

Shire of Cocos (Keeling) Islands

Shire of Cocos (Keeling) Islands

Minutes

Ordinary Meeting of Council

Wednesday 24 November 2021, 4.00pm

Community Resource Centre Meeting Room

at Administration Building, West Island

Disclaimer

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

OUR VALUES

Service

Provide the best service we can.

We serve the community and each other.

Accountability

We take responsibility for our own actions.

We do what we say we will do.

Mistakes are an opportunity to learn.

Support

We support our team and our community.

Look for opportunities to help each other.

Respect

We respect and value others.

Our interactions are always respectful towards others.

Integrity

We will be honest and transparent with all our dealings.

Maintain confidentiality.

Trust each other.

Achievement

Being proactive and enabling the outcomes.

Be creative and think outside the square.

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1. OPENING/ANNOUNCEMENTS OF VISITORS

In the absence of the Shire President, the Deputy President assumes the chair as the presiding member and declare the meeting opened at 4.00pm and welcome Councillors and staff to the meeting.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

Deputy President: Cr S Iku

Councillors: Cr J Ibram
Cr T Lacy
Cr H Liu
Cr J Young

Officers: K Small, Chief Executive Officer
V Lauritsen, Manager Finance and Corporate Services
M Faulkner, Manager Infrastructure
A Alim, Administration Officer

Public: 3

Visitors: Nil

Apologies: Cr A Minkom
Cr M Hamiril

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.

Mr Greg Cahill
11 William Keeling Cres
West Island

Question 1: Is the Shire aware that the Shire has not paid invoices for services provided by my business totalling in excess of \$20,000 as provided in my email to the former Deputy CEO, copied to the Chief Executive Officer?

Response 1: Yes, the Shire is aware of the correspondence. As this was not resolved prior to the Deputy CEO finishing with the Shire, further resources will be required to resolve the matter. It is the CEO's understanding that these invoices were received well after the proposed services were completed and no evidence of purchase orders or completion of the works has been provided. The invoices at the time they were received related to services provided in previous financial years.

Question 2: Can the Shire guarantee that the development proposed at Item 10.3.3 by the Commonwealth Government to install a desalination plant on West Island will not adversely impact my business, on leased land across the road, financially?

Response 2: No, the Shire cannot guarantee that this development will not adversely impact financially your business. All required approvals and buffer zones will be met by the proponents

Question 3: Can the Shire postpone the decision at item 10.3.3 until they have consulted with me and can guarantee that my business will not be financially impacted?

Response 3: Council, when considering the item may choose to defer the decision to a later date should they feel they require more information.

Question 4: Can the Shire expedite my application to construct or install an apparatus for the treatment of sewage lodged with the Shire today?

Response 4: No, the application will be dealt with like all other customers and responded to in an appropriate timeframe.

Mr Jeff Welch
30 Airforce Road
West Island

Question 1: Is there an update on the incinerator on Home Island?

Response 1: The incinerator has been out of service for a number of months whilst the Shire has been working to resolve a maintenance issue. It is expected that the incinerator is back in working order in the coming week.

Question 2: Has the Shire considered other waste management options rather than utilising open burning and burning utilising the incinerator? Can the Shire stockpile plastics until such time as there is another option?

Response 2: The Shire is working with the Commonwealth Government and also the Shire of Christmas Island as it looks to revise its Waste Management Strategy.

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 Ordinary Council Meeting held on 27 October 2021 - Attachment 7.1

OFFICER RECOMMENDATION

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 5.22(2) AND 3.18 OF THE *LOCAL GOVERNMENT ACT 1995*, RESOLVES THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING 27 OCTOBER 2021, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

COUNCIL RESOLUTION

MOVED CR IBRAM

SECONDED CR LACY

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 5.22(2) AND 3.18 OF THE *LOCAL GOVERNMENT ACT 1995*, RESOLVES THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING 27 OCTOBER 2021, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

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

FOR: IBRAM, IKU, LACY, LIU, 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 Liu	10.2.1	Impartiality	Friend with one of the applicant's wife. His son has been employed by Cr Liu's family business.

10. REPORT AND RECOMMENDATIONS OF COMMITTEE

10.1 FINANCE

10.1.1 MONTHLY FINANCIAL REPORT - OCTOBER 2021

Report Information

Date: 12 November 2021
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Manager Finance & Corporate Services
 Island: Shire Wide
 Attachments: 10.1.1.1 - Monthly Financial Report - October 2021

Authority / Discretion

Definition

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

Report Purpose

The purpose of this report is to provide a monthly financial report for October 2021, which includes rating, investment, reserve, debtor, and general financial information to Elected Members in accordance with Section 6.4 of the *Local Government Act 1995 (WA) (CKI)*.

Relevant Documents

Available for viewing at the meeting.

Nil

Background

The reporting of monthly financial information is a requirement under section 6.4 of the *Local Government Act 1995 (WA) (CKI)*, and Regulation 34 of the *Local Government (Financial Management) Regulations 1996* and provides oversight of the Shire's finances to Council.

Comment

The period of review is October 2021. The current closing municipal surplus for this period is \$1,571,775 compared to a budget position of \$1,058,199. This is considered a satisfactory result for the Shire as it is maintaining a healthy surplus position.

Income for the October 2021 period year to date is \$3,293,831 which is made up of \$3,233,831 in operating revenues and \$60,000 in non-operating grants, contributions and subsidies received to date. The budget estimated \$3,169,629 would be received for the same period. The variance to budget is \$124,202.

Expenditure for the October 2021 period year to date is \$2,954,324. This is made up of \$2,504,566 in operating expenditure and \$449,759 in capital expenditure. The budget estimated \$3,440,028 would be spent for the same period. The variance to budget is \$485,704.

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

Policy and Legislative Implications

Regulation 34 of the *Local Government (Financial Management) Regulations 1996* requires all Local Governments to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure for the month.

