

Shire of Cocos (Keeling) Islands

Shire of Cocos (Keeling) Islands

Minutes

Ordinary Meeting of Council

Wednesday 23 March 2022, 4.00pm

Council Chambers, Administration Building
at Lot 256 Jalan Bunga Melati, Home Island

Disclaimer

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

OUR VALUES

Service

Provide the best service we can.

We serve the community and each other.

Accountability

We take responsibility for our own actions.

We do what we say we will do.

Mistakes are an opportunity to learn.

Support

We support our team and our community.

Look for opportunities to help each other.

Respect

We respect and value others.

Our interactions are always respectful towards others.

Integrity

We will be honest and transparent with all our dealings.

Maintain confidentiality.

Trust each other.

Achievement

Being proactive and enabling the outcomes.

Be creative and think outside the square.

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1. OPENING/ANNOUNCEMENTS OF VISITORS

The Presiding member declare the meeting opened at 4.02pm and welcome Councillors, Staff, and members of the public to the meeting.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

Shire President: Cr A Minkom

Deputy President: Cr S Iku

Councillors: Cr M Hamiril
Cr T Lacy
Cr J Young

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

Public: 2

Visitors: Nil

Apologies: Cr Ibram, Cr Liu

Approved Leave of Absence: Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

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

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

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

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

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

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

Mr Jeff Welch
30 Airforce Road
West Island

Question

Is the Shire bringing contractors to CKI to do building works without advertising local or use of the "Cocos CV? If, yes to above, then why?

Response

Manager Infrastructure – Yes, the Shire is bringing Contractors to CKI to do building works. The Shire Purchasing Policy requires open tender for the procurement of goods or services where the value is or exceeds \$250,000. In this instance, the value of the tender did not meet this requirement and therefore was not advertised.

5. LEAVE OF ABSENCE

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

5.1 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Councillor	Date of Leave	Approved by Council
NIL		

5.2 APPLICATION FOR LEAVE OF ABSENCE

Nil

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)

7.1 Ordinary Council Meeting held on 23 February 2022 - Attachment 7.1

OFFICER RECOMMENDATION

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 5.22(2) AND 3.18 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)*, RESOLVES THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 23 FEBRUARY 2022, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

7.2 Special Council Meeting held on 9 March 2022 - Attachment 7.2

OFFICER RECOMMENDATION

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 5.22(2) AND 3.18 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)*, RESOLVES THAT THE MINUTES OF THE SPECIAL COUNCIL MEETING HELD ON 9 MARCH 2022, AS PRESENTED IN ATTACHMENT 7.2 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

The following items were dealt with 'en bloc'.

COUNCIL RESOLUTION

MOVED CR HAMIRIL

SECONDED CR LACY

7.1 ORDINARY COUNCIL MEETING HELD ON 23 FEBRUARY 2022 - ATTACHMENT 7.1

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 5.22(2) AND 3.18 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI), RESOLVES THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 23 FEBRUARY 2022, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

7.2 SPECIAL COUNCIL MEETING HELD ON 9 MARCH 2022 - ATTACHMENT 7.2

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 5.22(2) AND 3.18 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI), RESOLVES THAT THE MINUTES OF THE SPECIAL COUNCIL MEETING HELD ON 9 MARCH 2022, AS PRESENTED IN ATTACHMENT 7.2 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

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

FOR: HAMIRIL, IKU, LACY, MINKOM, YOUNG

AGAINST: NIL

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

Nil

9. DECLARATION OF INTERESTS

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

Name	Item No.	Interest	Nature
Cr Lacy	10.3.2	Financial	Lessee and applicant for Development Approval

10. REPORT AND RECOMMENDATIONS OF COMMITTEE

10.1 FINANCE

10.1.1 MONTHLY FINANCIAL REPORT – FEBRUARY 2022

Report Information

Date: 23 March 2022
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Manager Finance & Corporate Services
 Island: Shire Wide
 Attachments: 10.1.1.1 - Monthly Financial Report - February 2022

Authority / Discretion

Definition

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

Report Purpose

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

Relevant Documents

Available for viewing at the meeting.

Nil

Background

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

Comment

The period of review is February 2022. The current closing municipal surplus for this period is \$2,796,217 compared to a budget position of \$2,404,259. This is considered a satisfactory result for the Shire as it is maintaining a healthy surplus position.

Income for the February 2022 period year to date is \$6,597,413 which is made up \$6,071,361 in operating revenues and \$526,052 in non-operating grants, contributions, and subsidies. The budget estimated \$6,653,551 would be received for the same period. The variance to budget is \$56,138.

Expenditure for the February 2022 period year to date is \$5,502,723. This is made up of \$4,368,799 in operating expenditure and \$1,133,924 in capital expenditure. The budget estimated \$5,968,427 would be spent for the same period. The variance to budget is \$465,704.

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

Policy and Legislative Implications

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

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

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

Strategic Implications

Nil

Risk Implications

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

Risk Matrix

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

Conclusion

That the Monthly Financial Report for the period ending 28 February 2022, including explanations of material variances, be received.

OFFICER RECOMMENDATION – ITEM NO 10.1.1

THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDING 28 FEBRUARY 2022, AS CONTAINED IN ATTACHMENT 10.1.1.1; AND
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 28 FEBRUARY 2022, AS CONTAINED IN ATTACHMENT 10.1.1.1.

COUNCIL RESOLUTION – ITEM NO 10.1.1

MOVED CR IKU

SECONDED CR HAMIRIL

THAT COUNCIL:

- 1. BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDING 28 FEBRUARY 2022, AS CONTAINED IN ATTACHMENT 10.1.1.1; AND**
- 2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 28 FEBRUARY 2022, AS CONTAINED IN ATTACHMENT 10.1.1.1.**

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

FOR: HAMIRIL, IKU, LACY, MINKOM, YOUNG

AGAINST: NIL

10.1.2 SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD 1 FEBRUARY 2022 TO 28 FEBRUARY 2022

Report Information

Date: 16 March 2022
 Location: Not applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Senior Finance Officer
 Island: Shire Wide
 Attachments: 10.1.2.1 - Schedule of Accounts paid

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 February 2022 to 28 February 2022, as required by the *Local Government (Financial Management) Regulations 1996*.

Relevant Documents

Available for viewing at the meeting

Nil

Background

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

Comment

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

Payment Type	Amount (\$)
EFT Payments #8707 to #8755	\$467,837.06
Direct Debit Payment	\$46,571.18
Cheque Payment	\$11,360.43
Total Payments	\$525,768.67

Contained within Attachment 10.1.2.1 is a detailed transaction listing of credit card expenditure for the period ended 28 February 2022. This amount is included within the total payments, listed above.

Policy and Legislative Implications

Nil

Strategic Implications

Nil

Risk Implications

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

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

Risk Matrix

Consequence / Likelihood	Insignificant (1)	Minor (2)	Medium (3)	Major (4)	Extreme (5)
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 28 February 2022.

