

# Shire of Cocos (Keeling) Islands

## Shire of Cocos (Keeling) Islands

### Minutes

### Ordinary Meeting of Council

**Wednesday 23 February 2022, 4.00pm**

**Community Resource Centre Meeting Room**

**West Island**

### **Disclaimer**

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

## OUR VALUES

### Service

Provide the best service we can.

We serve the community and each other.

### Accountability

We take responsibility for our own actions.

We do what we say we will do.

Mistakes are an opportunity to learn.

### Support

We support our team and our community.

Look for opportunities to help each other.

### Respect

We respect and value others.

Our interactions are always respectful towards others.

### Integrity

We will be honest and transparent with all our dealings.

Maintain confidentiality.

Trust each other.

### Achievement

Being proactive and enabling the outcomes.

Be creative and think outside the square.

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## 1. OPENING/ANNOUNCEMENTS OF VISITORS

The Presiding member declare the meeting opened at 4.05pm and welcome Councillors, Staff, and members of the public to the meeting.

The Presiding member also announced that for the convenience of members of the public, that Item 10.4.3 – CEO Recruitment and Process will be deferred for consideration as the last item of the meeting.

## 2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

**Shire President:** Cr A Minkom

**Deputy President:** Cr S Iku

**Councillors:** Cr M Hamiril  
Cr T Lacy  
Cr H Liu  
Cr J Young

**Officers:** V Lauritsen, Manager Finance and Corporate Services  
M Faulkner, Manager Infrastructure  
A Hajat, Community Development Coordinator  
I Macrae, Governance & Risk Coordinator

**Public:** 2

**Visitors:** Nil

**Apologies:** Cr Ibram

**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.

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

Nil

## 6. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

## 7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)

7.1 Ordinary Council Meeting held on 15 December 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 (WA) (CKI), RESOLVES THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 15 DECEMBER 2021, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

**COUNCIL RESOLUTION**

MOVED CR IKU

SECONDED CR YOUNG

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 5.22(2) AND 3.18 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI), RESOLVES THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 15 DECEMBER 2021, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

**8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS**

Nil

**9. DECLARATION OF INTERESTS**

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

Name	Item No.	Interest	Nature
NIL			

**10. REPORT AND RECOMMENDATIONS OF COMMITTEE****10.1 FINANCE**



### 10.1.1 MONTHLY FINANCIAL REPORT - DECEMBER 2021

#### Report Information

Date: 23 February 2022  
 Location: Not Applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Chief Executive Officer  
 Island: Shire Wide  
 Attachments: 10.1.1.1 - Monthly Financial Report - December 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 December 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 December 2021. The current closing municipal surplus for this period is \$3,398,638 compared to a budget position of \$2,159,565. This is considered a satisfactory result for the Shire as it is maintaining a healthy surplus position.

Income for the December 2021 period year to date is \$6,224,823 which is made up \$5,833,823 in operating revenues and \$391,000 in non-operating grants, contributions, and subsidies. The budget estimated \$5,773,715 would be received for the same period. The variance to budget is \$451,108.

Expenditure for the December 2021 period year to date is \$4,262,508. This is made up of \$3,466,250 in operating expenditure and \$796,258 in capital expenditure. The budget estimated \$5,185,726 would be spent for the same period. The variance to budget is \$923,218.

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

**COUNCIL RESOLUTION – ITEM NO 10.1.1**

**MOVED CR LIU**

**SECONDED CR LACY**

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

**THE MOTION WAS PUT AND DECLARED CARRIED (6/0)**

**FOR: HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG**

**AGAINST: NIL**

## 10.1.2 MONTHLY FINANCIAL REPORT - JANUARY 2022

### Report Information

Date: 23 February 2022  
 Location: Not Applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Chief Executive Officer  
 Island: Shire Wide  
 Attachments: 10.1.2.1 - Monthly Financial Report - January 2022

### Authority / Discretion

### Definition

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

### Report Purpose

The purpose of this report is to provide a monthly financial report for January 2022, which includes rating, investment, reserve, debtor, and general financial information to Elected Members in accordance with Section 6.4 of the *Local Government Act 1995 (WA) (CKI)*.

### Relevant Documents

Available for viewing at the meeting.

Nil

## Background

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

## Comment

The period of review is January 2022. The current closing municipal surplus for this period is \$3,234,106 compared to a budget position of \$1,520,389. This is considered a satisfactory result for the Shire as it is maintaining a healthy surplus position.

Income for the January 2022 period year to date is \$6,434,486 which is made up \$5,966,730 in operating revenues and \$467,756 in non-operating grants, contributions, and subsidies and asset sale proceeds. The budget estimated \$5,857,819 would be received for the same period. The variance to budget is \$576,667.

Expenditure for the January 2022 period year to date is \$4,759,405. This is made up of \$3,860,184 in operating expenditure and \$899,221 in capital expenditure. The budget estimated \$6,031,690 would be spent for the same period. The variance to budget is \$1,272,285.

Details of all significant variances against the current budget are provided in the notes to the Monthly Financial Report contained within Attachment 10.1.2.1.

## Policy and Legislative Implications

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

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

- d. An explanation of the composition of the net current assets, less committal assets and restricted assets;
- e. An explanation of material variances; and
- f. 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 January 2022, including explanations of material variances, be received.

### OFFICER RECOMMENDATION – ITEM NO 10.1.2

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 JANUARY 2022, AS CONTAINED IN ATTACHMENT 10.1.2.1; AND
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 31 JANUARY 2022, AS CONTAINED IN ATTACHMENT 10.1.2.1.

**COUNCIL RESOLUTION - ITEM NO 10.1.2**

**MOVED CR IKU**

**SECONDED CR HAMIRIL**

**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 JANUARY 2022, AS CONTAINED IN ATTACHMENT 10.1.2.1; AND**
- 2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 31 JANUARY 2022, AS CONTAINED IN ATTACHMENT 10.1.2.1.**

**THE MOTION WAS PUT AND DECLARED CARRIED (6/0)**

**FOR: HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG**

**AGAINST: NIL**



### 10.1.3 SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD 1 DECEMBER 2021 TO 31 DECEMBER 2021

#### Report Information

Date: 23 February 2022  
 Location: Not applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Senior Finance Officer  
 Island: Shire Wide  
 Attachments: 10.1.3.1 - Schedule of Accounts paid

#### Authority / Discretion

#### Definition

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

#### Report Purpose

The purpose of this report is to present to Council a list of accounts paid under delegated authority for the period 1 December 2021 to 31 December 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 10.1.3.1.

Payment Type	Amount (\$)
EFT Payments #8627 to #8706	\$321,741.96
Direct Debit Payment	\$46,863.48
Cheque Payment	\$6,396.32
<b>Total Payments</b>	<b>\$375,001.76</b>

Contained within Attachment 10.1.3.1 is a detailed transaction listing of credit card expenditure for the period ended 31 December 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	Low (3)	There are processes in place to ensure

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

### Risk Matrix

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

### Conclusion

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

### OFFICER RECOMMENDATION – ITEM NO 10.1.3

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 DECEMBER 2021 TO 31 DECEMBER 2021 TOTALLING \$375,001.76 AS CONTAINED IN ATTACHMENT 10.1.3.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 31 DECEMBER 2021, AS CONTAINED IN ATTACHMENT 10.1.3.1.

### COUNCIL RESOLUTION – ITEM NO 10.1.3

MOVED CR LACY

SECONDED CR HAMIRIL

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 DECEMBER 2021 TO 31 DECEMBER 2021 TOTALLING \$375,001.76 AS CONTAINED IN ATTACHMENT 10.1.3.1.

2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 31 DECEMBER 2021, AS CONTAINED IN ATTACHMENT 10.1.3.1.

**THE MOTION WAS PUT AND DECLARED CARRIED (6/0)**

**FOR:** HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG

**AGAINST:** NIL

### 10.1.4 SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD 1 JANUARY 2022 TO 31 JANUARY 2022

#### Report Information

Date: 8 February 2022  
 Location: Not applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Senior Finance Officer  
 Island: Shire Wide  
 Attachments: 10.1.4.1 - Schedule of Accounts paid

#### Authority / Discretion

#### Definition

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

#### Report Purpose

The purpose of this report is to present to Council a list of accounts paid under delegated authority for the period 1 January 2022 to 31 January 2022, as required by the *Local Government (Financial Management) Regulations 1996*.

#### Relevant Documents

Available for viewing at the meeting

Nil

## Background

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

## Comment

The following table summarises the payments for the period by payment type, with full details of the accounts paid contained within Attachment 10.1.4.1.

Payment Type	Amount (\$)
EFT Payments #8707 to #8755	\$172,266.38
Direct Debit Payment	\$65,940.62
Cheque Payment	\$3,288.65
<b>Total Payments</b>	<b>\$241,495.65</b>

Contained within Attachment 10.1.4.1 is a detailed transaction listing of credit card expenditure for the period ended 31 January 2022. This amount is included within the total payments, listed above.

## Policy and Legislative Implications

Nil

## Strategic Implications

Nil

## Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	That budget allocations are significantly exceeded.	Moderate (6)	Variances are monitored and highlighted to Council monthly for corrective action.
Reputation	The accounts paid report is open to public scrutiny.	Low (3)	Procedures in place to ensure all expenditure is justifiable.
Compliance	The report is to be presented to Council in	Low (3)	There are processes in place to ensure

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

### Risk Matrix

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

### Conclusion

It is recommended that Council receives the reports provided for the period ended 31 January 2022.

### OFFICER'S RECOMMENDATION – ITEM NO 10.1.4

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 JANUARY 2022 TO 31 JANUARY 2022 TOTALLING \$241495.65 AS CONTAINED IN ATTACHMENT 10.1.4.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 31 JANUARY 2022, AS CONTAINED IN ATTACHMENT 10.1.4.1.