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

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

Strategic Implications

Nil

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	That budget allocations are significantly exceeded.	Moderate (6)	Variances are monitored and highlighted to Council on a monthly basis for corrective action.
Reputation	The monthly financial statements are open to public scrutiny.	Low (3)	Procedures in place to ensure all expenditure is justifiable.
Compliance	The report is to be presented to Council within two months in order to comply with relevant legislation.	Low (3)	There are processes in place to ensure compliance with legislation.
Fraud	That the report is manipulated.	Low (3)	Interim and end of year audits.

Risk Matrix

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

Conclusion

That the Monthly Financial Report for the period ending 31 October 2021, including explanations of material variances, be received.

OFFICER RECOMMENDATION – ITEM NO 10.1.1

THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDING 31 OCTOBER 2021, AS CONTAINED IN ATTACHMENT 10.1.1.1; AND
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 31 OCTOBER 2021, AS CONTAINED IN ATTACHMENT 10.1.1.1.

COUNCIL RESOLUTION – ITEM NO 10.1.1

MOVED CR LACY

SECONDED CR IBRAM

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 OCTOBER 2021, AS CONTAINED IN ATTACHMENT 10.1.1.1; AND**
- 2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 31 OCTOBER 2021, AS CONTAINED IN ATTACHMENT 10.1.1.1.**

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

FOR: IBRAM, IKU, LACY, LIU, YOUNG

AGAINST: NIL

10.1.2 SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD 1 OCTOBER 2021 TO 31 OCTOBER 2021

Report Information

Date: 09 November 2021
 Location: Not applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Senior Finance Officer
 Island: Shire Wide
 Attachments: 10.1.2.1 - Schedule of Accounts paid
 10.1.2.2 – Credit Card Transactions October 2021

Authority / Discretion

Definition

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

Report Purpose

The purpose of this report is to present to Council a list of accounts paid under delegated authority for the period 1 October 2021 to 31 October 2021, as required by the *Local Government (Financial Management) Regulations 1996*.

Relevant Documents

Available for viewing at the meeting

Nil

Background

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

Comment

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

Payment Type	Amount (\$)
EFT Payments #8439 to #8533	\$449,517.09
Direct Debit Payment	\$39,066.95
Cheque Payment	\$2,229.00
Total Payments	\$490,813.04

Contained within Attachment 10.1.2.2 is a detailed transaction listing of credit card expenditure for the period ended 31 October 2021. This amount is included within the total payments, listed above.

Policy and Legislative Implications

Nil

Strategic Implications:

Nil

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	That budget allocations are significantly exceeded.	Moderate (6)	Variances are monitored and highlighted to Council monthly for corrective action.

Reputation	The accounts paid report is open to public scrutiny.	Low (3)	Procedures in place to ensure all expenditure is justifiable.
Compliance	The report is to be presented to Council in 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.

Risk Matrix

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

Conclusion

It is recommended that Council receives the reports provided for the period ended 31 October 2021.

OFFICER RECOMMENDATION – ITEM NO 10.1.2

THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO REGULATION 13(1) OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO PAYMENTS MADE FROM MUNICIPAL OR TRUST FUNDS FOR THE PERIOD 1 OCTOBER 2021 TO 31 OCTOBER 2021 TOTALLING \$490,813.04 AS CONTAINED IN ATTACHMENT 10.1.2.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 31 OCTOBER 2021, AS CONTAINED IN ATTACHMENT 10.1.2.2.

COUNCIL RESOLUTION – ITEM NO 10.1.2

MOVED CR LIU

SECONDED CR IBRAM

THAT COUNCIL:

- 1. BY SIMPLE MAJORITY, PURSUANT TO REGULATION 13(1) OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO PAYMENTS MADE FROM MUNICIPAL OR TRUST FUNDS FOR THE PERIOD 1 OCTOBER 2021 TO 31 OCTOBER 2021 TOTALLING \$490,813.04 AS CONTAINED IN ATTACHMENT 10.1.2.1.**
- 2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 31 OCTOBER 2021, AS CONTAINED IN ATTACHMENT 10.1.2.2.**

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

FOR: IBRAM, IKU, LACY, LIU, YOUNG

AGAINST: NIL

10.2 LEASES

10.2.1 EXPRESSIONS OF INTERESTS – PART LOT 45 HOME ISLAND LIA SHED 2

Report Information

Date: 1 December 2021
 Location: Part Lot 45 Home Island LIA Shed 2
 Applicant:
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Leasing Officer
 Island: Home Island
 Attachments: 10.2.1.1 - Confidential Attachment Summary of Responses to Further Information Requested
 10.2.1.2 - Confidential Attachments Full Responses to Further Information Requested
 10.2.1.3 - Confidential Attachments Original EOI Applications

Authority / Discretion

Definition

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

Report Purpose

To present the request and supporting documentation to Council for consideration to lease Part Lot 45 Home Island LIA Shed 2.

Relevant Documents

Available for viewing at the meeting.

Background

The applications for Part Lot 45 LIA Shed 2 was presented at the Ordinary Council Meeting on Wednesday 27 October 2021. The motion was not passed and the Council requested further information to the following criteria to assist them with their decision:

1. Will your business increase employment?
2. Will your business encourage and generate new revenue into the community?
3. Is the service being offered something that is needed? Is there a demand for this service?
4. Do you have the skills to make this business a success?

Comment

Three of the Four initial applicants submitted responses to further information. Further information has been received from:

- Sweet A Lawn Section Maintenance
- Mr Des Chongkin
- CKI Golf Cart Solutions

A summary of the responses to the above criteria is contained in Confidential Attachment 10.2.1.1. Full details of each response is contained in Confidential Attachment 10.2.1.2 and the original responses to the call for Expressions of Interest are also provided in Confidential Attachment 10.2.1.3.

Policy and Legislative Implications

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

Financial Implications

Progressing the EOI to formal lease arrangements will result in revenue to the Shire. A valuation will be requested to determine the annual lease fee.

