

# Shire of Cocos (Keeling) Islands

## Shire of Cocos (Keeling) Islands

### Minutes

### Ordinary Meeting of Council

Wednesday 23 November 2022, 4.00pm

Community Resource Centre Meeting Room,

Administration Building, West Island

### **Disclaimer**

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

## OUR VALUES

### Service

Provide the best service we can.

We serve the community and each other.

### Accountability

We take responsibility for our own actions.

We do what we say we will do.

Mistakes are an opportunity to learn.

### Support

We support our team and our community.

Look for opportunities to help each other.

### Respect

We respect and value others.

Our interactions are always respectful towards others.

### Integrity

We will be honest and transparent with all our dealings.

Maintain confidentiality.

Trust each other.

### Achievement

Being proactive and enabling the outcomes.

Be creative and think outside the square.

**TABLE OF CONTENTS**

<b>ITEM</b>	<b>SUBJECT</b>	<b>PAGE</b>
<b>1</b>	<b>OPENING/ANNOUNCEMENTS OF VISITORS</b>	<b>6</b>
<b>2</b>	<b>ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)</b>	<b>6</b>
<b>3</b>	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE</b>	<b>6</b>
<b>4</b>	<b>PUBLIC QUESTION TIME</b>	<b>6</b>
<b>5</b>	<b>LEAVE OF ABSENCE</b>	<b>8</b>
5.1	LEAVE OF ABSENCE (PREVIOUSLY APPROVED)	8
5.2	APPLICATION FOR LEAVE OF ABSENCE	8
<b>6</b>	<b>PETITIONS/DEPUTATIONS/PRESENTATIONS</b>	<b>8</b>
<b>7</b>	<b>CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS</b>	<b>8</b>
NIL		8
<b>8</b>	<b>ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS</b>	<b>8</b>
<b>9</b>	<b>DECLARATION OF INTERESTS</b>	<b>9</b>
<b>10</b>	<b>REPORT FROM COMMITTEES AND OFFICERS</b>	<b>9</b>
<b>REPORTS OF OFFICERS</b>		
<b>10.1</b>	<b>CHIEF EXECUTIVE OFFICER</b>	<b>9</b>
10.1.3	WALGA GOVERNANCE REVIEW	9
10.1.4	CROWN LAND TRANSFER	12
10.1.5	1990 MEMORANDUM OF UNDERSTANDING	16
10.1.6	HOUSE LOT 202 AND 204	20
10.1.9	NOVEMBER 2022 CEO REPORT	23
<b>10.2</b>	<b>MANAGER FINANCE AND CORPORATE SERVICES</b>	<b>32</b>
10.2.1	MONTHLY FINANCIAL REPORT – OCTOBER 2022	32
10.2.2	SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD 1 OCTOBER 2022 TO 31 OCTOBER 2022	36
10.2.3	BUDGET VARIATIONS 2022/23	39
<b>10.3</b>	<b>MANAGER INFRASTRUCTURE</b>	<b>44</b>
NIL		44
<b>11</b>	<b>MINUTES TO BE RECEIVED</b>	<b>44</b>
NIL		44
<b>12</b>	<b>ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>	<b>44</b>

<b>13</b>	<b>MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL</b>	<b>44</b>
<b>14</b>	<b>MATTERS BEHIND CLOSED DOORS</b>	44
14.1	CONFIDENTIAL ITEM - DEBTORS PAYMENT MANAGEMENT	44
14.2	CEO PERFORMANCE REVIEW COMMITTEE	46
<b>15</b>	<b>MATTERS RELATING TO THE LAND TRUSTS</b>	46
<b>15.1</b>	<b>TRUSTS ADMINISTRATION</b>	<b>48</b>
NIL		48
<b>15.2</b>	<b>TRUSTS LEASES</b>	<b>48</b>
15.2.1	CONFIDENTIAL ITEM - LOT 173 (HOUSE 73) HOME ISLAND	48
15.2.2	CONFIDENTIAL ITEM - RUMAH BARU FREIGHT AND PASSENGER FACILITY	50
<b>15.3</b>	<b>TRUSTS FINANCE</b>	<b>52</b>
NIL		52
<b>16</b>	<b>NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING (LATE ITEM)</b>	<b>52</b>
16.1	COUNCIL EXTRAORDINARY ELECTION	52
<b>17</b>	<b>MATTERS BEHIND CLOSED DOORS</b>	<b>55</b>
17.1	CONFIDENTIAL ITEM – CEO PERFORMANCE REVIEW COMMITTEE	55
<b>17</b>	<b>CLOSURE</b>	<b>57</b>

## 1. OPENING/ANNOUNCEMENTS OF VISITORS

The Presiding Member declares the meeting open at 4.02pm and welcomed Councillors and staff.

## 2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

President: Cr A Minkom

Deputy President: Cr S Iku

Councillors: Cr T Lacy  
Cr H Liu  
Cr Young

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

Public: 3

Visitors: Nil

Apologies: Nil

Approved Leave of Absence: Nil

## 3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

## 4. PUBLIC QUESTION TIME

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

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

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

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

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

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

### **Jill Welch – House 30 Nelson Mandela Walk, West Island Cocos (Keeling) Islands**

Questions 1- What is the latest update on the West Island boat ramp?

*Response - The beach has changed profile over the last few weeks with nearly 600mm of sand moved naturally along the beach. This has exposed the top layer of sandbags which we will consider removing in the short term. There are a number of projects requiring sand over the next few months so harvesting sand from the vicinity of the ramp will commence shortly. Council will continue to pursue options for a new ramp whilst maintaining and clearing sand from the current ramp as and when possible.*

Question 2 - As the Shire is pursuing positions of various lots of Commonwealth land, is this in line with recommendation of GHD's 2016 report? Will the other recommendations in that report be adopted?

*Response - There is a significant number of recommendations in the document that have not been actioned since the report release in 2010. Some of the recommendations have been or are currently being met i.e., new waste management strategy and CHARMAP. This is a document that requires significant review and input from the Commonwealth as the future Runway Upgrade will have a major impact on some of the recommendations. Now that the CEO is aware of the document, he will progress and have a meeting with the Commonwealth to discuss further. A report to Council will follow and this will most likely be January 2023 Ordinary Meeting of Council.*

Question 3 - Has the Shire formed a policy to employ local people first? Are they using the Cocos CV? What is the end cost of the CV?

*Response - Shire CEO has a personal preference for employment of local people first bearing in mind the need to comply with the requirements of equal opportunity and contemporary human resource management.*

Question 4 - Will an independent building surveyor be brought in to inspect the new houses on Home Island before occupation and for future reports on buildings, will they be acted on before and after report is done?

*Response – The houses will be inspected with the tenant before they move in. It does not necessarily have to be the building surveyor. Both Shire and tenant will sign the inspection document prior to the occupancy.*

**Question 4** - Thank you for acting on the MOU and land trusts. What is being done and planned for the land trusts?

*Response - This matter has been referred to Council engaged legal representatives to determine the future of the trusts.*

**Marissa and Brian Sorensen – 61 Beacon Heights Road, West Island Cocos (Keeling) Islands**

**Question 1** - What is happening with the boat ramp? When is it going to become easily accessible/usage?

*Response – as above.*

**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)**

Nil



## 8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

Nil

## 9. DECLARATION OF INTERESTS

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

Name	Item No.	Interest	Nature
Cr Lacy	10.1.9	Impartiality	He is the current CKI Tourism Association Chairperson.
Cr Iku	10.1.9	Financial	She is an employee of CKI Tourism Association.

### PROCEDURAL MOTION

**MOVED CR LACY**

**SECONDED CR YOUNG**

**THAT COUNCIL RESOLVES TO DEFER ITEM 10.1.1, 10.1.2, 10.1.7 AND 10.1.8 TO THE NEXT MEETING OF COUNCIL SO THAT FURTHER DISCUSSIONS/RESEARCH CAN BE UNDERTAKEN.**

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

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

**AGAINST: NIL**

## 10. REPORT FROM COMMITTEES AND OFFICERS

### 10.1 CHIEF EXECUTIVE OFFICER

#### 10.1.3 WALGA BEST PRACTICE GOVERNANCE REVIEW

##### Report Information

Date: 3 November 2022  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Not Applicable  
 Reporting Officer: Chief Executive Officer  
 Island: Cocos (Keeling) Islands  
 Attachments: 10.1.3.1 - Background Paper  
 10.1.3.2 - Consultation Paper

## Authority / Discretion

### Definition

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

### Report Purpose

The purpose of this report is to seek Council's feedback of a West Australian Local Government Association (WALGA) Best Practice Governance Review.