### COUNCIL RESOLUTION – ITEM NO 10.1.4

MOVED CR LIU

SECONDED CR IKU

THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO REGULATION 13(1) OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO PAYMENTS MADE FROM MUNICIPAL OR TRUST FUNDS FOR THE PERIOD 1 JANUARY 2022 TO 31 JANUARY 2022 TOTALLING \$241495.65 AS CONTAINED IN ATTACHMENT 10.1.4.1.

- 2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 31 JANUARY 2022, AS CONTAINED IN ATTACHMENT 10.1.4.1.**

**THE MOTION WAS PUT AND DECLARED CARRIED (6/0)**

**FOR:** HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG

**AGAINST:** NIL



### 10.1.5 MID YEAR BUDGET REVIEW 2021/2022

#### Report Information

Date: 23 February 2022  
 Location: Not Applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Manager Finance & Corporate Services  
 Island: Shire Wide  
 Attachments: 10.1.5.1 - Budget Review 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 checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

#### Report Purpose

This report presents the statutory Budget Review of the 2021/22 Budget. A number of budget variations are proposed as part of this review, which results in an overall favourable change of projected net current assets of \$690,000 as at 30 June 2022.

#### Relevant Documents

Available for viewing at the meeting.

Nil

## Background

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

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

The Budget Review for 2021/22 includes a number of significant variations. The below table summarises the estimated closing surplus position as a result of this review and the variance to the original Adopted Budget.

Budget Review 2021/22	Adopted Budget	Budget Review	Variance
<b>Opening Surplus</b>	<b>837,862</b>	<b>703,813</b>	<b>(134,049)</b>
Revenue from operating activities (incl. Rates)	5,926,165	6,649,250	723,085
Expenditure from operating activities	(5,547,432)	(5,249,803)	297,629
Investing activities (Capital)	(2,163,400)	(1,214,435)	948,965
Financing activities (Reserves)	946,805	(198,825)	(1,145,630)
<b>Closing funding surplus(deficit)</b>	<b>-</b>	<b>690,000</b>	<b>690,000</b>

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

A summary of the major variances are outlined below:

### Operating Revenue: \$723,085 forecast increase to Adopted Budget

- Rates tracking as per Budget.
- Operating Grants & Contributions - \$323k Federal Assistance Grants (FAGS) received were higher than budgeted.
- Fees & Charges –
  - Animal registrations and charges are forecast to be higher than budgeted due to the recent vet visit and planning to schedule a second visit before the end of the year.
  - Rental income on Buffet Close is \$7k higher than budgeted, this is partially offset with additional rental expenditure.
  - Rubbish income is \$4k higher than originally budgeted (Realised YTD)
  - Building & Planning fees are forecast to be \$3k higher than budgeted.
  - \$3k in proceeds from the recent sale of minor assets were unbudgeted.
- Interest Earnings – interest earned on Reserve funds is (\$12k) lower than forecast due to poor term deposit rates available on the market.
- Other Revenue –

- Tokoh building insurance proceeds from cyclone damage were unbudgeted. The Shire estimates \$300k will be received this year with funds to be transferred to the Building Reserve for future Tokoh redevelopment.
- \$51k in Apprenticeship funding/recoups were unbudgeted.
- \$37k in staff recoups and other reimbursements higher than budgeted.

**Operating Expenditure: \$297,629 forecast decrease to Adopted Budget**

- Employee Expenses – are forecast to be \$45k over budget, predominantly due to staff appointment & leaving expenses as well as some staff training and uniform expenses being reclassified from ‘Materials & Contracts’ to ‘Employee Expenses’.
- Materials & Contracts –
  - Private works expenditure is \$140k lower than originally budgeted, predominantly due to works being carried out by Shire Staff with costs allocated to ‘Employee Expenses’.
  - Building & Maintenance contractors are forecast to be under budget \$122k, with works being carried out internally by Shire Staff as well as limited resources to undertake works.
  - Roads maintenance is forecast to be \$24k below budget similar to above.
  - The savings above are partially offset with expenditure forecast to be higher than budget in other areas as follows:
    - Home Island and West Island Office maintenance are forecast to be \$67k higher than budget, relating to new air conditioners at the Home Island Shire Office as well as relocation of the West Island Office requiring new furniture and equipment.
    - Rental expense on Buffet Close accommodation is forecast to be (\$20k) over budget due to extending the lease. This is offset with increased subletting income as well as savings in accommodation required for external consultants and building contractors.
    - Integrated Planning expenditure is forecast to increase (\$20k) compared to budget to allow for outsourcing the Strategic Community Plan engagement process and reporting.
    - The Economic Development Funding Programme expenditure (\$15k) was not included in the Adopted Budget. This has since been adopted as a Budget variation.
    - Auditor costs are expected to be (\$10k) higher than budget due to the complexities of the 2020/21 Annual Report Land Trust separation.
- Utilities – expenditure is forecast to be \$13k under budget based on historical water and electricity consumption/charges.
- Insurance – expenditure is forecast to be \$100k lower than budget. The adopted budget included \$100k claim excess payment on the Tokoh Building cyclone damage, this is to be transferred into the Building Reserve for the future Tokoh Building redevelopment.

**Investing Activities: \$948,965 forecasted variance in favour to Adopted Budget**

- Non-Operating Grants, Subsidies & Contributions are expected to be \$672k higher than budgeted due to additional funding received throughout the year. The additional funding includes \$300k in Stimulus Funding to purchase a new Excavator (agreement is yet to be formalised), \$240k in Local Roads & Community Infrastructure funding towards existing capital projects and \$200k Supplementary Roads funding. The balance of Economic Stimulus Funding (\$101k) for the Retail Precinct will need to be carried forward to FY23 in line with expected capital works completion.
- \$18k proceeds from sale of assets from the recent public tenders was unbudgeted.
- Capital Expenditure is expected to be \$259k below budget due to a mix of project timing, projects forecast to be completed over budget and projects forecast to be completed under budget. A detailed list of variances for capital projects is included in Note 5 of the attached Budget Review Report.

**Financing Activities: (\$1,145,630) variance to Adopted Budget**

- Additional transfers to Reserve relate to carried forward projects as follows;
  - (\$300k) transfer insurance proceeds relating to future Tokoh Building redevelopment
  - (\$100k) transfer originally budgeted insurance excess on Tokoh Buildings claim to Building Reserve for future Tokoh Building redevelopment.
  - (\$124k) transfer to Plant Reserve to carry forward Rubbish Truck replacement funds to FY23 (Truck has been ordered but delivery not expected before June 2022)
  - \$10k reduction in interest earned on Reserve funds.
- The lower transfers from Reserve relate to the timing of carried forward projects that were originally budgeted to be funded from Reserve. The funding/transfer from reserve will be deferred to FY23
  - \$124k defer Rubbish Truck replacement funding to FY23.
  - \$103k defer Bungalow Resheeting funding to FY23.
  - \$405k defer HI Retail Precinct funding to FY23.

**Recommendation**

The forecast surplus is \$690,000, with limited labour resources to undertake any new projects the recommendation is to commit the funds to enable future plant purchases as well as the Tokoh Building Redevelopment over the next two years.

The Shire has three work utes due for replacement next year that are in various states of disrepair. The current lead time on vehicle delivery is 6-9months, then further delays in freight would result in vehicles taking up to 12months to arrive on island. It is recommended that Councillors approve the expenditure of \$150k to order the vehicles this year ready for delivery next year. The funds will be transferred to the Plant Reserve and made available in next years budget for delivery of the vehicles.

BBRF Funding has been granted to complete the Tokoh Building Redevelopment over the next two years. The estimated costs to complete the works however, have increased significantly since the funding application was made (current estimate is \$2.3m). It is estimated that at

least \$750k of Shire funds will be required to complete Stage 1 and repair the building. Council has the option to decline the funding and undertake the redevelopment project, however the building is heritage listed and in dire need of repair works anyway.

It is recommended that the Council accept the BBRF Funding (\$1,562,000) with \$60k of the available surplus being used to engage design consultants this year so that the Shire can be ready to begin the building works next financial year.

With \$400k already proposed to be held in Reserve from the cyclone damage insurance claim (\$100k excess + \$300k proceeds), the surplus balance of \$480k is recommended to be transferred to Reserve to fund this project over the next couple of years (allowing for further cost increase contingency).

### **Policy and Legislative Implications**

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

*(1) Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year.*

*(2A) The review of an annual budget for a financial year must –*

*(a) Consider the local government's financial performance in the period beginning on the 1 July and ending no earlier than 31 December in that financial year; and*

*(b) Consider the local government's financial position as at the date of the review; and*

*(c) Review the outcomes for the end of that financial year that are forecast in the budget.*

*(2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.*

*(3) A council is to consider a review submitted to it and is to determine\* whether or not to adopt the review, any parts of the review or any recommendations made in the review.*

*\*Absolute majority required*

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

### **Financial Implications**

The financial implications related to the review are outlined in this report. No additional funds are required from these adjustments. Based on the review and the recommended allocation of the surplus, there will be a balanced budget with zero budget surplus at 30 June 2022.

