 2020 AT 3.45PM AT THE HOME ISLAND COUNCIL CHAMBERS AND AUTHORISE THE CEO TO GIVE PUBLIC NOTICE OF THE MEETING AND THE AVAILABILITY OF THE ANNUAL REPORT.**

10.4.2 APPOINTMENT OF DELEGATES TO EXTERNAL COMMITTEES -WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) KIMBERLEY COUNTRY ZONE REPRESENTATION

Report Information

Date: 28 November 2019
 Applicant: Shire of Cocos (Keeling) Islands
 Location: N/A
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Governance and Risk Coordinator
 Island: N/A
 Attachments: Nil

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

The purpose of this report is to re-appoint Council's representatives to the (WALGA) Kimberley Country Zone until their representation expires on October 2021.

Relevant Documents

Available for viewing at the meeting

Nil

Background

In order to ensure that Council's position on different aspects of community direction is understood, Council appoints delegates to Committees external to Council. These delegates are to represent Council's views on relevant topics and to report back to Council on the outcomes of meetings held.

Appointments to the following external Committees have been addressed by Council at its' Ordinary Meeting held on the 6 November 2019.

- a. PULU KEELING NATIONAL PARK COMMUNITY MANAGEMENT COMMITTEE (PKNPCMC);
- b. INDIAN OCEAN GROUP TRAINING ASSOCIATION (IOGTA) COMMITTEE; AND
- c. WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) KIMBERLEY COUNTRY ZONE REPRESENTATION; AND
- d. COCOS KEELING ISLANDS TOURISM ASSOCIATION COMMITTEE.

Comment

Council, at its Ordinary Meeting held on the 6 November 2019, appointed the as Council's representatives on the WALGA Kimberley Country Zone and Cr Hamiril as proxy.

However, staff have received verification from WALGA that only elected members can be appointed as Zone delegates. However, CEO's can be appointed as a proxy. In the event that a delegate cannot attend a meeting the proxy is able to attend and vote in their absence. Therefore, a further Council report item is necessary to seek Council's appointment of a Councillor as the Zone delegate and either another Councillor or the CEO as proxy.

Zone delegates are elected or appointed to represent their Council on the Zone and make decisions on their Council's behalf at the regional level.

In fulfilling their role as Council's delegate, the Zone delegate should give regard to their Council's positions on policy issues.

There is also an expectation that Zone delegates will report back to their Council about decisions made by the Zone.

Zones have an integral role in shaping the political and strategic direction of WALGA. Not only are Zones responsible for bringing relevant local and regional issues to the State decision making table, they are a key player in developing policy and legislative initiatives for Local Government.

The Shire of Cocos (Keeling) Islands is a member of the Kimberley Country Zone. The Shire of Cocos (Keeling) Islands' Zone representatives and CEO have noted that issues of importance

to the other members of the Kimberley Zone such as management of alcohol abuse, roads and regional waste management are of little relevance to the Shire of Cocos (Keeling) Islands. This combined with the difficulty in attending meetings suggest that membership and representation may be of limited value to our Council. However, the CEO would suggest that Council maintains representation for this coming period to ensure we continue to receive agendas and minutes which allows some level of contact with mainland counterparts.

Financial Implications

Nil - there are no direct financial implications.

Policy and Legislative Implications

There are no legislative requirements on representation to External Committees.

Strategic Implications

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

Voting Requirements

Simple majority

Conclusion

The officer's recommendation that Council representation to WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) KIMBERLEY COUNTRY ZONE REPRESENTATION is based on the view that representation on these Committees are the best mechanism for maintaining a relationship between Council and these organisations and that there is value to the Shire from participation.