### Relevant Documents

Available for viewing at the meeting

Nil

### Background

WALGA is undertaking a Best Practice Governance Review to ensure our governance model is contemporary, agile and maximises engagement with members.

A significant body of work, which is summarised in the Background Paper (attachment 10.1.3.1), has been undertaken by the Project's Steering Committee.

Member feedback, in the form of a Council decision, is requested from Local Governments on the governance model options presented in the Consultation Paper (see attachment 10.1.3.2) by 23 December 2022.

In addition, to supplement Council feedback, WALGA will be undertaking independent consultation to gain deeper insights from the perspective of CEOs and Elected Members.

### **Comment**

Council's elected members should carefully read the background paper attached and form an opinion of their preferred model for resolution at the November 2022 Ordinary Meeting of Council.

### **Policy and Legislative Implications**

Nil

### **Financial Implications**

Nil

### **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*

*4.1.2 Continue to improve organisational planning*

### **Risk Implications**

Risk implications and advice are contained in the WALGA review document attached.

### **Voting Requirements**

Simple majority

### **OFFICER RECOMMENDATION – ITEM NO 10.1.3**

THAT COUNCIL ENDORSE THEIR PREFERRED WEST AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) BEST PRACTICE GOVERNANCE, OPTIONS MODEL TO BE PROVIDED TO WALGA PRIOR TO 23 DECEMBER 2022.

### **COUNCIL RESOLUTION – ITEM NO 10.1.3**

**MOVED CR LACY**

**SECONDED CR LIU**

**THAT COUNCIL ENDORSE THEIR PREFERRED WEST AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) BEST PRACTICE GOVERNANCE, OPTIONS MODEL TO BE PROVIDED TO WALGA PRIOR TO 23 DECEMBER 2022.**

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

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

**AGAINST: NIL**

### 10.1.4 CROWN LAND TRANSFER

#### Report Information

Date: 3 November 2022  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Not Applicable  
 Reporting Officer: Chief Executive Officer  
 Island: Cocos (Keeling) Islands  
 Attachments: 10.1.4.1 – Crown Transfer – Commonwealth – Feb 2018  
 10.1.4.2 – Crown Transfer – Shire Response – March 2018  
 10.1.4.3 – Crown Land Transfer

#### Authority / Discretion

#### Definition

<input checked="" type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input 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

The purpose of this report is to advise Council of a proposed transfer, on a long-term basis, of Crown land assets on West Island to the Shire of Cocos (Keeling) Islands.

#### Relevant Documents

Available for viewing at the meeting

Nil

## Background

Advice to the Shire was received in a letter dated 20 February 2018 (attachment 10.1.4.2) from Karly Pidgeon then the General Manager Indian Ocean Territories Branch of the Australian Government, Department of Infrastructure, Regional Development and Cities, in part as follows:

“I am writing in regard to Recommendation 10 of the Governance in the Indian Ocean Territories – Final Report: Economic Development and Governance, tabled in the Australian Parliament by the Joint Standing Committee on the National Capital and External Territories on 15 March 2016:

*The Committee recommends that the Department of Infrastructure and Regional Development transfer, on a long-term basis, the following Crown land assets on West Island to the Shire of Cocos (Keeling) Islands for development:*

- *the four commercially zoned parcels on Embden Walk;*
- *the Light Industrial Area bounded by Sydney Highway, Fremantle Road and Alexander Street; and*
- *the land suitable for retail at lot 193 William Keeling Crescent.*

The letter further requested (in part) – I also seek the Shire’s advice on its continued interest in acquiring:

- five houses to accommodate staff, being Lots 126 (Government House), 116, 131, 139 and 143. Rents would be payable to the Shire, with responsibility for management, repairs, maintenance, and lease arrangements also resting with the Shire; and
- Lot 3 (DP 44688) and Lot 4 (DP 44688) on Buffets Close. Department agreed to provide these blocks to the Shire for the construction of housing on 15 September 2015. Although a lease was provided to the Shire on 12 February 2016, it has not yet been signed. All costs associated with the construction of housing would be borne by the Shire”.

On the 19 March 2018 then Acting Chief Executive Officer of the Shire, Joanne Soderlund, sent a letter response to the Commonwealth (attachment 10.1.4.1) which in part read:

“This was informally discussed by Council after its Ordinary meeting held on Wednesday 28 February 2018 and I would like to advise the following:

- Council is interested in taking over the five houses to accommodate staff being Lots 126 (Government House), 116, 131, 139 and 143.
- Council is not interested in the Buffet Close blocks being Lots 3 and 4.
- Council is interested in acquiring the Light Industrial Area and commercial blocks on Embden Walk however, in the event these properties were to be transferred to the Shire, Council would want to obtain formal condition assessment report done of the properties before formally making the decision to take ownership of them”.

## Comment

*The four commercially zoned parcels on Embden Walk consist of:*

Lot 190 which is privately owned by Verisign and is going through a process to be handed to Council, as such this should be removed from further discussion/action between the Commonwealth and the Shire.

Lot 188 which is a “dual” block with two separate buildings, occupied Viva Energy both believed to be under commercial lease to the Commonwealth: and Lot 187 which is home to the West Island Mosque.

*The Light Industrial Area bounded by Sydney Highway, Fremantle Road and Alexander Street:*

Consists of multiple small factories, a vacant site where Cocos Autos burnt down, a chemical storage area, some vacant land and a container park, believed to be all under commercial lease to the Commonwealth.

*The land suitable for retail at lot 193 William Keeling Crescent:*

Is the current site of Saltmaker’s by the Sea dining establishment and it is understood that the current lease is due to expire/expired and a public expressions of interest process is to be undertaken by JLL on behalf of the Commonwealth.

*Five houses to accommodate staff*

Lots 126 (Government House) has previously been occupied by Shire staff but is now back with the Commonwealth and in recent times has been reserved solely for the Indian Ocean Territories Administrator.

Lots 116 and 131 are currently occupied by Shire staff in tenancy arrangements with JLL on behalf of the Commonwealth.

Lots 139 and 143 Both under control of the Commonwealth and tenancy arrangements are not known.

Lot 3 (DP 44688) and Lot 4 (DP 44688) on Buffets Close. Both vacant, the Commonwealth agreed to provide these blocks to the Shire for the construction of housing on 15 September 2015. Although a lease was provided to the Shire on 12 February 2016, it was not signed then the letter dated 28 February 2018 to the Commonwealth indicated no interest in the blocks.

On the 27 October 2022, the Chief Executive Officer of the Shire of Cocos (Keeling) Islands wrote to the Commonwealth outlining the above correspondence, advising that the long-term tenancy suggested had not been resolved and sought the opinion of the Commonwealth (see attachment 10.1.4.3).

A response was received the same day from Kim Forbes, Assistant Secretary - Indian Ocean Territories, Department of Infrastructure, Transport, Regional Development,

Communications, and the Arts advising “I can appreciate the council in wanting to tidying up outstanding issues. As this issue is new to me, and it appears to have not been resolved in 4 years, I will need to understand this further before I can provide further details”.

This matter was further discussed with Kim Forbes on 16 November 2022 and the position of the Commonwealth is still unknown.

Once advice is received from the Commonwealth, the proposed transfer will be brought to Council for discussion and resolution.

### **Policy and Legislative Implications**

There may be Commonwealth policy and legislative implications, but they are unknown.

### **Financial Implications**

From the Shire’s perspective, determining if long term tenancy and subsequent commercial leasing of properties, needs to be determined. This can only be done if appropriate condition reports are developed for all the properties identified above.