### Strategic Implications

Nil

### Risk Implications

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

### Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
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)

### OFFICER RECOMMENDATION – ITEM NO 10.1.5

THAT COUNCIL, BY ABSOLUTE MAJORITY,

1. RECEIVES THE 2021/22 BUDGET REVIEW REPORT AS ATTACHED AND ADOPTS THE BUDGET ADJUSTMENTS TO THE 2021/22 STATUTORY BUDGET AS DETAILED IN THE REPORT;
2. NOTES THAT THE 2021/22 BUDGET REVIEW RESULTS IN A FAVOURABLE BUDGET SURPLUS AS AT 30 JUNE 2022, WITH A FORECAST UNALLOCATED SURPLUS OF \$690,000
3. ALLOCATE THE \$690,000 SURPLUS TO THE FOLLOWING PROJECTS AND RESERVES;

<b>Surplus Allocation</b>		<b>690,000</b>
Commit FY23 funds for Plant Replacement - 3x Works Utes	Transfer to Reserve	(150,000)
Engage a design consultant for TOKOH Building redevelopment	Capital Expenditure	(60,000)
Transfer to Building Reserve - Future TOKOH Expenditure	Transfer to Reserve	(480,000)
<b>Closing Surplus</b>		<b>0</b>

4. AGREES TO ACCEPT BBRF GRANT FUNDING AND PROCEED WITH THE STAGE 1 TOKOH REDEVELOPMENT PROJECT OVER THE NEXT 2 YEARS.

**COUNCIL RESOLUTION – ITEM NO 10.1.5**

MOVED CR LACY

SECONDED CR IKU

THAT COUNCIL, BY **ABSOLUTE MAJORITY**,

1. RECEIVES THE 2021/22 BUDGET REVIEW REPORT AS ATTACHED AND ADOPTS THE BUDGET ADJUSTMENTS TO THE 2021/22 STATUTORY BUDGET AS DETAILED IN THE REPORT;
2. NOTES THAT THE 2021/22 BUDGET REVIEW RESULTS IN A FAVOURABLE BUDGET SURPLUS AS AT 30 JUNE 2022, WITH A FORECAST UNALLOCATED SURPLUS OF \$690,000
3. ALLOCATE THE \$690,000 SURPLUS TO THE FOLLOWING PROJECTS AND RESERVES;

<b>Surplus Allocation</b>		<b>690,000</b>
Commit FY23 funds for Plant Replacement - 3x Works Utes	Transfer to Reserve	(150,000)
Engage a design consultant for TOKOH Building redevelopment	Capital Expenditure	(60,000)
Transfer to Building Reserve - Future TOKOH Expenditure	Transfer to Reserve	(480,000)
<b>Closing Surplus</b>		<b>0</b>

4. AGREES TO ACCEPT BBRF GRANT FUNDING AND PROCEED WITH THE STAGE 1 TOKOH REDEVELOPMENT PROJECT OVER THE NEXT 2 YEARS.

THE MOTION WAS PUT AND DECLARED CARRIED BY ABSOLUTE MAJORITY (6/0)

FOR: HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL



## 10.2 LEASES

Nil

## 10.3 PLANNING/BUILDING

### 10.3.1 PROPOSED BUREAU OF METEOROLOGY WEATHER STATION BALLOON LAUNCHER UPGRADE

#### Report Information

Date: 20 January 2022  
 Location: Reserve 47322  
 Applicant: Commonwealth of Australia – Bureau of Meteorology Cocos (Keeling) Islands  
 File Ref: WL209  
 Reporting Officer: Chief Executive Officer  
 Island: West Island  
 Attachments: 10.3.1.1 – Cocos Islands Application Letter  
 10.3.1.2 – 2021.03.31\_Combined Cocos Islands

#### 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 from GHD for the installation of a new automatic balloon launcher at the Bureau of Meteorology (BOM) weather station site on West Island, east of the airport.

**Relevant Documents**

Cover letter and Development application plans

**Background**

BOM have identified the need to upgrade Cocos Islands weather station's balloon launcher and as such have engaged GHD to oversee the project.

The existing weather station is sited on Reserve 47322 east of the airport reserve which is set aside for the purposes of a weather station. The subject land parcel is managed by the Commonwealth.

Under the *Shire of Cocos (Keeling) Islands Local Planning Scheme No.1* the weather station site is zoned Special Use for purposes recreation and leisure, civic uses. The proposed development is deemed to be a civic use which is defined by the Scheme as land or buildings used by a Government Department, an instrumentality of the Crown, or the local government, for administrative, recreational or other purpose.

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

**Comment**

Given the proposed development is consistent with both the zoning and land reservation for the weather station reserve, it is recommended Council approve the development subject to a condition that the development is undertaken in accordance with the submitted plans.

**Policy and Legislative Implications**

Shire of Cocos (Keeling) Islands Local Planning Scheme No.1 - as outlined above.

**Financial Implications**

This item has no financial implications.

**Strategic Implications**

*Shire of Cocos (Keeling) Islands Strategic Community Plan 2016 - 2026 – Goal 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	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 development application.

**OFFICER RECOMMENDATION 1 – 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 PROPOSED WEATHER STATION AUTOMATIC BALLOON LAUNCHER FACILITY UPON LOT 209 ON DEPOSITED PLAN 218225, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITION AND ADVICE NOTES:

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.

ADVICE NOTES:

- A. THE APPLICANT BE ADVISED THIS IS A DEVELOPMENT APPROVAL ONLY AND NOT A BUILDING PERMIT. A BUILDING PERMIT MUST BE OBTAINED FOR THIS DEVELOPMENT.
- 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. IF THE APPLICANT/LANDOWNER IS AGGRIEVED BY THIS DETERMINATION, THERE IS A RIGHT OF REVIEW BY THE STATE ADMINISTRATIVE TRIBUNAL IN ACCORDANCE WITH PART 14 OF THE *PLANNING AND DEVELOPMENT ACT 2005*. AN APPLICATION MUST BE SUBMITTED WITHIN 28 DAYS OF THE DETERMINATION.

**COUNCIL RESOLUTION – ITEM NO 10.3.1**

**MOVED CR YOUNG**

**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 THE PROPOSED WEATHER STATION AUTOMATIC BALLOON LAUNCHER FACILITY UPON LOT 209 ON DEPOSITED PLAN 218225, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITION AND ADVICE NOTES:**

**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.**

**ADVICE NOTES:**

- A. THE APPLICANT BE ADVISED THIS IS A DEVELOPMENT APPROVAL ONLY AND NOT A BUILDING PERMIT. A BUILDING PERMIT MUST BE OBTAINED FOR THIS DEVELOPMENT.**
- 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. IF THE APPLICANT/LANDOWNER IS AGGRIEVED BY THIS DETERMINATION, THERE IS A RIGHT OF REVIEW BY THE STATE ADMINISTRATIVE TRIBUNAL IN ACCORDANCE WITH PART 14 OF THE *PLANNING AND DEVELOPMENT ACT 2005*. AN APPLICATION MUST BE SUBMITTED WITHIN 28 DAYS OF THE DETERMINATION.**

**THE MOTION WAS PUT AND DECLARED CARRIED (6/0)**

**FOR: HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG**

**AGAINST: NIL**

## 10.4 ADMINISTRATION

### 10.4.1 UPDATE ON CORPORATE BUSINESS PLAN ACTIONS – DECEMBER 2021

#### Report Information

Date: 1 February 2022  
 Location: Not Applicable  
 Applicant: Not Applicable  
 File Ref: Not Applicable  
 Disclosure of Interest: Nil  
 Reporting Officer: Chief Executive Officer  
 Island: Whole of Shire  
 Attachments: 10.4.1.1 - Update on Corporate Business Plan Actions – December 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 for Council to note the progression that the Shire is making against the actions set out within the Corporate Business Plan 2020-2024.

## Relevant Documents

Available for viewing at the meeting

Nil

## Background

The Corporate Business Plan (CBP) is a part of the Integrated Planning and Reporting Framework and a key operational document that takes into consideration other planning documents including the Strategic Community Plan, Long Term Financial Plan and Asset Management Plans. The CBP identifies Council's priorities and details current services, future operations and major projects expected to be undertaken by the Shire over the next four years. The CBP outlines the operational activities that will be undertaken to achieve the outcomes of the Strategic Community Plan to ensure the Shire activates the goals and aspirations outlined in the Strategic Community Plan.

Councillors and Shire Staff participated in a Corporate Planning Day in October 2018 to review and update the CBP to ensure it is achievable and reflects where the Shire is currently and where it needs to be. In May 2020, Council completed a minor review as required by the *Local Government Act 1995 (WA) (CKI)*.

## Comment

Details of all updates against the actions within the Corporate Business Plan 2020-2024 as at December 2021 is contained in Attachment 10.4.1.1 Update on Corporate Business Plan Actions – December 2021.

## Policy and Legislative Implications

Under s5.56(1) of the *Local Government Act 1995 (WA) (CKI)* all local governments are required to produce a plan for the future. Regulation 19DA(6) of the *Local Government (Administration) Regulations 1996* requires that Council considers adoption of the Corporate Business Plan (CBP) when it is revised or any other modifications are made. Whilst there is no legislative requirement for the reporting of updates against the actions to council about the CBP, the Department published best practice guidelines about implementation of the IPR process in which regular reporting to Council is strongly encouraged.

## Financial Implications

There are no direct financial implications associated with this report.

## Strategic Implications

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

*Outcome 4.1 - An informed Council leading working with others to advance our Islands*

*4.1.1 - To provide leadership to the community*

## Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	The CBP commits the Shire beyond its resourcing capacity	Moderate (9)	Review done in the context of the budget and human resourcing.
Reputation	The CBP is a public document to which the Shire is held accountable by the Community. Failure to deliver can reflect badly on Council.	Moderate (9)	Ongoing monitoring of the CBP actions to ensure the activities align with identified priorities.

## 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

Whilst it is not a statutory requirement to provide an update report to Council on a regular basis, it is good practice. This report provides Council and the community the opportunity to have oversight in the actions and achievements of the Shire.

## OFFICER RECOMMENDATION – ITEM NO 10.4.1

THAT COUNCIL, BY SIMPLE MAJORITY RECEIVES THE DECEMBER 2021 UPDATE ON THE SHIRE OF COCOS (KEELING) ISLANDS CORPORATE BUSINESS PLAN 2020 – 2024.

**COUNCIL RESOLUTION – ITEM NO 10.4.1**

**MOVED CR LACY**

**SECONDED CR IKU**

**THAT COUNCIL, BY SIMPLE MAJORITY RECEIVES THE DECEMBER 2021 UPDATE ON THE SHIRE OF COCOS (KEELING) ISLANDS CORPORATE BUSINESS PLAN 2020 – 2024.**

**THE MOTION WAS PUT AND DECLARED CARRIED (6/0)**

**FOR: HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG**

**AGAINST: NIL**

## 10.4.2 WA ROAD TRAFFIC CODE – INSTRUMENT OF AUTHORISATION

### Report Information

Date: 23 February 2022  
 Applicant: Not applicable  
 Location: Not applicable  
 File Ref:  
 Disclosure of Interest: Nil  
 Reporting Officer: Manager Infrastructure  
 Island: Whole of Shire  
 Attachments: 10.4.2.1 - Instrument of Authorisation

### 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 obtain Council approval to affix the common seal to a request for authorisation under the Western Australia Road Traffic Code 2000 related to traffic management.