OFFICER RECOMMENDATION – ITEM NO 10.1.2

THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO REGULATION 13(1) OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO PAYMENTS MADE FROM MUNICIPAL OR TRUST FUNDS FOR THE PERIOD 1 FEBRUARY 2022 TO 28 FEBRUARY 2022 TOTALLING \$525,768.67 AS CONTAINED IN ATTACHMENT 10.1.2.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 28 FEBRUARY 2022, AS CONTAINED IN ATTACHMENT 10.1.2.1.

COUNCIL RESOLUTION – ITEM NO 10.1.2

MOVED CR LACY

SECONDED CR YOUNG

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 FEBRUARY 2022 TO 28 FEBRUARY 2022 TOTALLING \$525,768.67 AS CONTAINED IN ATTACHMENT 10.1.2.1.

- 2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 28 FEBRUARY 2022, AS CONTAINED IN ATTACHMENT 10.1.2.1.**

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

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

10.2 LEASES

Nil

10.3 PLANNING/BUILDING

10.3.1 PROPOSED VEHICLE & EQUIPMENT SHELTER – WEST ISLAND POLICE STATION

Report Information

Date: 4 March 2022
 Location: Lot 160 Nelson Mandela Walk, West Island
 Applicant: Department of Infrastructure, Transport, Regional Development and Communications
 File Ref: WL160
 Reporting Officer: Chief Executive Officer
 Island: West Island
 Attachments: 10.3.1.1 – AFP Vehicle Shelter Development Plans

Authority / Discretion

Definition

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

Report Purpose

For Council to consider an application for development approval from the Department of Infrastructure, Transport, Regional Development and Communications for an outbuilding extension to the existing West Island Police Station to provide a sheltered and secure vehicle storage area.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The applicant has identified that further shelter from the elements and general security is required for Australian Federal Police vehicles, vessels and mobile equipment kept on West Island. The proposed structure will provide an additional 220sqm of sheltered roof area between the existing enclosed garage and station building on the fenced compound site. Solid clad shed doors will be installed to enclose the structure's frontage to Air Force Road as shown in the attached plans.

The subject land is a Crown reserve which is classified as 'Public Purposes: Police Station'.

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

Comment

The proposed vehicle shelter structure will be constructed of like materials and finishes to match and complement the existing station building and garage onsite. The heights proposed are practical for the required storage needs, while ensuring the existing station building remains the dominant building on the property.

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

Policy and Legislative Implications

Clause 2.1.2 of the *Shire of Cocos (Keeling) Islands Local Planning Scheme No.1*:

A person or body shall not use or commence or carry out development on land or within a waterway reserved under this Scheme without first applying for and obtaining development approval of the local government. In determining an application for development approval the local government shall have regard to:

- (a) the matters set out in Part 9 of the deemed provisions.*
- (b) the ultimate purpose intended for the reserve.*

Financial Implications

The item has no financial implications.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016 - 2026 – Goal 3.2.1: Maintain and develop infrastructure in-line with community needs and the Islands environment.

Risk Implications

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

Risk Matrix

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

Voting Requirements

Simple Majority

Conclusion

Given there are no relevant planning concerns the officer supports the development application.

OFFICER RECOMMENDATION – ITEM NO 10.3.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR THE PROPOSED ROOF SHELTER UPON LOT 160 ON DEPOSITED PLAN 218319, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITION AND ADVICE NOTES:

ALL DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE APPROVED DEVELOPMENT PLANS, WHICH FORM PART OF THIS DEVELOPMENT APPROVAL, TO THE SPECIFICATIONS AND SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTES:

- A. THE APPLICANT BE ADVISED THIS IS DEVELOPMENT APPROVAL ONLY AND NOT A BUILDING PERMIT. A BUILDING PERMIT MUST BE OBTAINED FOR THIS DEVELOPMENT.

- B. IF THE DEVELOPMENT THE SUBJECT OF THIS APPROVAL IS NOT SUBSTANTIALLY COMMENCED WITHIN A PERIOD OF TWO (2) YEARS, THE APPROVAL SHALL LAPSE AND BE OF NO FURTHER EFFECT.
- C. WHERE AN APPROVAL HAS SO LAPSED, NO DEVELOPMENT SHALL BE CARRIED OUT WITHOUT THE FURTHER APPROVAL OF THE LOCAL GOVERNMENT HAVING FIRST BEEN SOUGHT AND OBTAINED.
- D. IF THE APPLICANT/LANDOWNER IS AGGRIEVED BY THIS DETERMINATION, THERE IS A RIGHT OF REVIEW BY THE STATE ADMINISTRATIVE TRIBUNAL IN ACCORDANCE WITH PART 14 OF THE *PLANNING AND DEVELOPMENT ACT 2005*. AN APPLICATION MUST BE SUBMITTED WITHIN 28 DAYS OF THE DETERMINATION.

COUNCIL RESOLUTION – ITEM NO 10.3.1

MOVED CR LACY

SECONDED CR YOUNG

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR THE PROPOSED ROOF SHELTER UPON LOT 160 ON DEPOSITED PLAN 218319, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITION AND ADVICE NOTES:

ALL DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE APPROVED DEVELOPMENT PLANS, WHICH FORM PART OF THIS DEVELOPMENT APPROVAL, TO THE SPECIFICATIONS AND SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTES:

- A. THE APPLICANT BE ADVISED THIS IS DEVELOPMENT APPROVAL ONLY AND NOT A BUILDING PERMIT. A BUILDING PERMIT MUST BE OBTAINED FOR THIS DEVELOPMENT.**
- B. IF THE DEVELOPMENT THE SUBJECT OF THIS APPROVAL IS NOT SUBSTANTIALLY COMMENCED WITHIN A PERIOD OF TWO (2) YEARS, THE APPROVAL SHALL LAPSE AND BE OF NO FURTHER EFFECT.**
- C. WHERE AN APPROVAL HAS SO LAPSED, NO DEVELOPMENT SHALL BE CARRIED OUT WITHOUT THE FURTHER APPROVAL OF THE LOCAL GOVERNMENT HAVING FIRST BEEN SOUGHT AND OBTAINED.**
- D. IF THE APPLICANT/LANDOWNER IS AGGRIEVED BY THIS DETERMINATION, THERE IS A RIGHT OF REVIEW BY THE STATE ADMINISTRATIVE TRIBUNAL IN ACCORDANCE WITH PART 14 OF THE *PLANNING AND DEVELOPMENT ACT 2005*. AN APPLICATION MUST BE SUBMITTED WITHIN 28 DAYS OF THE DETERMINATION.**

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

FOR: HAMIRIL, IKU, LACY, MINKOM, YOUNG

AGAINST: NIL

Cr Lacy declared an interest on Item 10.3.2 – Renewal of Development Approval – Cocos Islands Artisans Collective and left the meeting venue at 4.16pm.