COUNCIL RESOLUTION – ITEM NO 10.4.2

MOVED CR HAMIRIL SECONDED CR ANTHONY

THAT THE COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 5.8 OF THE LOCAL GOVERNMENT ACT 1995 RESOLVES TO:

- 1. RE-ESTABLISH REPRESENTATION ON THE (WALGA) KIMBERLEY COUNTRY ZONE; AND**
- 2. RE-APPOINT THE FOLLOWING ELECTED MEMBERS TO THE (WALGA) KIMBERLEY COUNTRY ZONE FOR THE PERIOD 06 NOVEMBER 2019 UNTIL 21 OCTOBER 2021:**

- i. CR HAMIRIL; AND
- ii. ANDREA SELVEY AS PROXY.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

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

OFFICER' S RECOMMENDATION – ITEM NO 10.4.2

THAT THE COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO *SECTION 5.8 OF THE LOCAL GOVERNMENT ACT 1995* RESOLVES TO:

1. RE-ESTABLISH REPRESENTATION ON THE (WALGA) KIMBERLEY COUNTRY ZONE; AND
2. RE-APPOINT THE FOLLOWING ELECTED MEMBERS TO THE (WALGA) KIMBERLEY COUNTRY ZONE FOR THE PERIOD 06 NOVEMBER 2019 UNTIL 21 OCTOBER 2021:

- i. CR _____; AND
- ii. CR _____ AS PROXY.

10.5 MINUTES TO BE RECEIVED

10.5.1 MINUTES FROM AUDIT AND GOVERNANCE COMMITTEE MEETING TO BE RECEIVED

Report Information

Date: 28 November 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.5.1-Audit Committee Meeting Minutes (Unconfirmed)
 28 November 2019

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Summary

The report formally presents the (unconfirmed) minutes of Audit and Governance Committee of Council from the previous meeting.

Background

The Shire has established the Audit and Governance Committee as a Committee of Council. The Audit and Governance Committee does not have any delegated authority; therefore, any recommendations requiring a Council decision that result from this Committee meeting must be brought before Council. This will be done via agenda items to Council.

Comment

The attached minutes are the unconfirmed minutes of the meeting of Audit and Governance Committee of Council held on the 28 November 2019.

Consultation

N/A

Financial Implications

The Officer's recommendation for Council to receive the minutes of Committee meetings carries no financial commitment for Council. Should any recommendation require a financial commitment or have any implication outside the CEO's delegated authority, the matter will be referred to Council as a specific agenda item.

Risk Implications

Nil

Policy Implications

Nil

Statutory Implications

Administration regulation 11 sets out the content that the minutes of council or committee meetings must contain, including:

- the names of members present at the meeting;
- details of each motion moved, the mover and the outcome of the motion;
- details of each decision made at the meeting; and
- written reasons for each decision made at a meeting that is significantly different from the committee's or council employee's recommendation.

Section 5.22(2) and (3) of the Act requires that the minutes of a council or committee meeting are to go to the next meeting of the council or committee for confirmation and signing by the person presiding to certify the confirmation.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2013 – Outcome 4.1.2 Continue to improve organisational planning.

Voting Requirements

Simple majority

Conclusion

That the minutes of the Audit and Governance Committee meeting held on the 28 November 2019 be received.

COUNCIL RESOLUTION – ITEM NO 10.5.1

MOVED CR LACY SECONDED CR IKU

THAT COUNCIL BY SIMPLE MAJORITY PURSUANT TO SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995 RESOLVES TO:

- 1. RECEIVE THE MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING HELD ON 28 NOVEMBER 2019.**

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

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

AGAINST: NIL

OFFICER'S RECOMMENDATION – ITEM NO 10.5.1

THAT COUNCIL BY SIMPLE MAJORITY PURSUANT TO SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995 RESOLVES TO:

- 1. RECEIVE THE MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING HELD ON 28 NOVEMBER 2019.**

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

Nil

12. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL

Nil

13. MATTERS BEHIND CLOSED DOORS

Nil

14. CLOSURE OF BUSINESS

The Presiding member declared the meeting closed at 4.20pm.

These minutes were confirmed at a meeting on

SIGNED this day of 2019 as a
true record of proceedings.

PRESIDING MEMBER