### Relevant Documents

Available for viewing at the meeting

Nil

### Background

The Shire regularly implements a range of traffic management measures related to Shire activities including installation of temporary signage.



The Commissioner for Main Roads has authority under Regulation 297 of the *Road Traffic Code 2000*, to erect, establish or display, alter or take down any road sign or traffic control signal. Under Section 297(2) of the *Road Traffic Code 2000* the Commissioner for Main Roads can delegate traffic management authority to 'Authorised bodies' including local government.

### **Comment**

The Shire is currently not authorised by the Commissioner of Main Roads to use traffic signs and devices for the purpose and duration of works being undertaken on public roads in Western Australia, in accordance with a duly signed and sealed Instrument of Authorisation.

The Shire can request authorisation by completing an Instrument of Authorisation request (Attachment 10.4.2.1). The Instrument of Authorisation request requires the affixing of the Common Seal of the Shire and signing by the Chief Executive Officer and the Shire President.

### **Policy and Legislative Implications**

Under Section 297(2) of the *Road Traffic Code 2000* the Commissioner for Main Roads can delegate traffic management authority to 'Authorised bodies' including local government.

The Common Seal of the Local Government is not to be affixed to any document except as authorised and in accordance with the *Local Government Act 1995 (WA)(CKI)*, Section 9.49A(2).

In accordance with Section 9.49A(3) of the *Local Government Act 1995 (WA)(CKI)*, this can only be done so in the presence of the Shire President and Chief Executive Officer.

The Shire President and Chief Executive Officer (or person acting in that position) are authorised to affix the common seal to documents related to the business of the Shire initiated by a resolution of Council.

### **Financial Implications**

Nil

### **Strategic Implications**

Nil

### **Risk Implications**

Nil

### Risk Matrix

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

### Conclusion

Delegated traffic management authority will enable the Shire to continue with its current practice of installing traffic management signage without seeking approval through the Commissioner of Main Roads in accordance with the *Road Traffic Act 2000*.

It is recommended that Council authorise the Chief Executive Officer and the Shire President to sign and affix the Common Seal of the Shire of Cocos (Keeling) Islands to the Instrument of Authorisation relating to traffic management for works.

### OFFICER RECOMMENDATION – ITEM NO 10.4.2

THAT COUNCIL AUTHORISE THE CHIEF EXECUTIVE OFFICER AND THE SHIRE PRESIDENT TO SIGN AND AFFIX THE COMMON SEAL OF THE SHIRE OF COCOS (KEELING) ISLANDS TO THE INSTRUMENT OF AUTHORISATION RELATING TO TRAFFIC MANAGEMENT FOR WORKS.

### COUNCIL RESOLUTION – ITEM NO 10.4.2

MOVED CR LIU

SECONDED CR HAMIRIL

THAT COUNCIL AUTHORISE THE CHIEF EXECUTIVE OFFICER AND THE SHIRE PRESIDENT TO SIGN AND AFFIX THE COMMON SEAL OF THE SHIRE OF COCOS (KEELING) ISLANDS TO THE INSTRUMENT OF AUTHORISATION RELATING TO TRAFFIC MANAGEMENT FOR WORKS.

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

### 10.4.3 CEO RECRUITMENT AND SELECTION

#### Report Information

Date: 16 February 2022  
 Location: N/A  
 Applicant: Shire of Cocos (Keeling) Islands  
 File Ref:  
 Disclosure of Interest: Nil  
 Reporting Officer: Chief Executive Officer  
 Island: N/A  
 Attachments: 10.4.3.1 - Draft Process-Timeline CEO Recruitment & Selection  
 10.4.3.2 - Terms of Reference CEO Recruitment and Selection Committee  
 10.4.3.3 – Recruitment Consultant Proposals CONFIDENTIAL  
 10.4.3.4 – Draft Position Description including Selection Criteria – Tracked Changes Accepted  
 10.4.3.5 – Draft Position Description including Selection Criteria – Showing Tracked Changes  
 10.4.3.6 – Draft Contract CONFIDENTIAL

#### 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>

*For the convenience of members of the public, Item 10.4.3 – CEO Recruitment and Process was deferred for consideration as the last item of the meeting.*

**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

### 15.2.1 RESIDENTIAL LEASE REQUEST – LOT109 JALAN PANTAI HOME ISLAND

#### Report Information

Date: 3 February 2022  
 Location: Lot 109 Home Island, Jalan Pantai  
 Applicant: Mr Keegan Haig & Mrs Valerie Capstan  
 File Ref: HL109  
 Disclosure of Interest:  
 Reporting Officer: Leasing Officer  
 Island: Home Island  
 Attachments: 15.2.1.1 - Letter of request from applicant  
 15.2.1.2 - Map of Lot 109 Jalan Pantai Home Island

#### 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 for a new lease for land held under the 1979 Land Trust Deed to Council, acting in its capacity as the Trustee, for consideration.

## Relevant Documents

Available for viewing at the meeting

Request letter from proponent

## Background

The proponent has requested to enter into a Residential Lease Agreement for House 9 Home Island. The proponent currently rents this property from the Shire.

At the Ordinary Meeting of Council in April 2009, Council resolved the following:

*That Council accepts the current Lease Document as being suitable for the establishment of new Residential Lease Agreements for the remaining 35 Kampong Homes based on the following: -*

1. *That the term of the new Agreements be reduced to coincide with the expiration of the 40 year Leases in 2043;*
2. *That the initial Lease Premium for the new Agreements be set at an upfront payment of \$3,500 however, should the tenant be prepared to take up a Lease prior to 1 January 2011, the Lease Premium be reduced to \$3,000 as a financial inducement to take up the Lease Agreement.*
3. *That Council advises prospective Lessee's and Assignee's of non-compliant out-buildings on properties, if they so exist, and that it is the prospective Lessee and Assignee's responsibility to accept liability should any future claims arise in respect to these non-compliant out-buildings.*
4. *That Council lists in its 2011/2012 Budget considerations the appointment of a suitably qualified person to undertake inspections of the leased homes within the Kampong and to develop a procedural periodic inspection process for the future.*

## Comment

Based on the formal position of Council, as articulated in April 2009, it is proposed to offer the lease for Lot 109, Jalan Pantai on a 21 year term as this period will result the lease expiration coinciding with the expiry of all other Kampong House leases on 30 November 2043. Conditions of the lease will be consistent with all other Kampong leases and the position of Council as outlined above. The more significant of these conditions include the following:

- i. Maintenance of the house will become the responsibility of the leaseholder;
- ii. The prospective lessee assumes responsibility for and accepts liability should any future claims arise in respect to non-compliant out-buildings

The Shire's standard process for leases is to seek independent valuation on the property to determine the market rental value for the initial lease fee. However, officers are bound by the Council resolution from April 2009 (cited above) which sets the lease fee at \$3,500 with no other rent review increases or CPI over the 21-year term of the lease. Officers recognise

that the \$3,500 lease fee does not financially benefit the Trust; however, officers also recognise that a lease promotes good social outcomes in terms of a stronger sense of ownership and security of tenure.

Previous leases have included a requirement for the Shire to carry out a full inspection of the property to determine whether any remedial work would be required to be undertaken prior to leasing. The officer's recommendation does not support that previous requirement; instead, the recommendation is that the house is offered on an as-is basis given the very generous financial terms of \$3,500 per annum lease fee.

The applicant acknowledges and accept to lease the property in its current condition.

It is also proposed to add the following additional special condition to the lease document and to all future new kampong lease agreements:

- That Council may terminate this lease if the lessee does not occupy the house for at least six months in any 12-month period unless written approval for the absence has been given by the Shire.

This additional condition has been added to ensure that lease houses in the kampong do not sit vacant for long periods of time. It also protects against the property potentially being used like an investment property and rented out to others by an absentee lessee.

### **Policy and Legislative Implications**

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

### **Financial Implications**

This lease would result in the following additional revenue items:

- i. Once-off lease fee - \$3,500;
- ii. Annual land rates charge - \$2,280.35 (noting that this amount may increase in accordance with Council adopted Rates Charges)
- iii. Annual contribution towards insurance costs - \$1,420.00.

This lease would also result in a reduction in revenue from rent charges of \$265.00 per week.

A lease preparation fee of \$257 will be charged.

This new lease will be conditional on any outstanding amounts owing to the Shire having been first paid.

In addition, approving a lease agreement for this tenancy, will minimise the Shire's annual Kampong housing maintenance operational budget; however, this amount cannot be accurately quantified as it varies depending on maintenance requirements.



### Strategic Implications

Nil

### Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Reduction in rent revenue	Moderate (5)	Offset by the reduced responsibility and cost in housing maintenance.
Reputation	Inconsistent decision making	Moderate (6)	This recommendation is consistent with precedent and established process.
Compliance	Lack of legislative compliance	Moderate (6)	The process outlined in this report is consistent with legislative requirements.
Property	The lessee does not maintain the property to a habitable standard.	Moderate (9)	The Shire intends commencing a process to inspect leased properties soon to ensure they are being maintained.

### Risk Matrix

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

### Voting Requirements

### Conclusion

The request for a new lease is supported based on the precedent set by Council whereby previous applications for leases by Kampong resident tenants have always been supported on the basis that a lease provides more surety of tenure for residents, whilst alleviating the Shire of the financial burden of the property maintenance for the leased property.