Strategic Implications

Strategic Community Plan: Key Result Area 1– Economic: Outcome 1.1. Encourage economic stability for the Islands.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Reputation	No clear process with selecting applicants Perceived conflict of Interest by Shire Officers due to applicants employed with Shire.	Minor (6)	Application is assessed based on the criteria Officers have provided comments for Council consideration, however, have left the resolution open for Council to determine successful applicant.
Service Interruption	Without a lease, a valuable community service could be disrupted.	Moderate (6)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Compliance	The process for leasing does not comply with legislation.	Low (3)	The process outlined in this report is consistent with legislative requirements.

Risk Matrix

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

Voting Requirements

Simple majority

Conclusion

The request for a new lease is presented for Council consideration to award the application based on the information provided through the initial EOI process and the request for further information.

COUNCIL RESOLUTION

OFFICER 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:

1. TO ENTER INTO FORMAL LEASE NEGOTIATIONS WITH _____ FOR PART LOT 45 HOME ISLAND LIA SHED 2;
2. TO GIVE PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY LEASE OF PART LOT 45 HOME ISLAND LIA SHED 2 TO THE SUCCESSFUL APPLICANT AS PER THE SHIRE’S STANDARD COMMERCIAL LEASE TEMPLATE, SUBJECT TO THE FOLLOWING CONDITIONS:
 - a. THAT THE LEASE FEE BE SET AS PER THE INDEPENDENT VALUATION, SUBJECT TO ANNUAL CPI REVIEWS, PLUS A ONE-OFF LEASE PREPARATION FEE OF \$257;
 - b. THE LEASE OF PROPERTY WILL BE FOR “AS IS WHERE IS” BASIS;
 - c. THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL MAINTENANCE OF THE BUILDING PER THE LEASE CONDITIONS;
3. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD; THE CHIEF EXECUTIVE OFFICER IS AUTHORISED TO ENTER INTO THE LEASE AS PER THE SHIRE’S STANDARD COMMERCIAL LEASE TEMPLATE AND WITH THE CONDITIONS AS OUTLINED ABOVE;
4. THAT IF OBJECTIONS ARE RECEIVED, TO CONSIDER ALL PUBLIC SUBMISSIONS AT THE FIRST ORDINARY MEETING OF COUNCIL FOLLOWING THE CLOSE OF THE PUBLIC SUBMISSION PERIOD;
5. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY WILL BE UNDERTAKEN;
6. TO ADVISE THE PROSPECTIVE LESSEE THAT, SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE, THEY ARE TO BE PAID IN FULL; AND
7. CONSIDER ADDITIONAL LIA SHEDS AT THE NEXT BUDGET REVIEW OR ANNUAL BUDGET PROCESS.

COUNCIL RESOLUTION

MOVED CR LACY

SECONDED CR IBRAM

THAT COUNCIL SUSPEND STANDING ORDERS, THE TIME BEING 4:26PM.

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

FOR: IBRAM, IKU, LACY, LIU, YOUNG

AGAINST: NIL

MOVED CR LACY

SECONDED CR YOUNG

THAT COUNCIL RESUME STANDING ORDERS, THE TIME BEING 4.34PM.

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

FOR: IBRAM, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

COUNCIL RESOLUTION – ITEM NO 10.2.1

MOVED CR LACY

SECONDED CR IBRAM

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

- 1. TO ENTER INTO FORMAL LEASE NEGOTIATIONS WITH *SWEET AS LAWN AND SECTION MAINTENANCE* FOR PART LOT 45 HOME ISLAND LIA SHED 2;**
- 2. TO GIVE PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY LEASE OF PART LOT 45 HOME ISLAND LIA SHED 2 TO THE SUCCESSFUL APPLICANT AS PER THE SHIRE’S STANDARD COMMERCIAL LEASE TEMPLATE, SUBJECT TO THE FOLLOWING CONDITIONS:**
 - a. THAT THE LEASE FEE BE SET AS PER THE INDEPENDENT VALUATION, SUBJECT TO ANNUAL CPI REVIEWS, PLUS A ONE-OFF LEASE PREPARATION FEE OF \$257;**
 - b. THE LEASE OF PROPERTY WILL BE FOR “AS IS WHERE IS” BASIS;**
 - c. THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL MAINTENANCE OF THE BUILDING PER THE LEASE CONDITIONS;**
- 3. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD; THE CHIEF EXECUTIVE OFFICER IS AUTHORISED TO ENTER INTO THE LEASE AS PER THE SHIRE’S STANDARD COMMERCIAL LEASE TEMPLATE AND WITH THE CONDITIONS AS OUTLINED ABOVE;**
- 4. THAT IF OBJECTIONS ARE RECEIVED, TO CONSIDER ALL PUBLIC SUBMISSIONS AT THE FIRST ORDINARY MEETING OF COUNCIL FOLLOWING THE CLOSE OF THE PUBLIC SUBMISSION PERIOD;**
- 5. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY WILL BE UNDERTAKEN;**
- 6. TO ADVISE THE PROSPECTIVE LESSEE THAT, SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE, THEY ARE TO BE PAID IN FULL; AND**
- 7. CONSIDER ADDITIONAL LIA SHEDS AT THE NEXT BUDGET REVIEW OR ANNUAL BUDGET PROCESS.**

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

FOR: IBRAM, IKU, LACY, LIU, YOUNG

AGAINST: NIL

PLANNING/BUILDING

10.3.1 PROPOSED CHALETS – THE BIG BARGE ART CENTRE, WEST ISLAND

Report Information

Date: 3 November 2021
 Location: Part Lot 100 Sydney Highway, West Island
 Applicant: Emma Washer
 File Ref: WL100
 Reporting Officer: Chief Executive Officer
 Island: West Island
 Attachments: 10.3.1.1 - DA Application – Big Barge Art Centre – CHALET PROPOSAL

Authority / Discretion

Definition

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

Report Purpose

For Council to consider a development application for the construction and use of two short stay chalets upon land leased by The Big Barge Art Centre.