10.3.2 RENEWAL OF DEVELOPMENT APPROVAL – COCOS ISLANDS ARTISANS COLLECTIVE, WEST ISLAND

Report Information

Date: 4 March 2022
 Location: Lots 219 & 220 Mahoon Road, West Island
 Applicant: Mr Tony Lacy
 File Ref: WL219/220
 Reporting Officer: Chief Executive Officer
 Island: West Island
 Attachments: 10.3.2.1 - Development Application Letter from Lessee

Authority / Discretion

Definition

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

Report Purpose

For Council to consider renewing development approval for the 'Cocos Islands Artisans Collective' Rural production land use on West Island.

Relevant Documents

Available for viewing at the meeting

Cover letter

Current lease conditions

Background

Council has previously granted development approval and leased land zoned General Rural for the establishment of a rural production enterprise known as the Cocos Islands Artisans Collective.

Rural production is defined by the Shire's Local Planning Scheme as the following:

means the use of land for any of the purposes set out hereunder and shall include such buildings normally associated therewith:

- (a) the cultivation of plants for fruit, vegetables and other produce; and*
- (b) the sale of produce grown solely on the lot;*

This land use is listed as discretionary for the General Rural zone, meaning Council must show discretion in their decision making for the land use to be permitted.

Shire records indicate a land lease is still current for the site, subject to conditions restricting operating times and products available for sale. The applicant has requested minor modification to these restrictions on market grounds as detailed in the attached cover letter.

Comment

Previous development approval granted was time limited to enable Council review of the approval once the business transitioned from start-up to baseline operation. Given the business has now been operating for several years, and the land use is consistent with the General Rural zone, it is recommended Council grant development approval for the rural production land use indefinitely subject to the use be operated by the approved proponent only. It is noted the applicant would reserve the right to cancel or discontinue the use at their discretion.

A recommended condition of development approval restricts public sales to the new requested times of 9am-12pm on Tuesdays and Wednesdays. Any future changes to these operating times can be approved in writing under delegated authority by the Chief Executive Officer (CEO).

There is no development condition regarding the list of products to be sold from the premise as this is a market decision of which is not a valid town planning consideration. This matter is more appropriately handled by the existing land lease condition which provides the CEO with the opportunity to review the product list bi-annually.

Policy and Legislative Implications

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

Financial Implications

The item has no financial implications.

Strategic Implications

*Shire of Cocos (Keeling) Islands Strategic Community Plan 2016 - 2026 –
Outcome 1.1: Encourage economic stability for the Islands*

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Reputation	Not progressing with the lease in a timely manner could result in uncertainty for an important small business on Island.	Moderate (8)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Compliance	The process for leasing does not comply with legislation	Low (3)	The process outlined in this report is consistent with legislative requirements.
Property	The property is used in a manner that is other than what it has been intended for.	Low (3)	Property inspection to be conducted annually

Risk Matrix

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

Voting Requirements

Simple Majority

Conclusion

As the development is deemed compatible with the General Rural zone and any adverse impacts can be appropriately managed by enforcement of the approval conditions, the officer supports the development application, subject to the conditions outlined.

OFFICER RECOMMENDATION – ITEM NO 10.3.2

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR RURAL PRODUCTION UPON LOTS 219 AND 220 MAHOON ROAD, WEST ISLAND, SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTE:

- A. THE APPROVED USE SHALL BE UNDERTAKEN STRICTLY IN ACCORDANCE WITH THE DOCUMENTATION SUBMITTED IN SUPPORT OF THE APPLICATION SUBJECT TO ANY MODIFICATIONS REQUIRED AS A CONSEQUENCE OF ANY CONDITION/S OF THIS APPROVAL OR OTHERWISE APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS.
- B. ANY ADDITIONAL DEVELOPMENT WHICH IS NOT IN ACCORDANCE WITH THE APPLICATION THE SUBJECT OF THIS APPROVAL OR ANY CONDITION OF APPROVAL WILL REQUIRE THE FURTHER APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.
- C. ONSITE SALES TO PUBLIC ARE RESTRICTED TO THE HOURS OF 9AM TO 12PM TUESDAY AND WEDNESDAYS.
- D. THE APPROVAL FOR THE USE HEREBY PERMITTED ALLOWS THE USE TO BE OPERATED BY ANTHONY KEVIN LACY. IF THE OPERATOR CEASES TO OPERATE THE USE ON THE SUBJECT SITE, THE APPROVAL FOR THE USE SHALL EXPIRE.
- E. THE APPROVED USE MUST NOT CAUSE NUISANCE OR DEGRADE THE AMENITY OF WEST ISLAND IN ANY WAY, INCLUDING BY REASON OF THE EMISSION OF NOISE, LIGHT, ODOUR, FUMES, SMOKE, VAPOUR OR OTHER POLLUTANT, OR IMPACT ON PUBLIC SAFETY OR OTHERWISE; TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTE:

IF THE APPLICANT/LANDOWNER IS AGGRIEVED BY THIS DETERMINATION, THERE IS A RIGHT OF REVIEW BY THE STATE ADMINISTRATIVE TRIBUNAL IN ACCORDANCE WITH PART 14 OF THE *PLANNING AND DEVELOPMENT ACT 2005*. AN APPLICATION MUST BE SUBMITTED WITHIN 28 DAYS OF THE DETERMINATION.

COUNCIL RESOLUTION – ITEM NO 10.3.2

MOVED CR IKU

SECONDED CR YOUNG

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR RURAL PRODUCTION UPON LOTS 219 AND 220 MAHOON ROAD, WEST ISLAND, SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTE:

- A. THE APPROVED USE SHALL BE UNDERTAKEN STRICTLY IN ACCORDANCE WITH THE DOCUMENTATION SUBMITTED IN SUPPORT OF THE APPLICATION SUBJECT TO ANY MODIFICATIONS REQUIRED AS A CONSEQUENCE OF ANY CONDITION/S OF THIS APPROVAL OR OTHERWISE APPROVED BY THE SHIRE OF COCOS (KEELING) ISLANDS.
- B. ANY ADDITIONAL DEVELOPMENT WHICH IS NOT IN ACCORDANCE WITH THE APPLICATION THE SUBJECT OF THIS APPROVAL OR ANY CONDITION OF APPROVAL WILL REQUIRE THE FURTHER APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.

- C. ONSITE SALES TO PUBLIC ARE RESTRICTED TO THE HOURS OF 9AM TO 12PM TUESDAY AND WEDNESDAYS.
- D. THE APPROVAL FOR THE USE HEREBY PERMITTED ALLOWS THE USE TO BE OPERATED BY ANTHONY KEVIN LACY. IF THE OPERATOR CEASES TO OPERATE THE USE ON THE SUBJECT SITE, THE APPROVAL FOR THE USE SHALL EXPIRE.
- E. THE APPROVED USE MUST NOT CAUSE NUISANCE OR DEGRADE THE AMENITY OF WEST ISLAND IN ANY WAY, INCLUDING BY REASON OF THE EMISSION OF NOISE, LIGHT, ODOUR, FUMES, SMOKE, VAPOUR OR OTHER POLLUTANT, OR IMPACT ON PUBLIC SAFETY OR OTHERWISE; TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTE:

IF THE APPLICANT/LANDOWNER IS AGGRIEVED BY THIS DETERMINATION, THERE IS A RIGHT OF REVIEW BY THE STATE ADMINISTRATIVE TRIBUNAL IN ACCORDANCE WITH PART 14 OF THE *PLANNING AND DEVELOPMENT ACT 2005*. AN APPLICATION MUST BE SUBMITTED WITHIN 28 DAYS OF THE DETERMINATION.