**OFFICER RECOMMENDATION – ITEM NO 15.2.1**

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

1. TO ENTER INTO A LEASE FOR LOT 109, JALAN PANTAI WITH KEEGAN HAIG & VALERIE CAPSTAN AS PER THE SHIRE’S STANDARD RESIDENTIAL LEASE CONDITIONS WITH THE FOLLOWING SPECIAL CONDITIONS:
  - a. THE LEASE EXPIRY DATE IS SET FOR 30 NOVEMBER 2043;
  - b. THAT THE INITIAL LEASE PREMIUM FOR THE AGREEMENT BE SET AS AN UPFRONT PAYMENT OF \$3,500 INCLUDING \$257 FOR THE LEASE PREPARATION FEE;
  - c. THE LEASE OF PROPERTY WILL BE FOR “AS IS WHERE IS” BASIS;
  - d. THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL MAINTENANCE OF THE BUILDING;
  - e. THAT THE TRUSTEE ADVISES THE PROSPECTIVE LESSEE THAT NON-COMPLIANT OUT-BUILDING ON PROPERTY, IF THEY SO EXIST, ARE THE LESSEE’S RESPONSIBILITY TO ACCEPT LIABILITY SHOULD ANY FUTURE CLAIMS ARISE IN RESPECT TO THESE NON-COMPLIANT OUT-BUILDINGS.
  - f. THAT COUNCIL MAY TERMINATE THIS LEASE IF THE LESSEE DOES NOT OCCUPY THE HOUSE FOR AT LEAST 6 MONTHS IN ANY 12 MONTH PERIOD UNLESS WRITTEN APPROVAL FOR THE ABSENCE HAS BEEN GIVEN BY THE SHIRE.
2. ADVISE THE PROSPECTIVE LESSEE THAT SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE, THEY ARE TO BE PAID IN FULL.

**COUNCIL RESOLUTION – ITEM NO 15.2.1**

**MOVED CR HAMIRIL**

**SECONDED CR YOUNG**

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

1. TO ENTER INTO A LEASE FOR LOT 109, JALAN PANTAI WITH KEEGAN HAIG & VALERIE CAPSTAN AS PER THE SHIRE’S STANDARD RESIDENTIAL LEASE CONDITIONS WITH THE FOLLOWING SPECIAL CONDITIONS:
  - a. THE LEASE EXPIRY DATE IS SET FOR 30 NOVEMBER 2043;
  - b. THAT THE INITIAL LEASE PREMIUM FOR THE AGREEMENT BE SET AS AN UPFRONT PAYMENT OF \$3,500 INCLUDING \$257 FOR THE LEASE PREPARATION FEE;
  - c. THE LEASE OF PROPERTY WILL BE FOR “AS IS WHERE IS” BASIS;
  - d. THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL MAINTENANCE OF THE BUILDING;
  - e. THAT THE TRUSTEE ADVISES THE PROSPECTIVE LESSEE THAT NON-COMPLIANT OUT-BUILDING ON PROPERTY, IF THEY SO EXIST, ARE THE LESSEE’S RESPONSIBILITY TO ACCEPT LIABILITY SHOULD ANY FUTURE CLAIMS ARISE IN RESPECT TO THESE NON-COMPLIANT OUT-BUILDINGS.

- f. THAT COUNCIL MAY TERMINATE THIS LEASE IF THE LESSEE DOES NOT OCCUPY THE HOUSE FOR AT LEAST 6 MONTHS IN ANY 12 MONTH PERIOD UNLESS WRITTEN APPROVAL FOR THE ABSENCE HAS BEEN GIVEN BY THE SHIRE.
2. ADVISE THE PROSPECTIVE LESSEE THAT SHOULD ANY OUTSTANDING MONIES BE OWING TO THE SHIRE, THEY ARE TO BE PAID IN FULL.

**THE MOTION WAS PUT AND DECLARED CARRIED (6/0)**

**FOR:** HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG  
**AGAINST:** NIL

**15.2.2 PART LOT 102 DIRECTION ISLAND LEASE PROPOSAL - RESPONSE FROM COMMONWEALTH GOVERNMENT - COCOS BORONIA RESORT**

**Report Information**

Date: 17 February 2022  
 Location: Part Lot 102 Direction Island  
 Applicant: Cocos Boronia Resort Pty Ltd  
 File Ref: Not Applicable  
 Disclosure of Interest: Nil  
 Reporting Officer: Chief Executive Officer  
 Island: Direction Island  
 Attachments: 15.2.2.1 – Department of Infrastructure – Response to Request for Lease Crown Land (Over Water)  
 15.2.2.2 - Cocos Boronia Resort Lease Extension Request February 2022

**Authority / Discretion**

**Definition**

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

**Report Purpose**

The purpose of this report is for Council to receive correspondence from the Assistant Secretary, Indian Ocean Territories Branch, in respect to the Commonwealth sanctions for the over the water lease and the approval of land lease components of the Direction Island Resort Lease Proposal, and to consider a request from the proponent, Cocos Boronia Resort Pty Ltd (CBR), to extend the lease execution date.

It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the 1984 Land Trusts as the Land (Part Lot 102) is held in Trust. Council, in making any decision in relation to the Trust, must give due consideration of the purpose of the Trust that is *“the benefit, advancement and wellbeing of Cocos (Keeling) Islanders resident in the Territory on land owned by the Council”* and ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to consider matters relating to Land held in Trust.

## Relevant Documents

### Available for viewing at the meeting

Nil

## Background

On 25 March 2020 Council resolved to dispose of Part Lot 102 Direction Island to Cocos Boronia Resort for the purposes of developing a luxury Eco Resort.

### COUNCIL RESOLUTION -ITEM NO 14.2.1

MOVED CR CHARLSTON, SECONDED CR LACY

THAT COUNCIL ACTING IN ITS CAPACITY AS TRUSTEE OF THE 1984 LAND TRUST BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.58 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) RESOLVES TO:

1. RECEIVE THE PUBLIC SUBMISSIONS LODGED IN RESPONSE TO STATUTORY ADVERTISING OF THE INTENT TO DISPOSE (BY LEASE) OF A PORTION OF LOT 102 DIRECTION ISLAND;
2. NOTE THAT NO SUBMISSIONS WERE RECEIVED IN RESPONSE TO THE ADVERTISED BUSINESS CASE;
3. DISPOSE (BY LEASE) OF A PORTION OF LOT 102 DIRECTION ISLAND GIVING A TOTAL LEASE AREA OF 16.116 HECTARES TO COCOS BORONIA RESORT FOR THE PURPOSE OF DEVELOPING A LUXURY ECO-RESORT AS PER THE FOLLOWING LEASE CONDITIONS:
  - A. LEASE PAYMENTS AS PER THE FOLLOWING SCHEDULE:
    - iv. \$100,000 ONCE-OFF UPFRONT PAYMENT AT THE COMMENCEMENT OF 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;
    - v. \$10,000 PER MONTH DURING THE CONSTRUCTION PERIOD;
    - vi. \$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;
  - D. NOTE THAT COMMONWEALTH SANCTION WILL BE REQUIRED PRIOR TO THE LEASE BEING EXECUTED.
4. SUBJECT TO POINT 'D' ABOVE (BEING THE RECEIPT OF COMMONWEALTH SANCTION FOR THE LEASE) EXECUTE THE LEASE WITHIN 9 MONTHS FROM THE DATE OF THIS COUNCIL RESOLUTION OR WITHIN TWO WEEKS OF THE OVER THE WATER LEASE BEING SECURED, WHICHEVER IS THE SOONER.
5. FORMALLY APPROACH THE ASSISTANT MINISTER OF THE TERRITORIES TO PROVIDE THE SHIRE WITH A LEASE FOR THE OVER THE WATER SECTION OF 7.110 HECTARES FOR THE SHIRE TO SUB-LEASE TO COCOS BORONIA RESORT PTY LTD ALLOWING THE SHIRE TO MANAGE THE WHOLE PROPOSAL.

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

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

The concept presented throughout the lease request proposal comprised the following:

Villas — Stage 1 (Stage 2 proposed only)	Number of Rooms	Max Guest per night
<b>Over water</b>		
Presidential	2 (2)	4 (4)
Villa	18 (18)	36 (36)
<b>Land based</b>		
Villa	20 (38)	40 (76)
Villa - 2 bedroom	10 (6)	40 (64)
	<b>50 (74)</b>	<b>120 (180)</b>

The Direction Island Lease proposal requires two Commonwealth Government sanctions:

1. The proposed land lease between the Shire and the proponent as it is in excess of 20 years; and
2. The over the water component requires a lease which was requested to be between the Commonwealth and the Shire and then able to be subleased by the Shire to the proponent keeping in-line with the land lease time frames.

Initially Council resolved for the lease to be executed within nine (9) months upon Council Resolution. As a response from the Commonwealth Government had not been received and Council recognised that the delay, was due to no fault of the proponent, two subsequent extensions were provided to this time frame. The current extension is due to expire on 31 March 2022.

Correspondence from the Assistant Secretary, Indian Ocean Territories Branch dated 20 January 2022 has now been received by the Shire outlining their response to the request.

### Comment

#### Department of Infrastructure, Transport, Regional Development and Communications Response to Lease Requests

On 20 January 2022, the Shire received a letter, as contained in Attachment 15.2.2.1, from Assistant Secretary IOTs Branch, outlining that after a lengthy consultation process, the Commonwealth Government will not be pursuing lease negotiations at this time due to a number of reasons, including but not limited to:

- Limited infrastructure on Direction Island to support a resort,
- Limited infrastructure on CKI to support the increased pressures associated with a project of this size,
- Coastal Vulnerability Assessment and CHRMAP process underway in line with State Planning Policy 2.6,
- Environmental Assessments needing to be considered

Time frames for the completion of the above and/or when the Commonwealth Government may have a further position on the leases is unknown. As an example, finalising a CHRMAP process can take up to 2 years once the engagement process commences.

### Cocos Boronia Resort Application to Extend Land Lease – Part Lot 102 Direction Island – Boronia Resort

On 11 February 2022, the proponent, Cocos Boronia Resort Pty Ltd, wrote to the Shire requesting that Council consider a further extension to the lease execution date, being a 12-month extension request (31 March 2023), as contained in Attachment 15.2.2.2.