### **Strategic Implications**

The Shire would need to carefully evaluate the strengths, weaknesses, opportunities, and threats and develop a sound business case to determine the viability of taking long term tenure of the premises listed above.

### **Risk Implications**

This would be determined in the development of a business case if, and when that occurs. As such the matrix below is not developed at this stage.

### **Voting Requirements**

Simple majority

#### **OFFICER RECOMMENDATION – ITEM NO 10.1.4**

THAT COUNCIL NOTE AND RECEIVE THIS REPORT.

#### **COUNCIL RESOLUTION – ITEM NO 10.1.4**

**MOVED CR IKU**

**SECONDED CR LIU**

**THAT COUNCIL NOTE AND RECEIVE THIS REPORT AS AMENDED.**

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

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

**AGAINST: NIL**

### 10.1.5 1990 MEMORANDUM OF UNDERSTANDING

#### Report Information

Date: 3 November 2022  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Not Applicable  
 Reporting Officer: Chief Executive Officer  
 Island: Cocos (Keeling) Islands  
 Attachments: Nil

#### Authority / Discretion

#### Definition

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<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

The purpose of this report is to table a document titled the “Memorandum of Understand Relating to the Achievement of Mainland Equivalent Living Standards and Levels of Services of the Cocos (Keeling) Islands” for the information of Council.

#### Relevant Documents

Available for viewing at the meeting

Nil



## Background

On 7 March 1990, the document tabled i.e., the “Memorandum of Understand Relating to the Achievement of Mainland Equivalent Living Standards and Levels of Services of the Cocos (Keeling) Islands” was signed by then Prime Minister of Australia, Robert James Lee Hawke and Cocos (Keeling) Islands representatives Haji Wahin bin Bynie (Chairman, Cocos (Keeling) Islands Council) and Parson bin Yapat (Chairman, Cocos Islands Co-operative Society Limited).

This document has essentially been sight unseen, sat idle and been un-referenced for many years. Various components of the document i.e., wording, intent of different chapters and so forth, have been left so long that the original intent may now be unknown or open to different interpretations. It does seem to the author of this report that the intent of the document was to provide favourably for the Cocos Malay people in terms of housing, employment, education and provide an avenue for reduction of red tape and legislative support the Cocos Malay people.

On the face of it, in previous years, the document in so far as it is presented, should have had far reaching implications for the Shire and the Commonwealth. However, as they have not been addressed in the past, there are issues such as those following, that have never been resolved:

1. Mainland equivalent living standards and levels of services,
2. Current controls over and restraints upon Council which go beyond those applying to Local Government authorities in Western Australia will be removed,
3. The Council’s long term rental policies will follow State Policies for rental deductions for low-income households, pensioners, and other households whose main source of income is social security benefits. The Council will apply policies to housing occupancy rates which ensure that health and welfare are not jeopardised. The Commonwealth will consider the transfer of accommodation on West Island to the Council, and
4. The Commonwealth, after consultation with Council, will legislate to abolish the present arrangements whereby the Council holds the land in Trust for the community and to provide an appropriate land tenure system for Cocos.

With the document recently coming to light and to the attention of the now Chief Executive Officer of the Shire of Cocos (Keeling) Islands, it is appropriate that Council are aware of the contents of the document and the bearing it may/may not have for current and future issues.

In the eyes of some, it may be arguable that the Memorandum of Understand Relating to the Achievement of Mainland Equivalent Living Standards and Levels of Services of the Cocos (Keeling) Islands is no longer a legally binding document as it is over thirty years old and has not seen the light of day for a long period of time. This may be a matter that needs to be resolved through appropriate legal opinion.

**Comment**

Dot points 1 and 2 listed above, have recently come to the fore, due to the anomaly of the legislative relationship of the Cocos (Keeling) Islands to West Australian Local Government and Commonwealth legislation, i.e., the Shire being unable to access Disaster Recovery and Resilience Funding. The Shire President has written to the Prime Minister of Australia seeking an audience to have conversation and commitment to the interpretation of these two points. These too may need to be resolved through an appropriate legal opinion.

Dot point 3 listed above is currently being explored by the Shire Chief Executive Officer and staff with Civic Legal acting on behalf of the Shire. In part, this relates to the review of the Shire Housing and Leasing Policies. A final legal opinion has yet to be determined and will be provided to the Shire in due course. The second part of this paragraph “The Commonwealth will consider the transfer of accommodation on West Island to the Council” is a separate issue that needs to be brought to the attention of the Commonwealth and may also require an appropriate legal opinion to be resolved.

Dot point 4 listed above has been mentioned “in passing” within the context of the Housing and Leasing Policy review. However, in the broader context, many families have lived at the one address from one generation to another and in some cases another. This suggests some form of lineage to the property which may need to be resolved through appropriate legal opinion.

**Policy and Legislative Implications**

To be determined upon receipt of legal opinions.

**Financial Implications**

Cost of legal opinions

**Strategic Implications**

To be determined upon receipt of legal opinions.

**Risk Implications**

To be determined upon receipt of legal opinions.

**Voting Requirements**

Simple majority

**OFFICER RECOMMENDATION – ITEM NO 10.1.5**

1. THAT COUNCIL NOTE AND RECEIVE THE CONTENTS OF THE ATTACHED “MEMORANDUM OF UNDERSTAND RELATING TO THE ACHIEVEMENT OF MAINLAND EQUIVALENT LIVING STANDARDS AND LEVELS OF SERVICES OF THE COCOS (KEELING) ISLANDS.”
2. THAT COUNCIL DELEGATE TO THE CHIEF EXECUTIVE OFFICER OF THE SHIRE OF COCOS (KEELING) ISLANDS THE AUTHORITY TO ENGAGE CIVIC LEGAL OF SUITE 2, GROUND FLOOR, 1 HAVELOCK STREET, WEST PERTH WA 6005, AUSTRALIA TO PROVIDE LEGAL OPINION/S AS THE NEED IS IDENTIFIED FOR CLARIFICATION OF THE CONTENTS OF THE “MEMORANDUM OF UNDERSTAND RELATING TO THE ACHIEVEMENT OF MAINLAND EQUIVALENT LIVING STANDARDS AND LEVELS OF SERVICES OF THE COCOS (KEELING) ISLANDS.”

**COUNCIL RESOLUTION – ITEM NO 10.1.5**

**MOVED CR YOUNG**

**SECONDED CR IKU**

1. THAT COUNCIL NOTE AND RECEIVE THE CONTENTS OF THE ATTACHED “MEMORANDUM OF UNDERSTAND RELATING TO THE ACHIEVEMENT OF MAINLAND EQUIVALENT LIVING STANDARDS AND LEVELS OF SERVICES OF THE COCOS (KEELING) ISLANDS.”
2. THAT COUNCIL DELEGATE TO THE CHIEF EXECUTIVE OFFICER OF THE SHIRE OF COCOS (KEELING) ISLANDS THE AUTHORITY TO ENGAGE CIVIC LEGAL OF SUITE 2, GROUND FLOOR, 1 HAVELOCK STREET, WEST PERTH WA 6005, AUSTRALIA TO PROVIDE LEGAL OPINION/S AS THE NEED IS IDENTIFIED FOR CLARIFICATION OF THE CONTENTS OF THE “MEMORANDUM OF UNDERSTAND RELATING TO THE ACHIEVEMENT OF MAINLAND EQUIVALENT LIVING STANDARDS AND LEVELS OF SERVICES OF THE COCOS (KEELING) ISLANDS.”

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

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

**AGAINST: NIL**

### 10.1.6 HOUSE LOT 202 AND 204

#### Report Information

Date: 15 November 2022  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Not Applicable  
 Reporting Officer: Chief Executive Officer  
 Island: Home Island  
 Attachments: Nil

#### Authority / Discretion

#### Definition

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

#### Report Purpose

The purpose of this report is to seek Council delegation to the Chief Executive Officer the duty of allocation of houses on Lots 202 and 204 Home Island to tenants in accordance with current Shire Council Policy and process.

#### Relevant Documents

Available for viewing at the meeting  
 Nil

## **Background**

Construction of two houses for residential tenancies on Lot 202 and Lot 204 Home Island began in 2020. Construction has now finished, and the two houses are suitable to be allocated to prospective tenants.