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

FOR: HAMIRIL, IKU, MINKOM, YOUNG

AGAINST: NIL

Cr Lacy returned to the meeting venue at 4.18pm.

10.4 ADMINISTRATION

10.4.1 2021 COMPLIANCE AUDIT RETURN

Report Information

Date: 16 March 2022
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Governance and Risk Coordinator
 Island: Shire Wide
 Attachments: 10.4.1 - 2021 Compliance Audit Return

Authority / Discretion

Definition

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

Report Purpose

To refer the Shire's responses to the Department of Local Government Compliance Audit Return 2021 to Council for its consideration and adoption.

Relevant Documents

Available for viewing at the meeting

Nil

Background

In accordance with Regulation 14 of the *Local Government (Audit) Regulations 1996* each local government in Western Australia must carry out an annual audit of statutory compliance for the period 1 January to 31 December, in the form of Department of Local Government Compliance Audit Return.

The 2021 Compliance Audit Return focuses on high-risk areas of compliance and statutory reporting as prescribed in regulation 13 of the *Local Government (Audit) Regulations 1996*.

The Audit Committee is required to review the completed CAR and report the results to Council, prior to CAR adoption by Council and submission to the Department of Local Government, Sport and Cultural Industries by 31 March 2022.

Comment

Any reporting of non-compliance in the CAR is a reminder for local government officers to engage with elected members via the audit committee to provide Council with a plan and timeframe within which to address non-compliance.

Policy and Legislative Implications

Local Government (Audit) Regulations 1996

Financial Implications

Nil

Strategic Implications

Nil

Risk Implication

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Compliance	It is a Legislative requirement of council which must be adhered to.	Med (1)	A monthly Compliance Calendar assists the Shire to ensure Legislation is adhered to.

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

The CAR is a timely reminder of the various areas of compliance required by local governments and is a sound mechanism to test compliance and areas on which to focus improvements

AUDIT AND GOVERNANCE COMMITTEE RECOMMENDATION – ITEM NO 10.4.1

1. THAT COUNCIL, PURSUANT TO *REGULATION 14 OF THE LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996*, RESOLVES TO:
 - a. NOTE THAT IT HAS REVIEWED THE COMPLIANCE AUDIT RETURN 2021 FOR THE SHIRE OF COCOS (KEELING) ISLANDS; AND
 - b. RECEIVES THE COMPLIANCE AUDIT RETURN 2021 FOR THE SHIRE OF COCOS (KEELING) ISLANDS.

COUNCIL RESOLUTION – ITEM NO 10.4.1

MOVED CR IKU

SECONDED CR HAMIRIL

1. THAT COUNCIL, PURSUANT TO *REGULATION 14 OF THE LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996*, RESOLVES TO:
 - a. NOTE THAT IT HAS REVIEWED THE COMPLIANCE AUDIT RETURN 2021 FOR THE SHIRE OF COCOS (KEELING) ISLANDS; AND
 - b. RECEIVES THE COMPLIANCE AUDIT RETURN 2021 FOR THE SHIRE OF COCOS (KEELING) ISLANDS.

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

FOR: HAMIRIL, IKU, LACY, MINKOM, YOUNG

AGAINST: NIL

10.4.2 AUDIT ACTIONS STATUS REPORT – MARCH 2022

Report Information

Date: 16 March 2022
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: Not Applicable
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.4.2.1 - Confidential Attachment - Audit Actions Status Report

Authority / Discretion

Definition

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

Report Purpose

For Council to receive a report on the status of Audit Actions presented by internal and external auditors and other improvements as identified by officers.

Relevant Documents

Available for viewing at the meeting

Nil

Background

Local governments are required by the *Local Government Act* and associated regulations to carry out a number of audits/reviews, being:

- Annual financial audit – conducted by the Office of the Auditor General (s7.12AB)
- Systems and Controls Audit (LG Audit Regulation 17.)
- Review of Financial Management Systems and Procedures (LG Financial Management Regulation 5.) – conducted internally or by external consultant/auditor
- Other supplementary or performance audits as directed by the Office of the Auditor General (s7.12AF/s7.12AJ)

Some local governments are additionally utilising a formal internal audit program to ensure risk is managed, and opportunities for continuous improvement are identified.

At the conclusion of any of these audits, the auditor/reviewer, where required, will issue a management report, outlining any identified issues/risks and in most cases a recommendation for improvement. It is then up to management to determine the solution to be implemented and carry out the action.

Comment

It is important for the Audit Committee to maintain oversight of the status of any required actions, ensuring risks are managed effectively. For many councils, it is common practice that audit actions (be it internal or external audits) statuses are reported to the Committee to ensure that actions are closed out. To date, the Shire of Cocos (Keeling) Islands reports to the Committee at the conclusion of each Audit the management letter and any issues identified, provide comment, however where actions may not have been closed out, these can fall away and remain open/unactioned for a many reasons.

Officers have reviewed all Audit reports going back two years, collated all issues/actions listed and provided an update to the status as contained in Confidential Attachment 7.2.1. By incorporating this as a regular report to the Audit Committee it will ensure that accountability and transparency is maintained, and the Committee maintains oversight, identifying any high risks to the Shire.

This is a new process for the Shire and officers, and actions will be progressed as a matter of importance, however it must be noted that this will require a change management focus within the organisation and the process and report will continue to evolve over time.

Policy and Legislative Implications

Section 7.12A of the Local Government Act (WA) (CKI)

Local Government (Audit) Regulations 1996

17. CEO to review certain systems and procedures

(1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to –

(a) risk management; and

- (b) internal control; and*
- (c) legislative compliance.*

(2) The review may relate to any or all of the matters referred to in sub regulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.

(3) The CEO is to report to the audit committee the results of that review.

Local Government (Financial Management) Regulations 1996

5. CEO's duties as to financial management

(1) Efficient systems and procedures are to be established by the CEO of a local government —

- (a) for the proper collection of all money owing to the local government; and*
- (b) for the safe custody and security of all money collected or held by the local government; and*
- (c) for the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process); and*
- (d) to ensure proper accounting for municipal or trust —*
 - (i) revenue received or receivable; and*
 - (ii) expenses paid or payable; and*
 - (iii) assets and liabilities; and*
- (e) to ensure proper authorisation for the incurring of liabilities and the making of payments; and*
- (f) for the maintenance of payroll, stock control and costing records; and*
- (g) to assist in the preparation of budgets, budget reviews, accounts and reports required by the Act or these regulations.*

(2) The CEO is to —

- (a) ensure that the resources of the local government are effectively and efficiently managed; and*
- (b) assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and*
- (c) undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 3 financial years) and report to the local government the results of those reviews.*

Financial Implications

Nil

Strategic Implications

Nil

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	High risk actions may remain outstanding, putting the Shire's financial controls at risk, and open to fraudulent action.	Moderate	Close out all actions as soon as possible and look for continuous improvement opportunities.
Reputation	Consecutively not completing audit recommendations can result in reputation risk to the Shire, and Local Government.	Moderate (6)	Providing the report to the Committee will ensure that transparency and accountability is maintained.
Fraud	High risk actions may remain outstanding, putting the Shire's financial controls at risk, and open to fraudulent action.	Moderate	Close out all actions as soon as possible and look for continuous improvement opportunities.