Relevant Documents

Available for viewing at the meeting

Development cover letter and concept plans

Background

The Big Barge Art Centre has been operating since 2009. Over this time period, the proponent has completed the construction of an art gallery, studio, caretakers residence and café, in addition to obtaining a further 2000sqm trust land above the initial 2000sqm portion leased.

The proponent is now seeking development approval to construct two short stay chalets upon this further leased land. Each chalet will accommodate up to 4 guests at any one time. A number of concept designs of the 44sqm elevated floor system chalets with a mezzanine level are attached to this item for Council's reference.

The chalets are proposed to face the ocean views to the west and will be positioned on the same 1.5m setback alignment of that of the existing structures on the property. The chalets will be separated by 17m and screened with timber and landscaping to create privacy for guests of each.

The proposed land use is considered to fall under the land use classification of 'tourist facility' under Shire's *Local Planning Scheme No.1* (the Scheme). However, the Scheme does not provide a definition for this land use. Nonetheless, the subject property is zoned 'General Rural' under the Scheme where the proposed land use is listed as 'discretionary'; meaning the development is not permitted unless Council exercises discretion in its decision making.

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

Comment

The following development standards of the General Rural Zone apply to this application under the Scheme:

- *All buildings developed within the General Rural zone shall harmonise with the natural setting, be cognisant of the climate and incorporate design features which reflect the cultural background of the Islanders.*
- *No use or development of land within the General Rural zone shall cause, in the opinion of the local government, any adverse impact on the groundwater catchment, soil stability and existing vegetation.*

To ensure compliance with these standards a schedule of final colours and materials; and a landscaping plan are recommended as conditions of development approval to ensure the proponent's efforts in cladding the chalets and revegetating the leased property are to the satisfaction of the Shire. It is noted the development site is outside the freshwater lens area.

Council has recently adopted two policies which also require assessment against this development proposal. Firstly, under the guidance of the Draft Essential Services Policy, the development was referred to the Water Corporation and the Indian Ocean Territories Power Service who provided no objection to the proposal as there are no reticulated essential

services to the subject property. Nonetheless, these authorities encourage the proponent to consider energy efficiency in their building layout.

Secondly, under the Coastal Development Policy consideration is given to the small, simple nature of the proposed chalets which will be built on elevated floor systems (stumps). This will allow for the development to accommodate coastal process for a period of time until coastal hazards become unbearable in future years. It is recommended Council enforce conditions covering the following in this regard:

1. place a notification on the land lease documents notify the tenant of the possibility of the coastal hazards over the next 100 years; and
2. require the proponent to remove the development once the hazard reaches a defined event trigger i.e. the development becoming dangerous, or unfit for human habitation.

Approval as a tourist facility will also limit the use of the chalets to short stay accommodation only, meaning any guest can stay up to maximum of 3 months in any successive 12-month period. This is reinforced as a recommended condition of approval. Furthermore, as no property management plan was submitted with the application, an additional recommended condition of approval calls for such to be approved by the Shire prior to commencement of the accommodation use.

Policy and Legislative Implications

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

Financial Implications

There are no financial implications associated with this report.

Strategic Implications

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

Outcome 3.2 Future development is sympathetic to the Islands environment

3.2.1 Maintain and develop infrastructure in-line with community needs and the Islands environment.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Health & Safety	House fire	Moderate (5)	Approval condition – property management plan
Compliance	Building permit not obtained prior to construction	Low (1)	Advice note added to planning approval
	Unruly behaviour of guests in a residential area	Moderate (9)	Approval condition enforcement
Environment	Coastal hazard impacts	High (16)	Approval conditions enforcement

Risk Matrix

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

Voting Requirements

Simple Majority

Conclusion

Given the relevant planning concerns can be addressed by conditions of approval, the officer supports the proposal subject to enforcement of such development conditions.

OFFICER RECOMMENDATION – ITEM NO 10.3.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR THE LAND USE OF TOURIST FACILITY UPON PART LOT 100 SYDNEY HIGH, WEST ISLAND FOR THE CONSTRUCTION OF TWO SHORT STAY CHALETs SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTES:

CONDITIONS:

1. DEVELOPMENT MAY BE CARRIED OUT ONLY IN ACCORDANCE WITH THE DETAILS OF THE APPLICATION AS APPROVED HEREIN AND ANY APPROVED PLAN.