In June 2021, the then Shire Chief Executive Officer, contacted prospective tenants on the housing waiting list and requested expressions of interest for tenancy of the two houses at \$400.00 per week rental. Two prospective tenants agreed at that time to pay the weekly rental of \$400 per week.

The Shire schedule of Fees and Charges identifies the weekly rental of houses 202 and 204 at \$400 per week but other 3-bedroom houses at \$275.00 per week.

The Shire, in conjunction with Civic Legal, is currently conducting a full review of the Housing Policy and the leasing/rental processes in place. This review will not be complete prior to the November 2022 Ordinary Meeting of Council.

## **Comment**

Due to the time delay between the prospective tenants being contacted in June 2021 and to date, enquiries will need to be made with those individuals to determine their current level of interest in renting either of the houses. In the situation where one or both original prospective tenants indicate they are no longer interested in renting on of the houses, the housing waiting list will be used to gauge interest from others.

With the full review of the Housing Policy and the leasing/rental processes yet to be complete, a short-term rental agreement of 6 months recommended to be offered to the tenants. This will allow sufficient time for the review to be complete and the Policy and supporting documentation to be rolled out. It will also allow sufficient time for a rental review for all houses on Home Island to be carried out

## **Policy and Legislative Implications**

Shire of Cocos (Keeling) Islands Housing Policy is currently under review and will provide policy direction once the review is complete.

## **Financial Implications**

Renting the properties on a short-term agreement will generate income for the Shire.

## **Strategic Implications**

Shire of Cocos (Keeling) Islands Housing Policy is currently under review and will provide future strategic direction once the review is complete.

### **Risk Implications**

Once tenanted, risk to premises and the Shire is mitigated.

### **Voting Requirements**

Simple majority

### **OFFICER RECOMMENDATION – ITEM NO 10.1.6**

THAT COUNCIL DELEGATE TO THE CHIEF EXECUTIVE OFFICER THE DUTY OF ALLOCATION OF HOUSES ON LOTS 202 AND 204 HOME ISLAND TO TENANTS IN ACCORDANCE WITH CURRENT SHIRE COUNCIL POLICY AND PROCESS.

### **COUNCIL RESOLUTION – ITEM NO 10.1.6**

**MOVED CR LACY                      SECONDED CR LIU**

**THAT COUNCIL DELEGATE TO THE CHIEF EXECUTIVE OFFICER THE DUTY OF ALLOCATION OF HOUSES ON LOTS 202 AND 204 HOME ISLAND TO TENANTS IN ACCORDANCE WITH CURRENT SHIRE COUNCIL POLICY AND PROCESS.**

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

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

**AGAINST: NIL**

### 10.1.9 NOVEMBER 2022 CEO REPORT

#### Report Information

Date: 16 November 2022  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Not Applicable  
 Reporting Officer: Chief Executive Officer  
 Island: Cocos (Keeling) Islands  
 Attachments: 10.1.9.1 – Land Management Order – Council Workshop Presentations

#### Authority / Discretion

#### Definition

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

#### Report Purpose

To provide Council with an update of the actions of the Chief Executive Officer for the October/November reporting period.

#### Relevant Documents

Available for viewing at the meeting

Nil

## Background

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

**Office lease** – finalised and signed the lease documents for the surrender of office 6 Administration Offices – Lot 349 Morea Crescent West Island which expired 31 December 2021 and the lease for office 3 Administration Offices – Lot 349 Morea Crescent West Island from 1 January 2022 to 30 November 2026.

**Indian Oceans Waste Management Strategy** – attended a Team's teleconference on the final stage of development of the IOT Waste Management Strategy being produced by GHD under funding from the Commonwealth Department of Infrastructure Transport, Regional Development, Communications and the Arts. This session was attended by a myriad of State and Commonwealth Government Departments and our staff is Martin Faulkner and Thomas Battcher. The Strategy is still in the development phase and our staff have provided positive and sustainable information with intent for inclusion. Whilst there is a sense of priority from the Commonwealth, the Shire Chief Executive Officer, Infrastructure Manager and Environment Officer have met and determined that further review must be done for the Cocos (Keeling) Islands and in due course the Commonwealth and Council will be provided with the review and research findings. Despite enthusiasm from some, reliance on Fulton Hogan and the Runway Upgrade as a panacea for Cocos (Keeling) Islands waste management is not the solution. What we do know at this stage is that the Shire's current waste management processes are neither environmentally nor financially sustainable. Legacy Commonwealth funding related waste and current waste being generated by Commonwealth funding is crippling the Shire's ability to provide a cost-effective waste management program for the Cocos (Keeling) Islands. The Council will need to be very commercially astute when setting the 2023 – 2024 Schedule of Fees and Charges to "close the gap" in terms funds derived and spent on delivering a waste management program for the Shire.

**Land Management Orders** - Land Management Orders have been previously workshopped with Council and Shire staff have raised concerns about the risks associated with land management orders that Council has.

For advice of Council in *"the Western Australian Minister vested several reserves to the Shire – which include, recreation, recreation and foreshore management and pedestrian pathways under section 46 of the 1997 Land Administration Act of Western Australia. In total this was 8 pieces of land on West Island and 2 pieces of land on Home Island. (See attached maps)*

The vestment of land to the Shire can be viewed as a transfer of responsibility or cost shifting and reduction of risk to the Commonwealth of the land as indicated in the attached maps.

Embedded in the vestment are issues such as:

- The cost to maintain the land is significant,
- There is no specific funding from Commonwealth to manage land,
- There are significant risks to Shire associated with coastal erosion, and
- There are significant risks to the Shire associated with public safety.



The Shire does not have the funding, resources, or expertise to adequately manage all the risks associated with the lands within the Management Orders. The Shire does however have a workforce that could and should be engaged by the Commonwealth to perform some of the works associated with management of the lands under the orders by contract. These could include such things as mowing, sandbagging, roadworks, and waste management.

**AIR555 Project** – an update of this project was due to be provided by Manteena for the November 2022 Ordinary Meeting of Council, but no further discussions with Manteena have been had to date.

**Office of the Auditor General** – met with the two auditors from the office of the Auditor General who are completing a review of the Shire’s financials for the 2021 – 2022 financial year. General discussion regarding raising own source revenue, policy development and the West Australian audit process was very insightful. The Shire by developing a suite of business plans and associated policies is now heading in a new direction of accountability and ensuring its “ongoing” financial capacity.

**Airport Runway Project** - at the time of this report, informal discussions had been held with Fulton Hogan staff regarding environmental impacts of the airport runway project and the opportunity for legacy to the Shire in terms of waste management systems. More formal meetings and discussions have been arranged with Fulton Hogan Project Management for the 25 November and the following week and a more in-depth report will be provided to the December 2022 Ordinary Meeting of Council on this matter.

**Department of Water Regulation** – in conjunction with Shire’s Infrastructure Manager, met with Tim Francis, the Program Manager Indian Ocean Territories, Department of Water and Environmental Regulation, Western Australia and one of his staff. Discussions involved the Commonwealth Waste Management Strategy for the Indian Ocean Territories and the Fulton Hogan Runway Upgrade Project.

**South Road Closure** – due to tidal inundation of West Island, The Chief Executive of the Shire of Cocos (Keeling) Islands made the decision to close South Road at the Scout Park to all vehicles on Wednesday the 9 November 2022 until further notice. The road was re-opened on Tuesday 15 November 2022. Closure of the road was a direct result of the need for the Shire to minimise risk of damage (other than tidal flow damage) to the road and to minimise the risk to vehicles and their drivers and passengers by driving through dirty salt water that could be not seen through in places. Responding to the notice of closure, an updated agreement with the RAAF has been put in place to allow RAAF personnel to travel past road closures for essential purposes.

**Civic Legal** – on going discussions and meetings with Civic Legal have continued to occur in relation to the Shires leasing and tenancies policies. Expectations to have the commercial leasing policy finalised by the November 2022 Ordinary Meeting of Council have not occurred and the December 2022 Ordinary Meeting of Council is the deadline.