The proponent has outlined that he would like this time to be able to seek intervention from the Assistant Minister for Regional Development and Territories.

### Officers Comments

Two years has passed since Council supported the proponents request to lease Part Lot 102, Direction Island subject to the Commonwealth sanctions required. Whilst it is understandably disappointing for the proponent that a decision was not able to be provided earlier, Officers do understand the complexity of the request to the Commonwealth Government and the volume of due diligence that would have been involved in coming to this decision. Officers do support that better communication throughout the process between the Commonwealth, Shire and the proponent would have been well received.

The Shire of Cocos (Keeling) Islands is currently undergoing development and/or major review of key strategic processes, and future informing strategies. The absence of these important, up to date Strategic documents makes it difficult to consider such large developments at this point in time. These informing strategies include the Strategic Community Plan Review and Integrated Planning and Reporting Framework, Coastal Vulnerability and CHRMAP Process which will lead to the development of a Local Planning Strategy, and an update of the Town Planning Scheme, and Council Policies.

### **Strategic Community Plan Review**

The Shire of Cocos (Keeling) Islands uses the Integrated Planning and Reporting Framework outlined in the *Local Government Act 1995 (WA)(CKI)* and the *Local Government (Administration) Regulations 1996*. These detail that a local government must have a “Plan for the Future”.

The plan for the future is to comprise of two important documents, a Strategic Community Plan and a Corporate Business Plan. The Strategic Community Plan sets out the “what” the community would like their local government to achieve and the Corporate Business Plan outlines how the local government will go about achieving it.

To remain consistent with community wants and needs, the Strategic Community Plan goes through a minor review every second year and a major review every fourth year, these reviews must include robust community engagement.

The adoption of the current Strategic Community Plan (SCP) was completed in January 2017 where Council adopted the SoCKI Strategic Community Plan 2016-2026. Whilst minor reviews of the Corporate Business Plan (CBP) have occurred during this time, a major review of the SCP or CBP has not been completed since adoption.

During the two years that have passed since the disposal of property resolution, not only has Cocos (Keeling) Islands, but also the world, has seen varying impacts due to the COVID-19 pandemic that will need to be considered when reviewing the SCP.

### **Coastal Vulnerability Study (CVS) and CHRMAP process**

The Australian Government, in collaboration with the Shire of Cocos (Keeling) Islands, and the Western Australian Department of Planning, Lands and Heritage (WADPLH) commenced a project to determine the vulnerability of the Cocos (Keeling) Islands to coastal hazards, including erosion and storm surge inundation.

The overall objective of the project is to identify coastal hazard risks and vulnerability of built and natural assets, in order to properly plan for adaptive land use and development on the Cocos (Keeling) Islands in light of a changing coastal environment.

During 2018 - 2019, the Project Team collected wave and current data (both inside the lagoon and ocean side of the atoll) which will be used to identify the coastal hazards for the Cocos (Keeling) Islands. Coastal hazards will be assessed at present and future predicted sea levels to determine what built and natural assets, and their cultural, social, environmental and economic values, are at risk over time. This project will deliver a report and maps of the hazards, showing what areas may be impacted by erosion or inundation (Coastal Vulnerability Study Report).

The Australian Government and WADPLH are in the process of collating the information provided in the report and planning community and stakeholder engagement. As outlined in the Assistant Secretary's correspondence, this is estimated to occur mid-late this year (2022).

### **CPP 6 - Coastal Development Policy**

To assist Council with making decisions prior to the CVS being released and CHRMAP process being undertaken, Council adopted in March 2021 Council Policy - *CPP6 – Coastal Development Policy*. This policy is to be used to guide Council's assessment of all development applications during this time.

The Policy states that until such time as the CVS is finalised, Council will consider all of the islands to be at risk of coastal inundation and erosion. The CVS will inform the CHRMAP with more detailed risk information that will further guide Council in decision making.



Policy Statement:

1. *Development does not occur unless:*
  - *the development is located, designed, and constructed to withstand coastal hazard impacts; or*
  - *the development is temporary, readily relocatable, or able to be demolished and removed; or*
  - *the development can mitigate the risks to people and property to an acceptable or tolerable level based on the scientific information available at the time of application.*
2. *Design responses are not to have a detrimental impact on the amenity of neighbouring land or the amenity of the locality generally. This includes adversely impacting storm surge inundation levels on adjoining properties.*
3. *Development maintains or enhances public access to the foreshore.*
4. *Proponents must demonstrate relative to the scale and nature of their development that it prevents directly, indirectly and cumulatively an increase in the severity of coastal hazards and the potential for damage to the site or to other properties.*
5. *Buildings are to be designed to withstand structural loads associated with a storm surge inundation. The Shire may, at its discretion, require buildings to be certified by a coastal engineer as adequate to withstand potential erosive action during coastal inundation and/or erosion.*
6. *Lower levels of buildings potentially prone to storm surge inundation are to be permeable to allow water to flow through. This would not apply if the design response included fill to the extent that the finished floor level (FFL) of the building is located above the potential level of inundation.*
7. *Any development approval is to be conditioned requiring all structures be removed at the cost of the proponent once the current risk of erosion poses a risk to a development or structure, as defined by the following triggers:*
  - *Where a public road is no longer available or able to provide legal access to the property.*
  - *When water, sewage or electricity to the lot is no longer available as they have been removed/ decommissioned by the relevant authority due to coastal hazards.*
  - *Where structural integrity of the building has been compromised.*
8. *Any development approval shall (by a condition) require the following notifications to be placed on the Certificate of Title, pursuant to Section 70A of the Transfer of Land Act 1893, or lease documentation:*

*VULNERABLE COASTAL AREA - This lot is located in an area likely to be subject to coastal erosion and/or inundation over the 100-planning timeframe (2110).*

9. *Any development with an estimated cost above \$250,000 shall require an independent assessment by a coastal engineer to certify the suitability of the proposed development or await the finalisation of the Shire's CHRMAP and specific measures to be taken or not taken for the subject land parcel(s).*
10. *Any new development not deemed as infill development will be assessed against the current or likely future capacity of the Cocos (Keeling) Islands' essential services at the time of application in accordance with the Growth & Essential Services Policy.*

This policy is currently under review along with all Council Policies.

### **Town Planning Scheme 2007 - Zoning**

The Shire's Town Planning Scheme No.1 was gazetted (approved) in 2007 (15 years ago) and has had minor amendments made in 2016, 2017 and 2019.

In accordance with the *Planning and Development Act 2005 (WA) (CKI)* and associated Regulations a Local Planning Scheme must be reviewed every 5 years. In addition, a local government is to prepare a Local Planning Strategy in accordance with Part 3 of the Regulations for each new local planning scheme that is approved for land within the district of the local government. Meaning, the Shire is due to adopt a Local Planning Strategy and revised Local Planning Scheme.

Results of a CHRMAP would inform the Strategy and Scheme and discussions with the Department of Planning, Lands and Heritage resulted in them encouraging the Shire to wait to at least have the results of the Coastal Vulnerability Study to help inform the process, however, would be happy to work with the Shire to start the process of developing the Local Planning Strategy and revised Local Planning Scheme earlier if Council resolved to do so.

Having formal correspondence from the Commonwealth Government in response to the request to lease an over the water component of Commonwealth waters, being unsupportive, the condition of the disposition of lease has in effect ceased. As the proponent has requested an extension to the lease execution date to provide an opportunity for him to 'appeal' the decision Officers present to Council the request for consideration.

Having considered the response from the Commonwealth, the proponents request and the current state of the Shire key strategic documents, Officers present the following options.

### **Option One (Recommended)**

1. Not extend the lease execution date for the current proposed lease, noting that the lease negotiations and current proposed disposition of property will cease

2. Reconsider their intentions for Direction Island at a future date once the following items have been received/achieved to better inform them in their decision making:
- a) Adopted Major review of Strategic Community Plan (Estimated June 2022)
  - b) Received the information held in the Coastal Vulnerability Study (Estimated Mid 2022)
  - c) Based on the results of the CVS, at a minimum have a timeline for the CHRMAP Process (usually ~18months)
  - d) Council to consider their position on adopting Local Planning Strategy and reviewing Local (Town) Planning Scheme before the CHRMAP process is carried out or at the conclusion of the CHRMAP process
  - e) Develop a leasing strategy for all trust land in the Shire

Should it remain a priority to encourage tourism development at Direction Island at the completion of the above, recommence discussions to seek Commonwealth support to lease Direction Island and/or an over the water component prior to going to the market for interest.

#### **Option Two**

Support the request for extension and extend the lease execution date for the current proposed lease, for 12 months (31 March 2023).

#### **Option Three**

Support the request for extension and extend the lease execution date for the current proposed lease, for 28 days (28 April 2022), in-line with timeframes usually allowed for formal Planning appeals through the WA State Administrative Tribunal. Noting that this is not a formal appeals process.

It is important to note that should the proponent gain support during the extension period, the leases will move to the execution phase in line with the resolution of March 2020.

#### **Policy and Legislative Implications**

Section 3.58 of the *Local Government Act 1995 (WA) (CKI)* deals with the disposal of property, including by way of lease.

#### **Financial Implications**

Should the lease have been executed, there would have been lease income to the Trust and rates revenue to the Shire however, due to the uncertainty, these income streams have not been budgeted/forecast in the Trust/Shire 2021/22 Budget or future financial plans. The outcome of the Commonwealth not supporting the lease results in no direct financial impact.

Significant time and resources from both the Shire and the proponent have been invested to this point.

## Strategic Implications

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

## Voting Requirements

Simple Majority

## Conclusion

As outlined in the response from the Assistant Secretary, the Commonwealth will not be progressing lease negotiations at this time. Given the time that has passed and the current strategic processes underway, the Officer recommended option is for Option One presented above, to not support the request to extend the lease execution date and for Council to reconsider their intentions at a later date.