2. ANY ADDITIONAL DEVELOPMENT WHICH IS NOT IN ACCORDANCE WITH THE APPLICATION THE SUBJECT OF THIS APPROVAL OR ANY CONDITION OF APPROVAL WILL REQUIRE THE FURTHER APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.
3. DEVELOPMENT PLANS AND A SCHEDULE OF THE COLOUR AND TEXTURE OF THE BUILDING MATERIALS, DEMONSTRATING THAT THE PROPOSED DEVELOPMENT COMPLEMENTS THE SURROUNDING AREA, MUST BE SUBMITTED TO AND APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS, PRIOR TO LODGING AN APPLICATION FOR A BUILDING PERMIT. THE DEVELOPMENT MUST BE FINISHED, AND THEREAFTER MAINTAINED, IN ACCORDANCE WITH THE PLANS AND SCHEDULE PROVIDED TO AND APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS, PRIOR TO OCCUPATION OF THE DEVELOPMENT.
4. GUESTS OF THE TOURIST FACILITY ARE TO BE SHORT STAY ONLY, MEANING NO GUEST SHALL OCCUPY THE SERVICED APARTMENT FOR MORE THAN A TOTAL OF THREE MONTHS IN ANY ONE TWELVE-MONTH PERIOD.
5. THE DEVELOPMENT MUST NOT CAUSE NUISANCE OR DEGRADE THE AMENITY OF THE LOCALITY IN ANY WAY, INCLUDING BY REASON OF THE EMISSION OF NOISE, LIGHT, ODOUR, FUMES, SMOKE, VAPOUR OR OTHER POLLUTANT, OR IMPACT ON PUBLIC SAFETY OR OTHERWISE; TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.
6. PRIOR TO COMMENCEMENT OF THE APPROVED USE AS SERVICED APARTMENT, A 'PROPERTY MANAGEMENT PLAN' MUST BE SUBMITTED AND THEREAFTER APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS. THIS MANAGEMENT PLAN SHALL INCLUDE DETAILS ON THE CODE OF CONDUCT OF GUESTS, AND THE FIRE AND EMERGENCY PROTOCOLS AND EQUIPMENT OF THE TOURIST FACILITY.
7. THIS DEVELOPMENT APPROVAL IS GRANTED FOR A LIMITED PERIOD AND SHALL EXPIRE UPON THE EARLIEST OCCURRENCE OF ANY ONE OF THE FOLLOWING EVENTS;
 - a. THE EXPIRATION OF A PERIOD OF 20 YEARS FROM THE DATE OF THIS APPROVAL;
 - b. WHEN WATER, SEWERAGE OR ELECTRICITY IS NO LONGER AVAILABLE AS THE SERVICE HAS REMOVED OR DECOMMISSIONED DUE TO A COASTAL HAZARD.
8. UPON THE EXPIRY OF THE DEVELOPMENT APPROVAL IN ACCORDANCE WITH CONDITION 7, THE LEASEHOLDER SHALL AT THE LEASEHOLDER'S COST:
 - a. REMOVE THE DEVELOPMENT; AND
 - b. REHABILITATE THE LAND TO ITS PREDEVELOPMENT CONDITION TO THE SPECIFICATIONS OF THE SHIRE OF COCOS (KEELING) ISLANDS.
9. PRIOR TO LODGING AN APPLICATION FOR A BUILDING PERMIT, THE FOLLOWING NOTIFICATION PURSUANT TO *STATE PLANNING POLICY 2.6 COASTAL PLANNING* (OR AS AMENDED) MUST BE PLACED ON THE LEASE TITLE OF THE LOT, AT THE FULL COST OF THE LEASEHOLDER, TO ALERT CURRENT AND FUTURE LEASEHOLDERS TO THE LIKELY FUTURE COASTAL HAZARD IMPACTS ON THE PROPERTY:
 - a. "VULNERABLE COASTAL AREA – THIS LOT IS LOCATED IN AN AREA LIKELY TO BE SUBJECT TO COASTAL EROSION AND/OR INUNDATION OVER THE NEXT 100 YEARS."
 - b. "DEVELOPMENT ON THIS LOT IS SUBJECT TO CONDITIONS OF DEVELOPMENT APPROVAL WHICH LIMIT THE TERM OF THE APPROVAL, AND WHICH REQUIRE THE DEVELOPMENT TO BE REMOVED AND THE LAND REINSTATED TO ITS PREDEVELOPMENT CONDITION. REFER TO THE SHIRE OF COCOS (KEELING) ISLAND FOR DETAILS."
10. PRIOR TO LODGING AN APPLICATION FOR A BUILDING PERMIT, A DETAILED LANDSCAPING PLAN FOR THE SUBJECT SITE MUST BE SUBMITTED TO AND APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTES:

- A. THIS IS A DEVELOPMENT APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS UNDER ITS *LOCAL PLANNING SCHEME NO.1*. IT IS NOT AN APPROVAL TO COMMENCE OR CARRY OUT DEVELOPMENT UNDER ANY OTHER LAW. IT IS THE RESPONSIBILITY OF THE APPLICANT/LANDOWNER TO OBTAIN ANY OTHER NECESSARY APPROVALS, CONSENTS, PERMITS AND LICENSES REQUIRED UNDER ANY OTHER LAW, AND TO COMMENCE AND CARRY OUT DEVELOPMENT IN ACCORDANCE WITH ALL RELEVANT LAWS.
- B. IF THE DEVELOPMENT, THE SUBJECT OF THIS APPROVAL IS NOT SUBSTANTIALLY COMMENCED WITHIN A PERIOD OF TWO (2) YEARS, THE APPROVAL SHALL LAPSE AND BE OF NO FURTHER EFFECT.
- C. WHERE AN APPROVAL HAS SO LAPSED, NO DEVELOPMENT SHALL BE CARRIED OUT WITHOUT THE FURTHER APPROVAL OF THE LOCAL GOVERNMENT HAVING FIRST BEEN SOUGHT AND OBTAINED.
- D. THE APPLICANT IS TO IMPLEMENT AND MAINTAIN REPORTING MECHANISMS FOR COMPLAINTS CONCERNING THE OPERATION OF THE SERVICED APARTMENT. IN THE EVENT OF A SUBSTANTIATED COMPLAINT BEING RECEIVED THE APPLICANT IS REQUIRED TO DEMONSTRATE MITIGATION RESPONSE(S) TO THE APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.
- E. SHOULD THE APPLICANT BE AGGRIEVED BY THE DECISION (IN PART OR WHOLE) THERE IS A RIGHT PURSUANT TO THE *PLANNING AND DEVELOPMENT ACT 2005* TO HAVE THE DECISION REVIEWED BY THE STATE ADMINISTRATIVE TRIBUNAL. SUCH AN APPLICATION MUST BE LODGED WITHIN TWENTY-EIGHT (28) DAYS FROM THE DATE OF THE DECISION.