**Jones Lang LaSalle** – finalised discussions regarding the agreement between the Commonwealth and the Shire for the provision of fortnightly inspections of the cyclone shelter (the Cocos Club). Agreement yet to be provided for signing.

**Haji Adam and Nek Amansha (Cree Haig)** – held the regular meeting with Haji Adam and for the month of November Nek Amansha (Cree Haig) also attended. This meeting provided an invaluable opportunity to discuss the intent and importance of documents such as the 1990 Memorandum and the Shire Trust Deeds as well as the significance and intent behind the UN visits of 1973, 1980 and 1984, the 1978 purchase of lands from the Clunies-Ross family and the 1984 Cocos Malay people vote to become part of Australia. There was also discussion regarding renovation of the West Island Mosque, the Draft Coastal Hazard Risk Management and Adaption Plan (CHARMAP) for the Cocos (Keeling) Islands, and succession for the future younger generations of Cocos Malays and the control of the islands.

**Disaster Management** - with the onset of cyclone season, meetings have been held in conjunction with the Australian Federal Police, Department of Health, Department of Infrastructure (Cocos (Keeling) Islands staff, Cocos Club staff, Shire staff, Jones Lang LaSalle (Cocos Club managers on behalf of Commonwealth Government). Meetings were held at the West Island shelter (the Cocos Club) and Home Island shelter (the Disaster Management Shelter). Operational needs were identified, and management records have been updated to reflect current Shire staffing. As disaster management for the Cocos (Keeling) Islands is a Commonwealth responsibility, a request has been to the Commonwealth to fund staffing of the Home Island Shelter and provide similar nutritional meals as those available at the West Island shelter.

**Cocos (Keeling) Islands Tourism Association (CKITA)** – having renewed the Shire’s membership of CKITA on 31 October 2022, it is the opinion of the Shire’s Chief Executive Officer that one of the elected members of the Shire would be an invaluable and strategic member of the CKITA committee. This appears to have been the situation in the past when Councillor Young represented the Shire but upon her resignation the process of Shire membership fell away in 2017. It may be prudent for the Shire to pursue membership of this committee again.

**Department of Infrastructure, Transport, Regional Development, Communications, and the Arts** – convened the monthly meeting between the Shire of Cocos (Keeling) Islands and Kim Forbes (KF) the Assistant Secretary, Indian Ocean Territories, Department of Infrastructure, Transport, Regional Development, Communications, and the Arts. Meeting topics included:

- Disaster Management Funding – cyclone shelters – preparation/freighter approval, staffing and maintenance – *resolved = enquiries to be made by to ascertain responsibility for funding the Home Island shelter along the same lines as the West Island Shelter.*
- Land Management Orders – what if we don’t want the ones we have – *resolved = Commonwealth perspective is that the Land Management Orders are part of the Local Governments role in managing parks and open spaces and that the Financial Assistance Grants are provided to the Shire to fund the maintenance of the areas.*

- Tidal inundations and flooding – priority action required - *resolved = Shire to provide a priority list of works such as in front of Co-op cabins, the Fuel Farm area, South Road and so forth to KF for attention.*
- Lease of lands associated with Rumah Baru Freight facility – What arrangement does Commonwealth have with Fulton Hogan, under what authority – *resolved = The Commonwealth will review the lease document but as far as they are concerned at this stage, the Commonwealth holds the land under a 99-year lease for the entire Ports area.*
- IOTPS – main power upgrade and metering box – priority upgrade so works can occur, now 12 months old – *resolved = Ian McKendrick has contacted Shire Infrastructure Manager to work through the issues at hand.*
- Home Island Street lighting – when is this being done – *resolved = materials have all been procured and waiting for delivery to Home Island, works scheduled for February 2023.*
- Transfer of housing and lands to Shire – as per previous advice – *resolved = Commonwealth still waiting on advice as the documents referred to in this request are of considerable age and clarification is required before Commonwealth will act on them.*
- IOT Waste Management Strategy – *resolved = KF informed of Shire view that further work needs to be done on the strategy to determine best practice and costs to the Cocos (Keeling) Islands in terms of waste management.*
- West Island Mosque – *resolved = CEO to provider original email forwarded to the Department of Infrastructure regarding the request for the mosque upgrade/repair/renovation.*

Confirmed travel arrangements for Kim Forbes and Sarah Vandenbroek the Acting Administrator of the Indian Ocean Territories from 29 November to 2 December 2022. Meeting with the CEO on 1 December 10.30 a.m. and if available Shire President, Deputy Shire President, and elected members at 1.00 p.m. on 1 December 2022.

### **Comment**

***Indian Oceans Waste Management Strategy*** – A prudent move, at this point of time, may be for Council to consider whether any newly generated commercial/industrial/non-putrescible waste generated by the Commonwealth, Commonwealth funded organisations or projects, other not for profit agencies, commercial businesses and households are not accepted at the Shire’s transfer facilities from 01 January 2023. The Shire’s “wheelie bin” collections would remain the same along with green waste, cyclone clean up hard rubbish and the collection of cans and bottles for recycling.

Any such decision would need to be advertised widely across both Home and West Island and clearly spell out what will or will not be accepted at the transfer stations post 01 January 2023. It may well be possible with a revised Schedule of Fees and Charges being developed for Shire approval for re-instatement of current services can resume. At a point in time in the future, the Shire can then turn to managing legacy waste and its removal from the islands.

**Land Management Orders** - Under the provisions of the 1997 Land Administration Act of Western Australia, the Minister can revoke land management orders. It is open to conjecture, whether the Minister would revoke any of the land management orders for the Cocos (Keeling) Islands, however, to facilitate this process, should Council be so inclined, a resolution of Council is seen as a pre-requisite.

**South Road Closures** - It is expected that closures of South Road will become more common place as tidal inundation becomes more prevalent in the future. Feedback from the most recent closure indicates more timely advice of closures is required. It is noteworthy, that at some stage in the not-too-distant future, Council will need to resolve whether the risk to the Shire in keeping the southern part of South Road open or whether totally closing it to vehicular traffic is a more viable option. Once approved the Coastal Hazard Risk Management and Adaption Plan (CHARMAP) for the Cocos (Keeling) Islands will be intrinsic to any decision making and any Seawall Works carried out to support the Runway Upgrade Project will also have impacts to be considered.

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

Various as outlined in the report.

#### **Financial Implications**

Various as outlined in the report.

#### **Strategic Implications**

Various as outlined in the report.

#### **Risk Implications**

Various as outlined in the report.

#### **Voting Requirements**

Simple majority

**OFFICER RECOMMENDATION – ITEM NO 10.1.9**

1. THAT COUNCIL APPROVE THAT FROM 01 JANUARY 2023 AND UNTIL FURTHER NOTICE:
  - a. COMMERCIAL, INDUSTRIAL AND ALL NON-PUTRESCIBLE HOUSEHOLD WASTE WILL NO LONGER BE ACCEPTED AT THE SHIRE TRANSFER STATION.
  - b. THIS DECISION IS TO BE ADVERTISED WIDELY ACROSS BOTH HOME AND WEST ISLAND AND CLEARLY SPELL OUT WHAT WILL OR WILL NOT BE ACCEPTED AT THE TRANSFER STATIONS POST 01 JANUARY 2023.
2. LAND MANAGEMENT ORDERS – THAT COUNCIL FORMALLY ADVISE THE RELEVANT MINISTER THAT THE TEN LAND MANAGEMENT ORDERS CURRENTLY HELD BY THE SHIRE OF COCOS (KEELING) ISLANDS PROVIDE SIGNIFICANT RISK TO THE SHIRE AND THEY SHOULD BE RETURNED TO THE COMMONWEALTH AS PER THE PROVISIONS OF THE 1997 LAND ADMINISTRATION ACT OF WESTERN AUSTRALIA.
3. CKITA – THAT COUNCIL ENDORSE AN ELECTED MEMBER TO BE NOMINATED AS A MEMBER OF THE COMMITTEE OF THE COCOS (KEELING) ISLANDS TOURISM ASSOCIATION.
4. THAT COUNCIL NOTE AND RECEIVE THE REMAINDER OF THE REPORT.