*Cr Lacy moved an amendment for Council to support the proponent's request for extension and extend the lease execution date for the current proposed lease, for 12 months (31 March 2023).*

*Cr Iku seconded the motion.*

*Debate was held around the amendment to motion in relation to the request for extension and extend the lease execution date for the current proposed lease.*

## OFFICER RECOMMENDATION – ITEM NO 15.2.2

### THAT COUNCIL, BY SIMPLE MAJORITY:

1. RECEIVE THE CORRESPONDENCE FROM THE ASSISTANT SECRETARY, INDIAN OCEAN TERRITORIES BRANCH, NOTING THAT THE COMMONWEALTH GOVERNMENT WILL NOT BE PROGRESSING LEASE NEGOTIATIONS IN REGARD TO THE REQUEST TO LEASE CROWN LAND (OVER WATER) AT DIRECTION ISLAND;
2. RESPECTFULLY REJECT THE PROPONENTS REQUEST AND NOT EXTEND THE LEASE EXECUTION DATE FOR THE CURRENT PROPOSED LEASE, NOTING THAT THE LEASE NEGOTIATIONS AND CURRENT PROPOSED DISPOSITION OF PROPERTY WILL CEASE
3. RECONSIDER COUNCILS INTENTIONS FOR DIRECTION ISLAND AT A FUTURE DATE ONCE THE FOLLOWING ITEMS HAVE BEEN RECEIVED/ACHIEVED TO BETTER INFORM THEM IN THEIR DECISION MAKING:
  - a) ADOPTED MAJOR REVIEW OF STRATEGIC COMMUNITY PLAN.
  - b) RECEIVED THE INFORMATION HELD IN THE COASTAL VULNERABILITY STUDY.
  - c) BASED ON THE RESULTS OF THE CVS, AT A MINIMUM HAVE A TIMELINE FOR THE CHRMAP PROCESS.
  - d) COUNCIL TO CONSIDER THEIR POSITION ON ADOPTING LOCAL PLANNING STRATEGY AND REVIEWING LOCAL (TOWN) PLANNING SCHEME BEFORE THE

CHRMAP PROCESS IS CARRIED OUT OR AT THE CONCLUSION OF THE CHRMAP PROCESS.

- e) DEVELOP A LEASING STRATEGY FOR ALL TRUST LAND IN THE SHIRE.

**AMENDMENT TO MOTION/COUNCIL RESOLUTION**

**MOVED CR LACY**

**SECONDED CR IKU**

**THAT COUNCIL SUPPORT THE PROPONENT'S REQUEST FOR EXTENSION AND EXTEND THE LEASE EXECUTION DATE FOR THE CURRENT PROPOSED LEASE, FOR 12 MONTHS (31 MARCH 2023).**

**THE MOTION WAS PUT AND DECLARED EQUAL (3/3)**

**FOR: IKU, LACY, YOUNG**

**AGAINST: HAMIRIL, LIU, MINKOM**

Section 5.21(3) of the *Act* requires a casting vote to be made by the Presiding member in the event of a tie.

The Presiding member exercised the second casting vote.

**THE MOTION WAS PUT AND DECLARED LOST (3/4)**

**FOR: IKU, LACY, YOUNG**

**AGAINST: HAMIRIL, LIU, MINKOM (2)**

**COUNCIL RESOLUTION – ITEM NO 15.2.2**

**MOVED CR LIU**

**SECONDED CR HAMIRIL**

**THAT COUNCIL, BY SIMPLE MAJORITY:**

- 1. RECEIVE THE CORRESPONDENCE FROM THE ASSISTANT SECRETARY, INDIAN OCEAN TERRITORIES BRANCH, NOTING THAT THE COMMONWEALTH GOVERNMENT WILL NOT BE PROGRESSING LEASE NEGOTIATIONS IN REGARD TO THE REQUEST TO LEASE CROWN LAND (OVER WATER) AT DIRECTION ISLAND;**
- 2. RESPECTFULLY REJECT THE PROPONENTS REQUEST AND NOT EXTEND THE LEASE EXECUTION DATE FOR THE CURRENT PROPOSED LEASE, NOTING THAT THE LEASE NEGOTIATIONS AND CURRENT PROPOSED DISPOSITION OF PROPERTY WILL CEASE;**
- 3. RECONSIDER COUNCILS INTENTIONS FOR DIRECTION ISLAND AT A FUTURE DATE ONCE THE FOLLOWING ITEMS HAVE BEEN RECEIVED/ACHIEVED TO BETTER INFORM THEM IN THEIR DECISION MAKING:**
  - a) ADOPTED MAJOR REVIEW OF STRATEGIC COMMUNITY PLAN**
  - b) RECEIVED THE INFORMATION HELD IN THE COASTAL VULNERABILITY STUDY**
  - c) BASED ON THE RESULTS OF THE CVS, AT A MINIMUM HAVE A TIMELINE FOR THE CHRMAP PROCESS.**

- d) **COUNCIL TO CONSIDER THEIR POSITION ON ADOPTING LOCAL PLANNING STRATEGY AND REVIEWING LOCAL (TOWN) PLANNING SCHEME BEFORE THE CHRMAP PROCESS IS CARRIED OUT OR AT THE CONCLUSION OF THE CHRMAP PROCESS.**
- e) **DEVELOP A LEASING STRATEGY FOR ALL TRUST LAND IN THE SHIRE.**

**THE MOTION WAS PUT AND DECLARED EQUAL (3/3)**

**FOR:** HAMIRIL, LIU, MINKOM

**AGAINST:** IKU, LACY, YOUNG

Section 5.21(3) of the *Act* requires a casting vote to be made by the Presiding member in the event of a tie.

The Presiding member exercised the second casting vote.

**THE MOTION WAS PUT AND DECLARED CARRIED (4/3)**

**FOR:** HAMIRIL, LIU, MINKOM (2)

**AGAINST:** IKU, LACY, YOUNG

### 15.3 TRUSTS FINANCE

Nil

*All members of the public left the meeting room at 4.40pm.*

#### **COUNCIL RESOLUTION**

**MOVED CR HAMIRIL**

**SECONDED CR IKU**

**THAT COUNCIL SUSPEND STANDING ORDER, THE TIME BEING 4.42PM.**

**THE MOTION WAS PUT AND DECLARED CARRIED (6/0)**

**FOR:** HAMIRIL, IKU, LACY, MINKOM, LIU, YOUNG

**AGAINST:** NIL

#### **COUNCIL RESOLUTION**

**MOVED CR LACY**

**SECONDED CR HAMIRIL**

**THAT COUNCIL RESUME STANDING ORDER, THE TIME BEING 5.24PM.**

**THE MOTION WAS PUT AND DECLARED CARRIED (6/0)**

**FOR:** HAMIRIL, IKU, LACY, MINKOM, LIU, YOUNG

**AGAINST:** NIL

### 16. CEO RECRUITMENT AND SELECTION

#### **Report Information**

Date: 16 February 2022  
Location: N/A  
Applicant: Shire of Cocos (Keeling) Islands  
File Ref:  
Disclosure of Interest: Nil  
Reporting Officer: Chief Executive Officer  
Island: N/A  
Attachments: 10.4.3.1 - Draft Process-Timeline CEO Recruitment & Selection  
10.4.3.2 - Terms of Reference CEO Recruitment and Selection Committee  
10.4.3.3 – Recruitment Consultant Proposals CONFIDENTIAL  
10.4.3.4 – Draft Position Description including Selection Criteria – Tracked Changes Accepted

- 10.4.3.5 – Draft Position Description including Selection Criteria –  
Showing Tracked Changes  
10.4.3.6 – Draft Contract CONFIDENTIAL

### Authority / Discretion

#### Definition

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

#### Report Purpose

This report presents the CEO's resignation to Council. A draft CEO recruitment and selection process is presented for consideration and Council are requested to establish a Recruitment and Selection Committee, adopt its Terms of Reference and to appoint its members, including one independent member. It also seeks a Council decision on the appointment of a recruitment consultant to assist the Recruitment and Selection Committee with the recruitment process and consideration and approval of:

- the CEO Position Description including Selection Criteria;
- adopt the Total Remuneration Package range in line with the Salaries and Allowances Tribunal for a Band 4 local government; and
- the draft contract, noting that the final contract will need to be approved by Council.

#### Relevant Documents

Available for viewing at the meeting

Nil

#### Background

The CEO tendered her resignation effective from 15 February 2022. To ensure timely recruitment and appointment of a new CEO, this report brings proposals from two



consultants (three quotes were requested, one consultant respectfully declined) who specialise in recruitment of Local Government CEO positions for Council to consider. It also seeks Council to consider and resolve on the establishment of a Recruitment and Selection Committee as an advisory committee as per the attached Terms of Reference and in accordance with S5.8 of the *Local Government Act 1995 (WA)(CKI)* and the Shire of Cocos (Keeling) Islands Standards for CEO Recruitment, Performance and Termination.

## **Comment**

### Recruitment and Selection Process

Attachment 10.4.3.1 contains the draft process for the CEO Recruitment and Selection to be used as a guide. Timeframes may differ according to Recruitment Consultant selected, and availability of applicants and Committee members. The intention is for a thorough but efficient process to be carried out.

### Recruitment and Selection Committee

Under S5.8 of the *Local Government Act 1995 (WA)(CKI)* and as required by the Standards for CEO Recruitment, Performance and Termination, Council can appoint to the Recruitment and Selection Committee three or more members of Council and one independent member to assist the Council with recruitment. The Committee is advisory in nature. The Committee Terms of Reference include keeping Council informed throughout the process, whilst maintaining confidentiality of individual applicants. The Committee would formally bring a recruitment report and recommendation for an appointment to Council for final decision-making. Draft Terms of Reference are contained in Attachment 10.4.3.2.