Risk Matrix

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

Conclusion

That Council receive the Audit Actions Status report for March 2022.

AUDIT AND GOVERNANCE COMMITTEE RECOMMENDATION – ITEM NO 10.4.2

THAT COUNCIL, PURSUANT TO *REGULATION 16 OF THE LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996 (WA) (CKI)* RECEIVE THE AUDIT ACTIONS STATUS REPORT FOR MARCH 2022 AS CONTAINED IN CONFIDENTIAL ATTACHMENT 10.4.2.1.

COUNCIL RESOLUTION – ITEM NO 10.4.2

MOVED CR YOUNG

SECONDED CR IKU

THAT COUNCIL, PURSUANT TO *REGULATION 16 OF THE LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996 (WA) (CKI)* RECEIVE THE AUDIT ACTIONS STATUS REPORT FOR MARCH 2022 AS CONTAINED IN CONFIDENTIAL ATTACHMENT 10.4.2.1.

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

FOR: HAMIRIL, IKU, LACY, MINKOM, YOUNG

AGAINST: NIL

10.4.3 IT HEALTH CHECK – FEBRUARY 2022

Report Information

Date: 16 March 2022
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: Not Applicable
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.4.3.1 - Confidential Attachment – IT Health Check – February 2022

Authority / Discretion

Definition

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

Report Purpose

For Council to receive the IT Health Check Report resulting from the IT Health Check conducted at the Shire Offices in February 2022.

Relevant Documents

Available for viewing at the meeting

Nil

Background

In the Office of Auditor General's Audit Report for *Local Government General Computer Controls* the Auditor General states:

Information systems underpin most aspects of LG entity operations and services. It is important that entities implement appropriate controls to maintain reliable, secure and resilient information systems. These controls are equally important in smaller LG entities who may not have dedicated IT staff but rely on contractors to provide the necessary support.

The Shire of Cocos (Keeling) Islands (the Shire) meets this definition with an internal resource to support an outsourced IT Service Provider.

It is the CEO's responsibility to ensure that there are sufficient systems and procedures in place to mitigate any risks to the organisation.

Focus Networks were appointed to perform an IT health check for the Shire's network and IT systems. The objective of the IT health check is to review the current IT environment, compare to industry best practices, make recommendations for the future and to suggest budget estimates.

Comment

The primary goal of IT is to support the business objectives of the Shire of Cocos (Keeling) Islands and to facilitate efforts to provide efficient and effective services to its community and stakeholders. An enterprise wide approach means many future technology efforts will cross multiple areas of operations with a single goal in mind. This environment requires technology to be used as the basis for communication, interoperability, data and resource sharing. Furthermore, technology is a vehicle through which cost reduction can occur by increasing efficiency and effectiveness of services through the use of a sound corporate architecture and standards.

Confidential Attachment 10.4.3.1 contains the resulting IT Health Check Report. This report is based on the DLGSCI ICT Strategic Framework, however there is overlap with the ACSC Essential 8 Guidelines.

A number of high-risk weaknesses were encountered in the following areas:

Governance, Infrastructure and Technology, Business Continuity, Security and Project Management

Industry best practices and the current state are identified within the IT health check along with future state recommendations for each area. Key strategic initiatives are risk based and provided as a priority timeframe. Rectification of these identified weaknesses in the current state is both urgent and important to preventing a potential future failure.

Policy and Legislative Implications

Section 7.12A of the Local Government Act (WA) (CKI)

Local Government (Audit) Regulations 1996

17. CEO to review certain systems and procedures

(1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —

(a) risk management; and

(b) internal control; and

(c) legislative compliance.

(2) The review may relate to any or all of the matters referred to in sub regulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.

(3) The CEO is to report to the audit committee the results of that review.

Local Government (Financial Management) Regulations 1996

5. CEO's duties as to financial management

(1) Efficient systems and procedures are to be established by the CEO of a local government —

(a) for the proper collection of all money owing to the local government; and

(b) for the safe custody and security of all money collected or held by the local government; and

(c) for the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process); and

(d) to ensure proper accounting for municipal or trust —

(i) revenue received or receivable; and

(ii) expenses paid or payable; and

(iii) assets and liabilities; and

(e) to ensure proper authorisation for the incurring of liabilities and the making of payments; and

(f) for the maintenance of payroll, stock control and costing records; and

(g) to assist in the preparation of budgets, budget reviews, accounts and reports required by the Act or these regulations.

(2) The CEO is to —

(a) ensure that the resources of the local government are effectively and efficiently managed; and

(b) assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and

(c) undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 3 financial years) and report to the local government the results of those reviews.

Financial Implications

The resulting report outlines budget estimates to resolve the issues identified. Officers have not yet determined current budget allocation and where there is suitable budget in the current year, high risk actions will be implemented. Where there is no budget allocation, it is recommended that these be considered as part of future budget discussions.

Full details of the budget estimates associated with the recommendations can be found in Confidential Attachment 10.4.3.1 – IT Health Check Report.

Strategic Implications

Shire of Cocos Keeling Islands Corporate Business Plan:

Key Result Area 4 – Civic Leadership

Objective 4 - Ensure efficient and effective management of the organization and financial resources

Risk Implications

Risk implications are outlined within the report.

Conclusion

That Council receive the IT Health Check Report and that the recommendations within the report be considered in the current and future budget allocations.

AUDIT AND GOVERNANCE COMMITTEE RECOMMENDATION – ITEM NO 10.4.3

THAT COUNCIL, PURSUANT TO *REGULATION 16 OF THE LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996 (WA) (CKI)*:

1. RECEIVE THE IT HEALTH CHECK REPORT AS CONTAINED IN CONFIDENTIAL ATTACHMENT 10.4.3.1; AND
2. ACKNOWLEDGE THE RISK TO THE SHIRE SHOULD THE RECOMMENDATIONS WITHIN THE IT HEALTH CHECK REPORT REMAIN OUTSTANDING AND CONSIDER IMPLEMENTING THE RECOMMENDATIONS WITHIN THE CURRENT AND FUTURE BUDGET ALLOCATIONS.