**COUNCIL RESOLUTION**

**MOVED CR LACY                      SECONDED CR YOUNG**

**THAT COUNCIL SUSPEND STANDING ORDERS, THE TIME BEING 5.05PM.**

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

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

**AGAINST: NIL**

**COUNCIL RESOLUTION**

**MOVED CR LACY                      SECONDED CR YOUNG**

**THAT COUNCIL RESUME STANDING ORDERS, THE TIME BEING 5.15PM.**

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

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

**AGAINST: NIL**

**COUNCIL RESOLUTION – ITEM NO 10.1.9**

**MOVED CR LIU                      SECONDED CR YOUNG**

- 1. THAT COUNCIL APPROVE THAT FROM 01 MARCH 2023 AND UNTIL FURTHER NOTICE:
  - a. COMMERCIAL, INDUSTRIAL AND ALL NON-PUTRESCIBLE HOUSEHOLD WASTE WILL NO LONGER BE ACCEPTED AT THE SHIRE TRANSFER STATION.**
  - b. THIS DECISION IS TO BE ADVERTISED WIDELY ACROSS BOTH HOME AND WEST ISLAND AND CLEARLY SPELL OUT THE PROCESS UNDERTAKEN BY THE SHIRE WITH REGARDS TO WASTE MANAGEMENT AND WHAT WILL OR WILL NOT BE ACCEPTED AT THE TRANSFER STATIONS POST 01 MARCH 2023.**
  - c. THAT ALTERNATIVE SOLUTION TO BE INVESTIGATED.****

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

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

**MOVED CR LIU                      SECONDED CR IKU**

- 2. LAND MANAGEMENT ORDERS – THAT COUNCIL FORMALLY ADVISE THE RELEVANT MINISTER THAT THE TEN LAND MANAGEMENT ORDERS CURRENTLY HELD BY THE SHIRE OF COCOS (KEELING) ISLANDS PROVIDE SIGNIFICANT RISK TO THE SHIRE AND THEY SHOULD BE RETURNED TO THE COMMONWEALTH AS PER THE PROVISIONS OF THE 1997 LAND ADMINISTRATION ACT OF WESTERN AUSTRALIA.**

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

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

*Cr Iku declared impartiality interest in Item 10.1.9 Point 3 – November CEO Report. She is an employee of the CKI Tourism Association and left Chambers at 5.17pm before the motion was moved during the debate.*

**MOVED CR LACY                      SECONDED CR YOUNG**

- 3. CKITA – THAT COUNCIL ENDORSE AN ELECTED MEMBER TO BE NOMINATED AS A MEMBER OF THE COMMITTEE OF THE COCOS (KEELING) ISLANDS TOURISM ASSOCIATION.**

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

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

*Cr Iku returned to Chambers at 5.18pm after the motion was moved.*

**MOVED CR LACY**

**SECONDED CR YOUNG**

**4. THAT COUNCIL NOTE AND RECEIVE THE REMAINDER OF THE REPORT.**

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

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

**AGAINST: NIL**

## 10.2 MANAGER FINANCE AND CORPORATE SERVICES

### 10.2.1 MONTHLY FINANCIAL REPORT – OCTOBER 2022

#### Report Information

Date:	10 November 2022
Location:	Not Applicable
Applicant:	Not Applicable
File Ref:	
Disclosure of Interest:	
Reporting Officer:	Manager Finance & Corporate Services
Island:	Shire Wide
Attachments:	10.2.1.1 - Monthly Financial Report - October 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 October 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)*.

This report is a summary of the financial activities of the Shire at the reporting date. End of financial year processing continues and adjustments are still being finalised. The 2021/22 Annual Financial Statements will be finalised and audited with presentation due to the Audit Committee in December 2022. At this time the final 2021/2022 result will be determined and



any impact on the 2022/2023 Annual Budget and opening surplus will be presented to Council for consideration.

### **Relevant Documents**

Available for viewing at the meeting.

Nil

### **Background**

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

### **Comment**

The period of review is October 2022. The current closing municipal surplus for this period is \$1,389,678 compared to a budget position of \$1,247,526.

Income for the period year to date is \$3,729,851 which is made up \$3,222,638 in operating revenues, \$507,213 in non-operating grants, contributions, and subsidies. The budget estimated \$3,841,849 would be received for the same period. The variance to budget is (\$111,998).

Expenditure for the period year to date is \$2,843,682. This is made up of \$1,803,520 in operating expenditure and \$1,040,162 in capital expenditure. The budget estimated \$3,882,313 would be spent for the same period. The variance to budget is \$1,038,631.

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

### **Policy and Legislative Implications**

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

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

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

**Strategic Implications**

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

**Conclusion**

That the Monthly Financial Report for the period ending 31 October 2022, including explanations of material variances, be received.

**OFFICER RECOMMENDATION – ITEM NO 10.2.1**

THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDING 31 OCTOBER 2022, AS CONTAINED IN ATTACHMENT 10.2.1.1; AND
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 31 OCTOBER 2022, AS CONTAINED IN ATTACHMENT 10.2.1.1.

**COUNCIL RESOLUTION – ITEM NO 10.2.1**

**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 OCTOBER 2022, AS CONTAINED IN ATTACHMENT 10.2.1.1; AND**
- 2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 31 OCTOBER 2022, AS CONTAINED IN ATTACHMENT 10.2.1.1.**

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

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

**AGAINST: NIL**

## 10.2.2 SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD 1 OCTOBER 2022 TO 31 OCTOBER 2022

### Report Information

Date: 9 November 2022  
 Location: Not applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Finance Officer  
 Island: Shire Wide  
 Attachments: 10.2.2.1 - Schedule of Accounts paid

### Authority / Discretion

### Definition

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

### Report Purpose

The purpose of this report is to present to Council a list of accounts paid under delegated authority for the period 1 October 2022 to 31 October 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 10.2.2.1.

Payment Type	Amount (\$)
EFT Payments #9327 to #9403	\$821,917.49
Direct Debit Payment	\$47,899.85
Cheque Payment 11690 to 11691	\$2,447.37
<b>Total Payments</b>	<b>\$872,264.71</b>

Contained within Attachment 10.2.2.1 is a detailed transaction listing of payments, including credit card expenditure, for the period ended 31 October 2022 as per the Summary table above.

## Policy and Legislative Implications

Nil

## Strategic Implications

Nil

## Risk Implications

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

Fraud	That the report is manipulated.	Low (3)	Interim and end of year audits along with sequence checks.
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### Risk Matrix

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

### Conclusion

It is recommended that Council receives the reports provided for the period ended 30 September 2022.

### OFFICER RECOMMENDATION – ITEM NO 10.2.2

#### THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO REGULATION 13(1) OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO PAYMENTS MADE FROM MUNICIPAL OR TRUST FUNDS FOR THE PERIOD 1 OCTOBER 2022 TO 31 OCTOBER 2022 TOTALLING \$834,384.20 AS CONTAINED IN ATTACHMENT 10.2.2.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 31 OCTOBER 2022, AS CONTAINED IN ATTACHMENT 10.2.2.1.

### COUNCIL RESOLUTION – ITEM NO 10.2.2

MOVED CR LIU

SECONDED CR IKU

1. BY SIMPLE MAJORITY, PURSUANT TO REGULATION 13(1) OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO PAYMENTS MADE FROM MUNICIPAL OR TRUST FUNDS FOR THE PERIOD 1 OCTOBER 2022 TO 31 OCTOBER 2022 TOTALLING \$834,384.20 AS CONTAINED IN ATTACHMENT 10.2.2.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 31 OCTOBER 2022, AS CONTAINED IN ATTACHMENT 10.2.2.1.

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

### 10.2.3 BUDGET VARIATIONS 2022/23

#### Report Information

Date: 11 November 2022  
 Location: Not Applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Manager Finance & Corporate Services  
 Island: Shire Wide  
 Attachments: Nil

#### Authority / Discretion

#### Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input 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 amend the 2022/23 budget to reflect various adjustments to the General Ledger.

All items will have nil effect on the closing budgeted surplus and a balanced budget will be maintained.