COUNCIL RESOLUTION – ITEM NO 10.3.1

MOVED CR LACY

SECONDED CR IBRAM

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR THE LAND USE OF TOURIST FACILITY UPON PART LOT 100 SYDNEY HIGH, WEST ISLAND FOR THE CONSTRUCTION OF TWO SHORT STAY CHALETS SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTES:

CONDITIONS:

- 1. DEVELOPMENT MAY BE CARRIED OUT ONLY IN ACCORDANCE WITH THE DETAILS OF THE APPLICATION AS APPROVED HEREIN AND ANY APPROVED PLAN.
- 2. ANY ADDITIONAL DEVELOPMENT WHICH IS NOT IN ACCORDANCE WITH THE APPLICATION THE SUBJECT OF THIS APPROVAL OR ANY CONDITION OF APPROVAL WILL REQUIRE THE FURTHER APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.
- 3. DEVELOPMENT PLANS AND A SCHEDULE OF THE COLOUR AND TEXTURE OF THE BUILDING MATERIALS, DEMONSTRATING THAT THE PROPOSED DEVELOPMENT COMPLEMENTS THE SURROUNDING AREA, MUST BE SUBMITTED TO AND APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS, PRIOR TO LODGING AN APPLICATION FOR A BUILDING PERMIT. THE DEVELOPMENT MUST BE FINISHED, AND THEREAFTER MAINTAINED, IN ACCORDANCE WITH THE PLANS AND SCHEDULE

- PROVIDED TO AND APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS, PRIOR TO OCCUPATION OF THE DEVELOPMENT.
4. GUESTS OF THE TOURIST FACILITY ARE TO BE SHORT STAY ONLY, MEANING NO GUEST SHALL OCCUPY THE SERVICED APARTMENT FOR MORE THAN A TOTAL OF THREE MONTHS IN ANY ONE TWELVE-MONTH PERIOD.
 5. THE DEVELOPMENT MUST NOT CAUSE NUISANCE OR DEGRADE THE AMENITY OF THE LOCALITY IN ANY WAY, INCLUDING BY REASON OF THE EMISSION OF NOISE, LIGHT, ODOUR, FUMES, SMOKE, VAPOUR OR OTHER POLLUTANT, OR IMPACT ON PUBLIC SAFETY OR OTHERWISE; TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.
 6. PRIOR TO COMMENCEMENT OF THE APPROVED USE AS SERVICED APARTMENT, A 'PROPERTY MANAGEMENT PLAN' MUST BE SUBMITTED AND THEREAFTER APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS. THIS MANAGEMENT PLAN SHALL INCLUDE DETAILS ON THE CODE OF CONDUCT OF GUESTS, AND THE FIRE AND EMERGENCY PROTOCOLS AND EQUIPMENT OF THE TOURIST FACILITY.
 7. THIS DEVELOPMENT APPROVAL IS GRANTED FOR A LIMITED PERIOD AND SHALL EXPIRE UPON THE EARLIEST OCCURRENCE OF ANY ONE OF THE FOLLOWING EVENTS;
 - a. THE EXPIRATION OF A PERIOD OF 20 YEARS FROM THE DATE OF THIS APPROVAL;
 - b. WHEN WATER, SEWERAGE OR ELECTRICITY IS NO LONGER AVAILABLE AS THE SERVICE HAS REMOVED OR DECOMMISSIONED DUE TO A COASTAL HAZARD.
 8. UPON THE EXPIRY OF THE DEVELOPMENT APPROVAL IN ACCORDANCE WITH CONDITION 7, THE LEASEHOLDER SHALL AT THE LEASEHOLDER'S COST:
 - a. REMOVE THE DEVELOPMENT; AND
 - b. REHABILITATE THE LAND TO ITS PREDEVELOPMENT CONDITION TO THE SPECIFICATIONS OF THE SHIRE OF COCOS (KEELING) ISLANDS.
 9. PRIOR TO LODGING AN APPLICATION FOR A BUILDING PERMIT, THE FOLLOWING NOTIFICATION PURSUANT TO *STATE PLANNING POLICY 2.6 COASTAL PLANNING* (OR AS AMENDED) MUST BE PLACED ON THE LEASE TITLE OF THE LOT, AT THE FULL COST OF THE LEASEHOLDER, TO ALERT CURRENT AND FUTURE LEASEHOLDERS TO THE LIKELY FUTURE COASTAL HAZARD IMPACTS ON THE PROPERTY:
 - a. "VULNERABLE COASTAL AREA – THIS LOT IS LOCATED IN AN AREA LIKELY TO BE SUBJECT TO COASTAL EROSION AND/OR INUNDATION OVER THE NEXT 100 YEARS."
 - b. "DEVELOPMENT ON THIS LOT IS SUBJECT TO CONDITIONS OF DEVELOPMENT APPROVAL WHICH LIMIT THE TERM OF THE APPROVAL, AND WHICH REQUIRE THE DEVELOPMENT TO BE REMOVED AND THE LAND REINSTATED TO ITS PREDEVELOPMENT CONDITION. REFER TO THE SHIRE OF COCOS (KEELING) ISLAND FOR DETAILS."
 10. PRIOR TO LODGING AN APPLICATION FOR A BUILDING PERMIT, A DETAILED LANDSCAPING PLAN FOR THE SUBJECT SITE MUST BE SUBMITTED TO AND APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTES:

- F. THIS IS A DEVELOPMENT APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS UNDER ITS *LOCAL PLANNING SCHEME NO.1*. IT IS NOT AN APPROVAL TO COMMENCE OR CARRY OUT DEVELOPMENT UNDER ANY OTHER LAW. IT IS THE RESPONSIBILITY OF THE APPLICANT/LANDOWNER TO OBTAIN ANY OTHER NECESSARY APPROVALS, CONSENTS,

PERMITS AND LICENSES REQUIRED UNDER ANY OTHER LAW, AND TO COMMENCE AND CARRY OUT DEVELOPMENT IN ACCORDANCE WITH ALL RELEVANT LAWS.