COUNCIL RESOLUTION – ITEM NO 10.4.3

MOVED CR IKU

SECONDED CR HAMIRIL

THAT COUNCIL, PURSUANT TO *REGULATION 16 OF THE LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996 (WA) (CKI)*:

- 1. RECEIVE THE IT HEALTH CHECK REPORT AS CONTAINED IN CONFIDENTIAL ATTACHMENT 10.4.3.1; AND**
- 2. ACKNOWLEDGE THE RISK TO THE SHIRE SHOULD THE RECOMMENDATIONS WITHIN THE IT HEALTH CHECK REPORT REMAIN OUTSTANDING AND CONSIDER IMPLEMENTING THE RECOMMENDATIONS WITHIN THE CURRENT AND FUTURE BUDGET ALLOCATIONS.**

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

FOR: HAMIRIL, IKU, LACY, MINKOM, YOUNG

AGAINST: NIL

10.4.4 WEST ISLAND RECREATIONAL BOAT RAMP

Report Information

Date: 23 March 2022
 Applicant: NA
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Infrastructure Manager
 Island: West Island
 Attachments: Nil

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 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 an update to Council on the maintenance of the West Island Recreational Boat Ramp ('the ramp') and recent feedback from the community. Seek Council support in advocating to Government Agencies for the development of a fit for purpose facility which meets current Australian Standards and guidelines.

Relevant Documents

Nil

Background

History

At the initiative of the community, the ramp was constructed in 2009/2010 by the Shire with Commonwealth and State funding.

Records suggest the ramp was initially constructed to sit above the shoreline, however documented evidence suggest that shortly after completion the beach profile had changed such that the ramp was lost beneath the sand.

At that time, it was proposed that the accumulation did not reflect what would occur during the seasons and rather related to overfill of the beach by a sub-contractor associated with the Rumah Baru development. In 2012, additional funding was sought to undertake an extensive excavation process to remove upwards of 5000m³ to access the new ramp.

Despite the excavation process in 2012, further records suggest that the accumulation has been an ongoing issue which can impact access to the ramp for significant periods each year.

Maintenance

The Shire has been maintaining access to the ramp. This maintenance has included cleaning the sand from the ramp on a weekly basis (or as required when resources permit). Annual maintenance costs have increased from \$10,000 in 13/14 to \$31,000 in 20/21 with a peak of \$44,000 in 14/15.

Maintenance has involved using the Shire loader and moving sand from the ramp to a stockpile site on the leased land nearby. We have recently been advised that we are no longer permitted to deposit the sand on the land leased to the Commonwealth.

The current accumulation of sand on the ramp is such that regular maintenance does not achieve anything but provide immediate access. It is the case that within hours of cleaning the ramp it is covered with 500mm plus sand.

Further, loading and transporting the sand to a site outside the Commonwealth lease would be costly and pull resources from other projects.

In addition, local businesses regularly clean the boat ramp as a service to the community to ensure access for commercial and recreational users.

Ownership

The ownership of land between the high and low water mark is not clear and staff are seeking clarification.

The land adjoining the recreational boat ramp is leased to the Commonwealth.

The value of Councils contribution to the boat ramp (in-kind labour and resources) was capitalised at the time but the ramp is not identified in asset management plans developed in 2013.

Community Feedback

Recently the community have provided significant verbal and written feedback identifying difficulties accessing the ramp and concerns with wave action making launch and retrieval difficult. Vehicles and trailers being bogged is a regular occurrence and verbal reports of personal injury and the high risk associated with launching and retrieving boats is known.

This has a significant impact on both commercial operators and recreational users.

Comment

Ownership and responsibility for the ramp is not clear. Staff are seeking clarification from the Commonwealth.

There is currently no efficient and sustainable way to maintain the ramp for community access.

The ramp does not comply with current Australian Standards and does not meet the requirements identified in the *Guidelines for the design of boat launching facilities in Western Australia*.

The Shire, as representative of the community, should consider advocating for the development of a new boat ramp facility which meets the requirements of the community and is designed to the standards and guidelines required elsewhere in Australia.

Policy and Legislative Implications

Nil

Financial Implications

Current maintenance expenditure on the boat ramp is \$21,000 from a \$25,000 budget.

The Shire does not have a long-term financial plan and the boat ramp is not identified in asset management plans developed in 2013.

Strategic Implications

A new ramp facility on West Island has been a request from the community for many years and is documented as below:

Our Cocos (Keeling) Islands 2030 Strategic Plan (March 2019) – E1.8 Seek funding for infrastructure to maximise community well-being (see SOCKI list of projects). HIGH PRIORITY

Cocos (Keeling) Islands Masterplan (April 2019) - 71. Establish a better boat ramp that could double as a breakwater for the small boat marina, potentially with a ramp on either side.

Conclusion

Issues associated with the ramp on West Island have been ongoing since its construction. The facility is not fit for purpose, does not meet necessary Australian Standards and the Shire can no longer achieve the maintenance service levels expected by the community.

Knowledge of safety hazard and risk associated with the ramp including vehicle bogging and personal injury have the potential to expose the responsible party to litigation.

COUNCIL RESOLUTION

MOVED CR LACY

SECONDED CR IKU

THAT COUNCIL SUSPEND STANDING ORDERS, THE TIME BEING 4.25PM.

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

FOR: HAMIRIL, IKU, LACY, MINKOM, YOUNG

AGAINST: NIL

COUNCIL RESOLUTION

MOVED CR LACY

SECONDED CR YOUNG

THAT COUNCIL RESUME STANDING ORDERS, THE TIME BEING 4.41PM.

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

FOR: HAMIRIL, IKU, LACY, MINKOM, YOUNG

AGAINST: NIL

OFFICER RECOMMENDATION

THAT COUNCIL, BY SIMPLE MAJORITY:

1. RECEIVE THE INFORMATION CONTAINED WITHIN THIS REPORT;
2. NOTE THAT UNDER THE CURRENT CONDITIONS AND FUNDING ARRANGEMENT THE SHIRE CAN NO LONGER MAINTAIN THE BOAT RAMP TO MEET THE SERVICE LEVEL EXPECTATIONS OF THE COMMUNITY;
3. ADVOCATE TO THE RELEVANT COMMONWEALTH AGENCIES FOR THE CONSTRUCTION OF A NEW FIT FOR PURPOSE BOAT LAUNCHING FACILITY ON WEST ISLAND WHICH MEETS CURRENT STANDARDS FOR RECREATIONAL BOATING FACILITIES; AND
4. REQUEST STAFF INVESTIGATE TEMPORARY SOLUTIONS TO ENSURE A BOAT LAUNCHING FACILITY IS ACCESSIBLE WHILST FUNDING, CONSTRUCTION AND OWNERSHIP OF A NEW FACILITY IS DETERMINED.