#### Relevant Documents

Available for viewing at the meeting.

Nil

## Background

### Item 1:

The Shire requires a new reciprocating compressor for the works depot. Whilst budget for similar items is generally provided in operating expenditure, any items exceeding a cost of \$5,000 (including shipping) are required to be capitalised in accordance with regulation 17A (5) of the *Local Government (Financial Management) Regulations 1996*. As the budget is required for capital rather than operating expenditure, a variation is required.

The smaller adhoc items are generally not identified individually as part of the Shire asset replacement program and so it would be prudent to provide a nominal 'capital' budget for such items as they arise throughout the year.

### Item2:

During several workplace inspections the lack of storage and shelving at the Depot has been identified as a workplace hazard. The area has been measured out and the current quote fit out with shelving and cabinetry is \$41,080, not including shipping and internal labour to install. Further quotes are being sought; however, the total cost is expected to be in the range of \$50,000.

## Comment

Item 1: Whilst the immediate requirement for a reciprocating compressor is currently quoted as \$5,065 + shipping, it is recommended to provide further budget should similar items arise during the remainder of 2022/23. The 2022/23 budget included the replacement of a 6t flail mower. This plant has since been repaired and is not expected to require replacement and thus funds are available for an alternative purpose.

Item	Description	Current Budget	Increase/ Decrease	Revised Budget
1	Capital Expenditure C271 -Minor plant >\$5,000	0	(\$15,000)	(\$15,000)
	Capital Expenditure C239 – 6t Flail mower	(\$77,000)	\$15,000	(\$62,000)

Item 2: As the works present a work safety issue it important that an appropriate workspace is provided as soon as possible. It is proposed that the funds for this project are also reallocated from the flail mower replacement.

Item	Description	Current Budget	Increase/ Decrease	Revised Budget
2	Capital Expenditure C018 – HI Depot Shelving	\$0	(\$50,000)	(\$50,000)
	Capital Expenditure C239 – 6t Flail mower	(\$62,000)	\$50,000	(\$12,000)



### Policy and Legislative Implications

The *Local Government Act 1995 (WA)(CKI)* Part 6 Division 4 s6.8(1) requires the local government not to incur expenditure from its municipal fund for an additional purpose except where the expenditure –

(b) is authorised in advance by resolution\*

“additional purpose” means a purpose for which no expenditure estimate is included in the local governments annual budget.

\* Requires an absolute majority of Council

### Strategic Implications

The proposed variations support the achievement of the following goals and outcomes detailed in the Strategic Community Plan or Corporate Business Plan.

Plan	Outcome	Goal
Strategic Community Plan 2013-2023	4. 1 Continue to provide resources to maintain and upgrade staff facilities to create an environment safe and fit for purpose.	4. Attract and retain quality staff and elected members

### 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	Expenditure is incurred without Council approval	Low (3)	There are processes in place to ensure compliance with legislation.
Fraud	That the report is manipulated.	Low (3)	Interim and end of year audits.

### Risk Matrix

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

### Conclusion

That Council approve the budget variations as outlined in this report.

### OFFICER RECOMMENDATION – ITEM NO 10.2.3

THAT COUNCIL:

1. BY ABSOLUTE MAJORITY, APPROVES THE REQUIRED BUDGET VARIATIONS TO THE CURRENT BUDGET FOR 2022/23 AS FOLLOWS:

Item	Description	Current Budget	Increase/ Decrease	Revised Budget
1	Capital Expenditure C271- Minor plant >\$5,000	0	(\$15,000)	(\$15,000)
	Capital Expenditure C239 – 6t Flail mower	(\$77,000)	\$15,000	(\$62,000)

2. BY ABSOLUTE MAJORITY, APPROVES THE REQUIRED BUDGET VARIATIONS TO THE CURRENT BUDGET FOR 2022/23 AS FOLLOWS:

Item	Description	Current Budget	Increase/ Decrease	Revised Budget
2	Capital Expenditure C018 - HI Depot Shelving	\$0	(\$50,000)	(\$50,000)
	Capital Expenditure C239 – 6t Flail mower	(\$62,000)	\$50,000	\$12,000

### COUNCIL RESOLUTION – ITEM NO 10.2.3

MOVED CR IKU

SECONDED CR LIU

THAT COUNCIL:

1. BY ABSOLUTE MAJORITY, APPROVES THE REQUIRED BUDGET VARIATIONS TO THE CURRENT BUDGET FOR 2022/23 AS FOLLOWS:

Item	Description	Current Budget	Increase/ Decrease	Revised Budget
1	Capital Expenditure C271- Minor plant >\$5,000	0	(\$15,000)	(\$15,000)
	Capital Expenditure C239 – 6t Flail mower	(\$77,000)	\$15,000	(\$62,000)

2. BY ABSOLUTE MAJORITY, APPROVES THE REQUIRED BUDGET VARIATIONS TO THE CURRENT BUDGET FOR 2022/23 AS FOLLOWS:

Item	Description	Current Budget	Increase/ Decrease	Revised Budget
2	Capital Expenditure C018 - HI Depot Shelving	\$0	(\$50,000)	(\$50,000)
	Capital Expenditure C239 – 6t Flail mower	(\$62,000)	\$50,000	\$12,000

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

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

**AGAINST:** NIL

### **10.3 MANAGER INFRASTRUCTURE**

Nil

### **11. MINUTES TO BE RECEIVED**

Nil

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

Nil

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

### **14. MATTERS BEHIND CLOSED DOORS**

*This part of the meeting was closed to the public where confidential discussion was required.*

*The Public left the gallery at 5.29pm.*

#### **14.1 CONFIDENTIAL ITEM - DEBTORS PAYMENT MANAGEMENT**

##### **Report Information**

Date: 09 November 2022  
Location: Not Applicable  
Applicant: Not Applicable  
File Ref:  
Disclosure of Interest:  
Reporting Officer: Manager Finance & Corporate Services  
Island: Shire Wide  
Attachments: See attached

**Authority / Discretion**

**Definition**

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

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

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

- (e) a matter that if disclosed, would reveal –*
  - (i) a trade secret; or*
  - (ii) information that has a commercial value to a person; or*
  - (iii) information about the business, professional, commercial or financial affairs of a person,*

**OFFICER RECOMMEDATION – ITEM NO 14.1**

As per the Confidential item.

**COUNCIL RESOLUTION – ITEM NO 14.1**

MOVED CR LIU

SECONDED CR YOUNG

THAT COUNCIL:

1. BY SIMPLE MAJORITY, ENDORSE THE IMPLEMENTATION OF THE ‘PAYMENT HUB’ SYSTEM TO IMPROVE THE DEBTOR AND RATES PAYMENT OPTIONS OFFERED BY THE SHIRE;
2. BY ABSOLUTE MAJORITY, APPROVES THE REQUIRED BUDGET VARIATION TO THE CURRENT BUDGET FOR 2022/23 AS FOLLOWS:

Item	Description	Current Budget	Increase/ Decrease	Revised Budget
1	Capital Expenditure – System Implementation	0	(\$5,000)	(\$5,000)
	Operating Expenditure – Consultants - Finance	(\$44,156)	\$5,000	(\$39,156)

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

**14.2 CEO PERFORMANCE REVIEW**

*The Presiding member advised that for the convenience of members of staff, the Confidential Item No 14.2 – CEO Performance Review Committee would be moved to the end of the agenda for consideration.*

**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

### 15.2.1 CONFIDENTIAL ITEM - LOT 173 (HOUSE 73) HOME ISLAND

#### Report Information

Date: 3 November 2022  
 Location: Lot 173 (House 73) Jalan Bunga Kangkong  
 Applicant: Chief Executive Officer  
 File Ref: HL173  
 Disclosure of Interest: Cr Hamiril  
 Reporting Officer: Chief Executive Officer  
 Island: Home Island  
 Attachments: As attached

#### Authority / Discretion

#### Definition

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

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

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



**OFFICER RECOMMENDATION – ITEM NO 15.2.1**

As per the Confidential Item.