### Consultant

Due to the specialised nature of recruiting Council's principal employee, it is commonplace for a Council to engage the services of a suitably qualified independent recruitment consultant, licensed under the *Employment Agents Act 1976 (WA) (CKI)*, to guide Council through the process and ensure there is legislative compliance, equity and fairness. Actions that the consultant should assist Council's Committee with include:

- Draft Job Advertisement and Information Package
- Conduct Executive Search
- Perform Preliminary Assessments and Background Checks
- Assist in developing interview questions and prepare for conduct of interviews
- Coordinate the interview process
- Conduct referee checks
- Prepare the selection summary and assessment report inclusive of the Committee's recommendation to Council
- Prepare a contract of Employment for the successful candidate.

To ensure a timely recruitment process, the CEO has sought quotes from suitably qualified recruitment consultants (three quotes sought, two responses, one respectfully declined) who have a record in assisting local governments with CEO recruitment. These are presented for consideration by Council in Confidential Attachment 10.4.3.3. Council may choose to appoint one of these consultants or can defer a decision today and seek additional proposals from other consultants.

### Position Description including Selection Criteria

The Regulations require Council to carefully consider the functions of the CEO, including the skills and experience required of their head of the administrative arm of the local government. The requirement is for Council to articulate requirements in the selection criteria which are to be included in the Position Description (called a JDF in the model standards). The Position Description is to be approved by Council by Absolute Majority. The CEO has reviewed the Position Description and Selection criteria against the current priorities and functions of the Shire and against industry examples.

The draft Position Description for endorsement by Council is contained in the attachments. Two attachments are provided showing tracked changes and for ease of reading showing the tracked changes as accepted.

1. Attachment 10.4.3.4 – Draft Position Description including Selection Criteria – Tracked Changes Accepted
2. Attachment 10.4.3.5 – Draft Position Description including Selection Criteria – Showing Tracked Changes

### Total Remuneration Package and Draft Contract

The *Salaries and Allowances Act 1975 (WA) (CKI)* - Determination of The Salaries and Allowances Tribunal for Local Government Chief Executive Officers and Elected Members sets the minimum and maximum Total Remuneration Package (TRP) for local government CEOs. As the Shire of Cocos (Keeling) Islands is a Band 4 Local Government the TRP range is \$128,226 - \$201,113.

The selected recruitment consultant will assist the Committee and Council in ensuring that the offered package falls in line with the allowable range.

Also included for Council endorsement is the draft contract, Confidential Attachment 10.4.3.6, to assist the consultant, and recruitment and selection committee when commencing negotiations with applicants. The draft contract is a draft, and any final negotiated contract is required to be endorsed by Council before an applicant is appointed and the Shire President authorised to sign the contract.

### **Policy and Legislative Implications**

Under S5.36 of the *Local Government Act 1995 (WA)(CKI)* the Council is responsible for the employment of a person to be the CEO of the local government and the Standard for CEO Recruitment, Performance and Termination further detail the requirements of how that process should be undertaken. The recruitment consultant's scope of work will be to continue to advise Council on legislative requirements to ensure the recruitment and selection process is compliant with all legislation.

### **Financial Implications**

\$25,000 is allocated in the 2021/2022 Staff Appointment/Leaving Account. This will be sufficient to commence the recruitment process and additional funds can be considered by Council should they be required.

## Strategic Implications

Key Result Area Four: *Civic Leadership*

## Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Insufficient funds for the recruitment process	Low (4)	Should additional funds be required over an above what is allocated to the Staff Appointment account, a budget amendment can be considered by Council.
Service Interruption	Change in senior leadership can result in disruption to projects and services.	High (12)	A handover is preferred but where this is not possible, the outgoing CEO will ensure that the Acting CEO and other key staff have a full understanding of all projects and will provide handover notes. The recruitment process is commenced as soon as possible to minimise disruption.
Compliance	Changes to the legislation for recruitment of CEOs	High (12)	The contract for the recruitment consultant will include a requirement to ensure the process is compliant.

## 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**

- Part One: Simple Majority is required to adopt the Process for the CEO Recruitment and Selection.
- Part Two: Absolute Majority is required to establish the Recruitment and Selection Committee (selection panel), including its Terms of Reference.
- Part Three: Absolute Majority is required to approve the CEO Position Description and draft Contract
- Part Four: Simple Majority is required to appoint the consultant to assist with the recruitment.

**Conclusion**

This report is presented to enable Council to commence the recruitment process in a timely manner which will assist with minimising any disruption to services or projects. However, Council has the option to defer consideration of the recruitment consultant until the Committee has formed and to seek additional proposals.

**OFFICER RECOMMENDATION – ITEM NO 10.4.3****PART ONE:**

1. THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT ACT 1995 (WA)(CKI) AND THE LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021* RESOLVES TO ADOPT THE PROCESS FOR CEO RECRUITMENT AND SELECTION TO BE USED AS A GUIDE AS CONTAINED IN ATTACHMENT 10.4.3.1.

**PART TWO:**

1. THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT ACT 1995 (WA)(CKI) AND THE LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021* RESOLVES TO ESTABLISH THE CHIEF EXECUTIVE OFFICER RECRUITMENT AND SELECTION COMMITTEE AS PER THE ATTACHED TERMS OF REFERENCE AS CONTAINED IN ATTACHMENT 10.4.3.2; AND
2. APPOINTS THE FOLLOWING ELECTED MEMBERS AND INDEPENDENT MEMBER TO THE COMMITTEE:

CR \_\_\_\_\_;

CR \_\_\_\_\_;

CR \_\_\_\_\_;

INDEPENDENT MEMBER: \_\_\_\_\_

**PART THREE:**

1. THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021*, APPROVES THE CEO POSITION DESCRIPTION AS CONTAINED IN ATTACHMENT 10.4.3.4 WHICH OUTLINES THE QUALIFICATIONS, SELECTION CRITERIA AND RESPONSIBILITIES OF THE POSITION; AND
2. APPROVES THE DRAFT CONTRACT AS CONTAINED IN CONFIDENTIAL ATTACHMENT 10.4.3.6 AND TOTAL REMUNERATION PACKAGE IN ACCORDANCE WITH THE *SALARIES*

AND ALLOWANCES ACT 1975 (WA) (CKI) FOR A BAND 4 LOCAL GOVERNMENT BEING \$128,226 - \$201,113.

PART FOUR:

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO *S5.36 OF THE LOCAL GOVERNMENT ACT 1995 (WA)(CKI)* RESOLVES TO APPOINT THE FOLLOWING SUITABLY QUALIFIED, INDEPENDENT AND EXPERIENCED RECRUITMENT CONSULTANT, LICENSED UNDER THE *EMPLOYMENT AGENTS ACT 1976 (WA) (CKI)*, TO ASSIST THE CEO RECRUITMENT AND SELECTION COMMITTEE TO CONDUCT THE RECRUITMENT AND SELECTION PROCESS FOR THE SHIRE CEO:

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**COUNCIL RESOLUTION – ITEM NO 16**

MOVED CR LACY

SECONDED CR IKU

PART ONE:

1. THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT ACT 1995 (WA)(CKI)* AND THE *LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021* RESOLVES TO ADOPT THE PROCESS FOR CEO RECRUITMENT AND SELECTION TO BE USED AS A GUIDE AS CONTAINED IN ATTACHMENT 10.4.3.1.

THE MOTION WAS PUT AND DECLARED CARRIED (6/0)

FOR: HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

MOVED CR LACY

SECONDED CR YOUNG

PART TWO:

1. THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT ACT 1995 (WA)(CKI)* AND THE *LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021* RESOLVES TO ESTABLISH THE CHIEF EXECUTIVE OFFICER RECRUITMENT AND SELECTION COMMITTEE AS PER THE ATTACHED TERMS OF REFERENCE AS CONTAINED IN ATTACHMENT 10.4.3.2; AND
2. APPOINTS THE FOLLOWING ELECTED MEMBERS AND INDEPENDENT MEMBER TO THE COMMITTEE:

CR MINKOM

CR YOUNG

CR LIU

CR LACY

INDEPENDENT MEMBER: MS ANDREA SELVEY

**THE MOTION WAS PUT AND DECLARED CARRIED BY ABSOLUTE MAJORITY (6/0)**

**FOR:** HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG

**AGAINST:** NIL

**MOVED CR LACY**

**SECONDED CR YOUNG**

**PART THREE:**

- 1. THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021*, APPROVES THE CEO POSITION DESCRIPTION AS CONTAINED IN ATTACHMENT 10.4.3.4 WHICH OUTLINES THE QUALIFICATIONS, SELECTION CRITERIA AND RESPONSIBILITIES OF THE POSITION; AND**
- 2. APPROVES THE DRAFT CONTRACT AS CONTAINED IN CONFIDENTIAL ATTACHMENT 10.4.3.6 AND TOTAL REMUNERATION PACKAGE IN ACCORDANCE WITH THE *SALARIES AND ALLOWANCES ACT 1975 (WA) (CKI)* FOR A BAND 4 LOCAL GOVERNMENT BEING \$128,226 - \$201,113.**

**THE MOTION WAS PUT AND DECLARED CARRIED BY ABSOLUTE MAJORITY (6/0)**

**FOR:** HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG

**AGAINST:** NIL

**MOVED CR IKU**

**SECONDED CR LACY**

**PART FOUR:**

**THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO *S5.36 OF THE LOCAL GOVERNMENT ACT 1995 (WA)(CKI)* RESOLVES TO APPOINT THE FOLLOWING SUITABLY QUALIFIED, INDEPENDENT AND EXPERIENCED RECRUITMENT CONSULTANT, LICENSED UNDER THE *EMPLOYMENT AGENTS ACT 1976 (WA) (CKI)*, TO ASSIST THE CEO RECRUITMENT AND SELECTION COMMITTEE TO CONDUCT THE RECRUITMENT AND SELECTION PROCESS FOR THE SHIRE CEO:**

**JOHN PHILLIPS CONSULTING**

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**THE MOTION WAS PUT AND DECLARED CARRIED (6/0)**

**FOR:** HAMIRIL, IKU, LACY, LIU, MINKOM, YOUNG

**AGAINST:** NIL