COUNCIL RESOLUTION – ITEM NO 10.4.4

MOVED CR LACY

SECONDED CR YOUNG

THAT COUNCIL, BY SIMPLE MAJORITY:

- 1. RECEIVE THE INFORMATION CONTAINED WITHIN THIS REPORT;**
- 2. NOTE THAT UNDER THE CURRENT ENVIRONMENTAL CONDITIONS, PUBLIC SAFETY CONCERNS AND LACK OF FUNDING ARRANGEMENTS THE SHIRE CAN NO LONGER MAINTAIN THE BOAT RAMP TO MEET THE SERVICE LEVEL EXPECTATIONS OF THE COMMUNITY;**
- 3. ADVOCATE TO THE RELEVANT COMMONWEALTH AGENCIES FOR THE CONSTRUCTION OF A NEW FIT FOR PURPOSE BOAT LAUNCHING FACILITY ON WEST ISLAND WHICH MEETS CURRENT STANDARDS FOR RECREATIONAL BOATING FACILITIES; AND**
- 4. REQUEST STAFF INVESTIGATE TEMPORARY SOLUTIONS TO ENSURE A BOAT LAUNCHING FACILITY IS ACCESSIBLE WHILST FUNDING, CONSTRUCTION AND OWNERSHIP OF A NEW FACILITY IS DETERMINED.**

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

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

AGAINST: NIL

11. MINUTES TO BE RECEIVED

11.1 MINUTES FROM AUDIT AND GOVERNANCE COMMITTEE MEETING TO BE RECEIVED

Report Information

Date: 16 March 2022
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Governance and Risk Coordinator
 Island: Shire Wide
 Attachments: 11.1.1 - Audit and Governance Committee Meeting Minutes
 (Unconfirmed) 16 March 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 type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Summary

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

Background

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

Comment

The attached minutes are the unconfirmed minutes of the meeting of Audit and Governance Committee of Council held on the 16 March 2022.

Consultation

N/A

Financial Implications

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

Risk Implications

Nil

Policy Implications

Nil

Statutory Implications

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

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

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

Strategic Implications

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

Voting Requirements

Simple majority

Conclusion

That the minutes of the Audit and Governance Committee meeting held on the 16 March 2022 be received.

OFFICER RECOMMENDATION – ITEM NO 11.1

THAT COUNCIL, BY SIMPLE MAJORITY PURSUANT TO *SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995* RESOLVES TO RECEIVE THE MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING HELD ON 16 MARCH 2022.

COUNCIL RESOLUTION – ITEM NO 11.1

MOVED CR IKU

SECONDED CR YOUNG

THAT COUNCIL, BY SIMPLE MAJORITY PURSUANT TO *SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995* RESOLVES TO RECEIVE THE MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE MEETING HELD ON 16 MARCH 2022.

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

FOR: HAMIRIL, IKU, LACY, MINKOM, YOUNG

AGAINST: NIL

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

Nil

13. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL

Nil

14. MATTERS BEHIND CLOSED DOORS

Nil

15. MATTERS RELATING TO THE LAND TRUSTS



MATTERS RELATING TO THE LAND TRUST 1979 AND LAND TRUST 1984

The Australian Government transferred ownership of portions of land on the Cocos (Keeling) Islands, under two separate deeds, to the Territory's local government being the Cocos (Keeling) Islands Council. On 1 July 1992, the Territories Law Reform Act came into effect by which the Commonwealth Government applied Western Australian laws to the Cocos (Keeling) Islands. The *Local Government (Transition) Ordinance 1992* established the Shire of the Cocos (Keeling) Islands by absorbing the Cocos (Keeling) Islands Council. By this arrangement, the body corporate called the Shire of Cocos (Keeling) Islands became the Trustee for both Land Trusts. Decisions relating to the Trust are made by Council as the decision-making arm of the body corporate.

The 1979 Deed: The 1979 Trust Deed applies to all of the land above the high-water mark on Home Island, except Lot 13, Lot 14 and Pulu Gangsa (Cemetery Island). The Deed states that the land is to be held 'upon trust for the benefit, advancement and wellbeing of the community formed by the Kampong residents.' No other terms were expressed in the Deed. 'Kampong residents' were described in the 1979 Trust Deed as 'the residents from time to time of the Kampong area'.

The 1984 Deed: The 1984 Trust Deed applies to all parcels of land situated and being above high-water mark within the Cocos (Keeling) Islands, including North Keeling Island, but not including parcels of land as described in the First Schedule of the 1984 Trust Deed. This transferred land was to be held by the Council (and later, by its successor, the Shire) 'upon trust for the benefit, advancement and wellbeing of the Cocos (Keeling) Islander's resident in the Territory on land owned by the Council.'

15.1 TRUSTS ADMINISTRATION

Nil

15.2 TRUSTS LEASES

15.2.1 LOTS 223 AND 224 TRANNIES BEACH – REQUEST TO LEASE – COCOS ECO RESORT

Report Information

Date: 11 March 2022
 Location: Lots 223 and 224 Trannies Beach, West Island
 Applicant: Mr C Blakeman
 File Ref: Not Applicable
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: West Island
 Attachments: 15.2.1.1 – Confidential - Written Submissions and response from proponent - Trannies Beach Resort Proposal

Authority / Discretion

Definition

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

Report Purpose

The purpose of this report is for Council to receive an update on community consultation conducted and to consider the next step in relation to a request to lease Lots 223 and 224 Trannies Beach, West Island.

It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the 1984 Land Trusts as the Land (Lots 223 and 224 West Island) is held in Trust. Council, in making any decision in relation to the Trust, must give due consideration of the purpose of the Trust that is *“the benefit, advancement and wellbeing of Cocos (Keeling) Islanders resident in the Territory on land owned by the Council”* and ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to consider matters relating to Land held in Trust.

Relevant Documents

Available for viewing at the meeting

Nil

Background

Mr Chris Blakeman contacted the Shire to request Council consideration to lease Lots 223 and 224 Trannies Beach, West Island for the purposes of developing a tourist resort, Cocos Eco Resort.

The concept design for a “family friendly eco resort” includes a combination of 1, 2 and 3 Bed Villa’s and backpacker type accommodation. The concept estimates approximately 153 rooms will be part of the resort in addition to staff housing requirements. Other amenities include restaurant/dining areas, swimming pool, bar, and plant nursery. With the staff and patrons at 100% the estimated additional people on island for/at the resort would be ~400-500pax.

At the Ordinary Meeting of Council held on 27 October 2021, council considered the initial concept request for lease and resolved as below:

COUNCIL RESOLUTION– ITEM NO 15.2.5

MOVED CR LACY

SECONDED CR HAMIRIL

THAT COUNCIL, ACTING AS TRUSTEE FOR THE 1984 TRUST DEED, BY SIMPLE MAJORITY, AND PURSUANT TO SECTION 3.18 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO:

1. IMPLEMENT THE COMMUNITY AND STAKEHOLDER ENGAGEMENT STRATEGY AS PER ATTACHMENT 15.2.5.4 TO SEEK COMMUNITY AND STAKEHOLDER VIEWS ON THE REQUEST FROM CHRIS BLAKEMAN OF COCOS ECO RESORT;
2. ADVISE THE PROPONENT THAT ANY COSTS IN ADDITION TO STAFF TIME TO CARRY OUT THE COMMUNITY AND STAKEHOLDER ENGAGEMENT WILL BE BORNE BY THE PROPONENT;
3. CONSIDER THE RECOMMENDATIONS FROM THE COMMUNITY AND STAKEHOLDER ENGAGEMENT AND ANY PUBLIC SUBMISSIONS AT AN ORDINARY MEETING OF COUNCIL IN MAKING A DETERMINATION ON THE REQUEST FROM COCOS ECO RESORT; AND
4. ADVISE THE PROPONENT THAT ANY DECISION TO PROGRESS WITH A LEASE WOULD NEED TO ADHERE TO THE STATUTORY PROCESSES AS REQUIRED BY SECTION 3.58 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* AND ASSOCIATED REGULATIONS.