- G. IF THE DEVELOPMENT, THE SUBJECT OF THIS APPROVAL IS NOT SUBSTANTIALLY COMMENCED WITHIN A PERIOD OF TWO (2) YEARS, THE APPROVAL SHALL LAPSE AND BE OF NO FURTHER EFFECT.
- H. WHERE AN APPROVAL HAS SO LAPSED, NO DEVELOPMENT SHALL BE CARRIED OUT WITHOUT THE FURTHER APPROVAL OF THE LOCAL GOVERNMENT HAVING FIRST BEEN SOUGHT AND OBTAINED.
- I. THE APPLICANT IS TO IMPLEMENT AND MAINTAIN REPORTING MECHANISMS FOR COMPLAINTS CONCERNING THE OPERATION OF THE SERVICED APARTMENT. IN THE EVENT OF A SUBSTANTIATED COMPLAINT BEING RECEIVED THE APPLICANT IS REQUIRED TO DEMONSTRATE MITIGATION RESPONSE(S) TO THE APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.
- J. SHOULD THE APPLICANT BE AGGRIEVED BY THE DECISION (IN PART OR WHOLE) THERE IS A RIGHT PURSUANT TO THE *PLANNING AND DEVELOPMENT ACT 2005* TO HAVE THE DECISION REVIEWED BY THE STATE ADMINISTRATIVE TRIBUNAL. SUCH AN APPLICATION MUST BE LODGED WITHIN TWENTY-EIGHT (28) DAYS FROM THE DATE OF THE DECISION.

THE MOTION WAS PUT AND DECLARED CARRIED (4/1)

FOR: IBRAM, IKU, LACY, YOUNG

AGAINST: LIU

10.3.2 PROPOSED OUTBUILDING – LOT 101 (HOUSE 1) QANTAS CLOSE, WEST ISLAND

Report Information

Date: 2 November 2021
 Location: Lot 101 Qantas Close, West Island
 Applicant: Evan Reeves
 File Ref: WL101
 Reporting Officer: Governance and Risk Coordinator
 Island: West Island
 Attachments: 10.3.2.1 – DA Application Lot 101 Qantas Close WI – Proposed Outbuildings

Authority / Discretion

Definition

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

Report Purpose

For Council to consider an application for development approval for the construction of an outbuilding (garage) adjacent the existing dwelling on the subject property.

Relevant Documents

Available for viewing at the meeting

Development plans

Background

There is an existing dwelling on the subject property which is zoned 'Residential' with a density coding of R15 under the *Shire of Cocos (Keeling) Islands Local Planning Scheme No.1*.

The WA Residential Design Codes (R-Codes) exempts an outbuilding which is on or under 60sqm in area; 2.4m in wall height; and 4.2m in ridge height. As the proposed garage will be 84sqm in area; with a wall height of 2.8; and ridge height of 4.7m, a development application is required.

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

Comment

Where a proposal does not meet the deemed-to-comply provisions of the R-Codes the decision maker is to consider a development application against the applicable design principle(s), which in this instance is:

Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.

It is not considered the proposal will detract from the established streetscape for the following reasons:

- The outbuilding will be clad in fibre cement walling and Colorbond roofing to match the appearance of the existing dwelling.
- The proposal meets all applicable boundary setbacks of the R-Codes.
- The height of the outbuilding is lower than that of the dwelling which has been built with an elevated floor system, this ensures the dwelling remains the dominant building on the residential property.

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

Policy and Legislative Implications

Shire of Cocos (Keeling) Islands Local Planning Scheme No.1
State Planning Policy 7.3 Residential Design Codes

Financial Implications

There are no financial implications associated with this report.

Strategic Implications

There are no strategic implications associated with this report.

Risk Implications

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

Risk Matrix

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

Voting Requirements

Simple Majority

Conclusion

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

OFFICER RECOMMENDATION – ITEM NO 10.3.2

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR AN OUTBUILDING UPON LOT 101 QANTAS CLOSE, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTE:

1. ALL STORMWATER MUST BE CONTAINED AND DISPOSED OF ON-SITE AT ALL TIMES, TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS;
2. ALL DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE APPROVED DEVELOPMENT PLANS, WHICH FORM PART OF THIS DEVELOPMENT APPROVAL, TO THE SPECIFICATIONS AND SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS; AND
3. THE OUTBUILDING IS NOT TO BE USED FOR HUMAN HABITATION, TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTE:

THIS IS A DEVELOPMENT APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS UNDER ITS *LOCAL PLANNING SCHEME NO.1*. IT IS NOT AN APPROVAL TO COMMENCE OR CARRY OUT DEVELOPMENT UNDER ANY OTHER LAW. IT IS THE RESPONSIBILITY OF THE APPLICANT/LANDOWNER TO OBTAIN ANY OTHER NECESSARY APPROVALS, CONSENTS, PERMITS AND LICENSES REQUIRED UNDER ANY OTHER LAW, AND TO COMMENCE AND CARRY OUT DEVELOPMENT IN ACCORDANCE WITH ALL RELEVANT LAWS.

COUNCIL RESOLUTION – ITEM NO 10.3.2

MOVED CR LIU

SECONDED CR YOUNG

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR AN OUTBUILDING UPON LOT 101 QANTAS CLOSE, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTE:

1. ALL STORMWATER MUST BE CONTAINED AND DISPOSED OF ON-SITE AT ALL TIMES, TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS;
2. ALL DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE APPROVED DEVELOPMENT PLANS, WHICH FORM PART OF THIS DEVELOPMENT APPROVAL, TO THE SPECIFICATIONS AND SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS; AND
3. THE OUTBUILDING IS NOT TO BE USED FOR HUMAN HABITATION, TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTE:

THIS IS A DEVELOPMENT APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS UNDER ITS *LOCAL PLANNING SCHEME NO.1*. IT IS NOT AN APPROVAL TO COMMENCE OR CARRY OUT DEVELOPMENT UNDER ANY OTHER LAW. IT IS THE RESPONSIBILITY OF THE APPLICANT/LANDOWNER TO OBTAIN ANY OTHER NECESSARY APPROVALS, CONSENTS, PERMITS AND LICENSES REQUIRED UNDER ANY OTHER LAW, AND TO COMMENCE AND CARRY OUT DEVELOPMENT IN ACCORDANCE WITH ALL RELEVANT LAWS.