**COUNCIL RESOLUTION – ITEM NO 15.2.1**

**MOVED CR LIU                      SECONDED CR IKU**

**IT IS RECOMMENDED THAT THE FOLLOWING RESOLUTIONS BE PASSED BY COUNCIL:**

- 1. COUNCIL RESOLVES TO ACCEPT THAT DESPITE THE IRREGULARITY OF HOW HE CAME TO OCCUPY HOUSE NO. 73, CR HAMIRIL HAS BECOME A TENANT AT COMMON LAW BUT WILL NOT MAKE ANY DECISION AS TO WHETHER TO CONTINUE WITH THE TENANCY UNTIL AFTER IT HAS COMPLETED A REVIEW OF THE HOME ISLAND HOUSING POLICY CPC006 (AND ANY ASSOCIATED CONSULTATION PROCESS WITH THE COMMUNITY) AND APPROVED ANY REVISED AND UPDATED POLICY.**
  
- 2. COUNCIL DIRECTS THE CHIEF EXECUTIVE OFFICER TO TAKE SUCH ACTION IN RELATION TO HOUSE 73 IN ACCORDANCE WITH ANY REVISED HOME ISLAND HOUSING POLICY AND OTHERWISE DO ALL THINGS NECESSARY TO GIVE EFFECT TO RESOLUTION 1.**

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

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

**AGAINST: NIL**

## 15.2.2 CONFIDENTIAL ITEM - RUMAH BARU FREIGHT AND PASSENGER FACILITY

### Report Information

Date: 14 November 2022  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Not Applicable  
 Reporting Officer: Chief Executive Officer  
 Island: Cocos (Keeling) Islands  
 Attachments: As Attached

### Authority / Discretion

### Definition

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

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

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

(a) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*

**OFFICER RECOMMENDATION – ITEM NO 15.2.2**

As per the Confidential Item.

**COUNCIL RESOLUTION – ITEM NO 15.2.2**

**MOVED CR LACY**

**SECONDED CR YOUNG**

**THAT COUNCIL DIRECT THE CHIEF EXECUTIVE OFFICER TO SEEK A LEGAL OPINION OF THE VALIDITY AND EXTENT OF THE COMMONWEALTH LEASE DOCUMENT TITLED “COMMONWEALTH OF AUSTRALIA, TERRITORY OF CHRISTMAS ISLAND, TRANSFER OF LAND ACT 1893 (W.A.) (C.I.) AS AMENDED – DESCRIPTION OF LAND (NOTE 1) THAT PART OF LOT 100 ON PLAN 18500 AS DELINEATED AND ATTACHED ON THE PLAN DRAWING NO. 61-27186-L REFERRED TO IN ANNEXURE B TO THIS LEASE, DATED 8 DECEMBER 2009.**

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

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

**AGAINST: NIL**

### 15.3 TRUSTS FINANCE

Nil

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

### 16.1 COUNCIL EXTRAORDINARY ELECTION

#### Report Information

Date: 22 November 2022  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Not Applicable  
 Reporting Officer: Chief Executive Officer  
 Island: Cocos (Keeling) Islands  
 Attachments: 16.1.1 – Agreement Letter to conduct Extraordinary Election

#### 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 advise Council that due to the resignation of Councillor Mazlan Hamiril (effective immediately) on 22 November 2022, an extraordinary election is required to be held for the Shire of Cocos (Keeling) Islands.

## Relevant Documents

Available for viewing at the meeting

Nil

## Background

On the 22 November 2022, the following advice was received from Councillor Hamiril:

*Dear Frank,*

*Regrettably I will have to tender my resignation as a member of council effective immediately.*

*Respectfully,*

*Maz Hamiril*

## Comment

Advice was sought from the West Australian Electoral Commission (WAEC) regarding the resignation as the provisions of the West Australian Local Government Act 1995 indicated that an extraordinary election would need to be held.

Advice was received from the WAEC in the form of the letter attached.

Council had in the past determined that the cost of conducting an extraordinary election by the WEAC is too great an impost on its budget to justify. It is the opinion of the author of this report that the cost proposed by the WAEC i.e., \$22,000.00 inc GST is not too great an impost on Council's budget compared to the possible political ramifications of the Shire Chief Executive Officer or other Shire staff conducting an extraordinary election.

## Policy and Legislative Implications

The Shire of Cocos (Keeling) Islands must hold an extraordinary election within 80 days of being notified by the Electoral Commissioner (as per attached).

## Financial Implications

An application has been made to the Commonwealth Department of Infrastructure, Transport, Regional Development, Communications, and the Arts seeking funding of \$22,000.00 for the WAEC to conduct the extraordinary election (see attached).

## Strategic Implications

As per letter from WAEC.

### **Risk Implications**

As per letter from WAEC.

### **Voting Requirements**

Absolute majority

### **OFFICER RECOMMENDATION – ITEM NO 16.1**

THAT COUNCIL DECLARE IN ACCORDANCE WITH SECTION 4.20(4) OF THE *LOCAL GOVERNMENT ACT 1995* THE ELECTORAL COMMISSIONER TO BE RESPONSIBLE FOR THE CONDUCT OF THE EXTRAORDINARY ELECTION AS OUTLINED IN THIS REPORT.

### **COUNCIL RESOLUTION – ITEM NO 16.1**

**MOVED CR LACY                      SECONDED CR IKU**

**THAT COUNCIL DECLARE IN ACCORDANCE WITH SECTION 4.20(4) OF THE *LOCAL GOVERNMENT ACT 1995* THE ELECTORAL COMMISSIONER TO BE RESPONSIBLE FOR THE CONDUCT OF THE EXTRAORDINARY ELECTION AS OUTLINED IN THIS REPORT.**

**THE MOTION WAS PUT AND DECLARED CARRIED BY ABSOLUTE MAJORITY (5/0)**

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

**AGAINST: NIL**

## 17 MATTERS BEHIND CLOSED DOORS

*The Manager Infrastructure, Manager Finance and Corporate Services and Governance Risk Coordinator left Chambers at 5.37pm.*

### 17.1 CONFIDENTIAL ITEM - CEO PERFORMANCE REVIEW COMMITTEE

#### Report Information

Date: 7 November 2022  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Not Applicable  
 Reporting Officer: Chief Executive Officer  
 Island: Cocos (Keeling) Islands  
 Attachments: Nil

#### Authority / Discretion

#### Definition

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

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

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

(a) *a matter affecting an employee or employees.*

**OFFICER RECOMMENDATION – ITEM NO 14.2**

1. THAT COUNCIL APPOINTS THE SHIRE OF COCOS (KEELING) ISLANDS CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE WITH COUNCILLOR LACY AS THE CHAIRPERSON, AND COUNCILLORS MINKOM, LIU AND YOUNG AS MEMBERS.
2. THAT THE SHIRE OF COCOS (KEELING) ISLANDS CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE MEET WITH THE CHIEF EXECUTIVE OFFICER FOR THE SHIRE, IMMEDIATELY AT THE CONCLUSION OF THE NOVEMBER 2022 ORDINARY COUNCIL MEETING TO ASSESS THE PERFORMANCE OF THE CHIEF EXECUTIVE OFFICER AND ADVISE THE CHIEF EXECUTIVE OFFICER OF THE OUTCOME IN WRITING.

**COUNCIL RESOLUTION – ITEM NO 14.2**

**MOVED CR MINKOM                      SECONDED CR LIU**

1. THAT COUNCIL APPOINTS THE SHIRE OF COCOS (KEELING) ISLANDS CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE WITH COUNCILLOR LACY AS THE CHAIRPERSON, AND COUNCILLORS MINKOM, LIU AND YOUNG AS MEMBERS.
2. THAT THE SHIRE OF COCOS (KEELING) ISLANDS CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE MEET WITH THE CHIEF EXECUTIVE OFFICER FOR THE SHIRE, IMMEDIATELY AT THE CONCLUSION OF THE NOVEMBER 2022 ORDINARY COUNCIL MEETING TO ASSESS THE PERFORMANCE OF THE CHIEF EXECUTIVE OFFICER AND ADVISE THE CHIEF EXECUTIVE OFFICER OF THE OUTCOME IN WRITING.

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

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

**AGAINST: NIL**