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

FOR: IBRAM, IKU, LACY, LIU, YOUNG

AGAINST: NIL

10.3.3 PROPOSED WEST ISLAND WATER DESALINATION PLANT

Report Information

Date: 18 November 2021
 Location: Part Lot 100 Sydney Highway, West Island
 Applicant: Commonwealth of Australia (Department of Infrastructure, Transport, Regional Development and Communications)
 File Ref:
 Reporting Officer: Chief Executive Officer
 Island: West Island
 Attachments: 10.3.3.1 - DA Application Desalination Plant and Borefield

Authority / Discretion

Definition

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

Report Purpose

For Council to consider an application for development approval from the Commonwealth of Australia (Department of Infrastructure, Transport, Regional Development and Communications) (the Commonwealth) for the construction of a desalination plant (DP) adjacent their existing wastewater treatment plant (WWTP) on West Island.

Relevant Documents

Available for viewing at the meeting
 Proposal report and concept plans.

Background

The Water Corporation, as agents of the Commonwealth, provides essential water, wastewater and power services to the Cocos (Keeling) Islands community.

Recently Water Corporation has been engaged by the Department of Defence and Department of Infrastructure, Transport, Regional Development and Communications to install a new DP adjacent the existing WWTP on Part Lot Sydney Highway, West Island.

The detailed design of the DP is currently still being undertaken on the proviso that the new plant will produce the same capacity of that of the Home Island DP of 200kL/day and utilise similar equipment for consistency of spare parts and operator familiarity.

The main components of the proposed DP are as follow:

- five sea water beach bores;
- seawater main to seawater treatment plant;
- seawater desalination plant containing transportable, containerised buildings;
- pump station and delivery main, carrying potable water to existing townsite tanks;
- brine disposal pump station and connection to existing WWTP outfall;
- chlorination and fluoridation plants; and
- raw, brine and potable water tanks.

The proponent states the DP needs to be constructed on a tight timeline to meet the operating date of June 2023 required by the Department of Defence. As such exploration and production drilling is desired to be undertaken in February 2022, following initial site vegetation clearing in December/January. Council is requested to determine this development application prior to the lodgement of detailed design plans to enable the construction timeline to be met accordingly.

Under the *Shire of Cocos (Keeling) Islands Local Planning Scheme No.1* (the Scheme) the subject land is zoned 'Rural' where the proposed development of a 'public utility' is a discretionary use, meaning it is not permitted unless Council shows discretion in its decision making.

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

Comment

The development will provide greater access to an essential service in potable water for West Island, above that than what is obtained by the freshwater lens productions bores currently utilised. Given this, it is recommended Council grant approval subject to conditions, including a condition to ensure submission by the proponent of detailed design plans prior to the operation of the DP.

Policy and Legislative Implications

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

‘Public utility’ definition - *shall have the same meaning given to it in and for the purposes of the Act.*

As such the *Planning and Development Act 2005* defines public utility as - *means drainage, electricity, sewerage or water supply services or such other services as are prescribed.*

Financial Implications

The proponent has paid the required development application fee.

Strategic Implications

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

Outcome 3.2 Future development is sympathetic to the Islands environment

3.2.1 Maintain and develop infrastructure in-line with community needs and the Islands environment.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Compliance	Detailed design plan not obtained prior to development	Low (1)	Advice added to Planning Approval

Risk Matrix

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

Voting Requirements

Simple Majority

Conclusion

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

OFFICER RECOMMENDATION – ITEM NO 10.3.3

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR A PUBLIC UTILITY (DESALINATION PLANT) UPON PART LOT 100 SYDNEY HIGHWAY, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITION AND ADVICE NOTES:

DETAILED DEVELOPMENT PLANS MUST BE SUBMITTED TO AND APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS, PRIOR TO OPERATION OF THE DEVELOPMENT. THE DEVELOPMENT MUST THEREAFTER BE MAINTAINED IN ACCORDANCE WITH THE PLANS, TO THE SATISFACTION SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTES:

- A. THIS IS A DEVELOPMENT APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS UNDER ITS *LOCAL PLANNING SCHEME NO.1*. IT IS NOT AN APPROVAL TO COMMENCE OR CARRY OUT DEVELOPMENT UNDER ANY OTHER LAW. IT IS THE RESPONSIBILITY OF THE APPLICANT/LANDOWNER TO OBTAIN ANY OTHER NECESSARY APPROVALS, CONSENTS, PERMITS AND LICENSES REQUIRED UNDER ANY OTHER LAW, AND TO COMMENCE AND CARRY OUT DEVELOPMENT IN ACCORDANCE WITH ALL RELEVANT LAWS.
- B. IF THE DEVELOPMENT THE SUBJECT OF THIS APPROVAL IS NOT SUBSTANTIALLY COMMENCED WITHIN A PERIOD OF TWO (2) YEARS, THE APPROVAL SHALL LAPSE AND BE OF NO FURTHER EFFECT.
- C. WHERE AN APPROVAL HAS SO LAPSED, NO DEVELOPMENT SHALL BE CARRIED OUT WITHOUT THE FURTHER APPROVAL OF THE LOCAL GOVERNMENT HAVING FIRST BEEN SOUGHT AND OBTAINED.

COUNCIL RESOLUTION – ITEM NO 10.3.3

MOVED CR LACY

SECONDED CR LIU

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR A PUBLIC UTILITY (DESALINATION PLANT) UPON PART LOT 100 SYDNEY HIGHWAY, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITION AND ADVICE NOTES:

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

FOR: IBRAM, IKU, LACY, LIU, YOUNG

AGAINST: NIL

10.4 ADMINISTRATION

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

Nil

15.3 TRUSTS FINANCE

Nil

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

Nil

17. CLOSURE

The Presiding member declared the meeting closed at 4:57 pm.

These minutes were confirmed at a meeting on

SIGNED this day of 2021

as a true record of proceedings.

PRESIDING MEMBER