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

FOR: HAMIRIL, IBRAM, LACY, LIU, MINKOM, YOUNG
AGAINST: NIL

Comment

Community and Stakeholder Engagement

Per the Council resolution at its October 2021 meeting, initial Community Consultation has taken place, including calling for written submissions, and holding two community information sessions.

Community Information Sessions

Two community information sessions were held providing an opportunity for community members to seek a greater understanding of the proposal. The proponent and advisers presented on the concept, and community members were able to ask questions and provide informal feedback.

The two sessions are summarised as below:

Home Island IOGTA Training Room - Monday 29 November 2021

No community attendees

West Island CRC, Thursday 2 December 2021

Seven attendees, one left part way through the information session and did not participate in the discussion.

The key feedback points and questions asked at this information session were in the areas of:

- Benefits to the Community
- Viability of the resort given many are failing on the Great Barrier Reef
- Size and scale of the proposal
- Impact on current services i.e. Infrastructure, health
- Impact on environment
- Impact on quiet amenity

Public Submissions

Calls for written submissions on the proposal were advertised in the Atoll on 5 November and 3 December as well as on the Shire's Facebook page and website.

Eight (8) submissions were received from a variety of stakeholders (Local residents, property owners, business owners/accommodation providers, prior tourists and general members of the public) and have been provided in Confidential Attachment 15.2.1.1. The proponent was given the opportunity to respond to the submissions provided, with the response also contained in Confidential Attachment 15.2.1.1.

Six of the submissions were unsupportive, with two supportive, one of those with conditions.

Community Reference Group (CRG)

As proposed in the community engagement plan presented to council, a community reference group was to be formed to further workshop the proposal and provide feedback as part of the Community Engagement process.

A call for volunteer appointment to the community reference group resulted in six (6) community members expressing interest.

At this point in time the workshop date has not been set. As during the period of community engagement officers further considered all the information at hand as to ensure that officer, the community and the proponents time is best spent.

Should the CRG proceed, Officers will be looking to further encourage greater participation in the workshop to ensure that a reflective cross section of the community is in attendance, including Councillor participation – target 20-30 participants.

Other Information relevant to the Lease Request

During the period of initial community engagement Officers have been further considering other strategic processes currently underway, such as the Strategic Community Plan Review, Coastal Vulnerability and CHRMAP Process which will lead to an update of the Town Planning Scheme, Council Policies, Direction Island Resort Proposal and how these may affect this request.

Strategic Community Plan Review

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

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

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

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

In the five years since the adoption of the Strategic Community Plan and Corporate Business Plan, not only has Cocos (Keeling) Islands, but also the world, has seen varying impacts due to the COVID-19 pandemic that will need to be considered when reviewing the SCP. In addition, the aspirations of the community may have changed and require review.

Coastal Vulnerability Study (CVS) and CHRMAP process

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

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

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

The Australian Government and WADPLH are in the process of collating the information provided in the report and planning community and stakeholder engagement. This is estimated to occur mid-late this year (2022).

CPP 6 - Coastal Development Policy

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

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

Policy Statement:

1. *Development does not occur unless:*
 - *the development is located, designed, and constructed to withstand coastal hazard impacts; or*
 - *the development is temporary, readily relocatable, or able to be demolished and removed; or*

- *the development can mitigate the risks to people and property to an acceptable or tolerable level based on the scientific information available at the time of application.*
- 2. *Design responses are not to have a detrimental impact on the amenity of neighbouring land or the amenity of the locality generally. This includes adversely impacting storm surge inundation levels on adjoining properties.*
- 3. *Development maintains or enhances public access to the foreshore.*
- 4. *Proponents must demonstrate relative to the scale and nature of their development that it prevents directly, indirectly and cumulatively an increase in the severity of coastal hazards and the potential for damage to the site or to other properties.*
- 5. *Buildings are to be designed to withstand structural loads associated with a storm surge inundation. The Shire may, at its discretion, require buildings to be certified by a coastal engineer as adequate to withstand potential erosive action during coastal inundation and/or erosion.*
- 6. *Lower levels of buildings potentially prone to storm surge inundation are to be permeable to allow water to flow through. This would not apply if the design response included fill to the extent that the finished floor level (FFL) of the building is located above the potential level of inundation.*
- 7. *Any development approval is to be conditioned requiring all structures be removed at the cost of the proponent once the current risk of erosion poses a risk to a development or structure, as defined by the following triggers:*
 - *Where a public road is no longer available or able to provide legal access to the property.*
 - *When water, sewage or electricity to the lot is no longer available as they have been removed/ decommissioned by the relevant authority due to coastal hazards.*
 - *Where structural integrity of the building has been compromised.*
- 8. *Any development approval shall (by a condition) require the following notifications to be placed on the Certificate of Title, pursuant to Section 70A of the Transfer of Land Act 1893, or lease documentation:*
VULNERABLE COASTAL AREA - This lot is located in an area likely to be subject to coastal erosion and/or inundation over the 100-planning timeframe (2110).
- 9. *Any development with an estimated cost above \$250,000 shall require an independent assessment by a coastal engineer to certify the suitability of the proposed development or await the finalisation of the Shire's CHRMAP and specific measures to be taken or not taken for the subject land parcel(s).*

10. *Any new development not deemed as infill development will be assessed against the current or likely future capacity of the Cocos (Keeling) Islands' essential services at the time of application in accordance with the Growth & Essential Services Policy.*

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

Town Planning Scheme 2007 - Zoning

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

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

The Strategy is a fundamental part of a local government's planning framework and sets the strategic direction for planning and development in the Shire over the next 10 to 15 years. The Strategy provides the strategic basis for the preparation, implementation and amendments to a Local Planning Scheme. A Scheme is the primary mechanism to implement the Strategy, through various provisions and subsidiary plans like local planning policies.

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

Leasing Strategy/Policy

The Shire of Cocos (Keeling) Islands is the legal owner of Property on the islands and in most cases of land, is the Trustee for Land held in two Land Trusts.

The purposes of each of trust are as follows:

- 1979 Land Trust - *"for the benefit, advancement and wellbeing of the community formed by Kampong residents"*
- 1984 Land Trust - *"the benefit, advancement and wellbeing of Cocos (Keeling) Islanders resident in the Territory on land owned by the Council"*

Council when making decisions as Trustee must ensure their decision-making is guided by these objectives.

The Shire also manages some Reserves which are available for leasing and licensing purposes for specific periods and purposes as set by the Crown.

Council from time to time may choose to enter into a Lease or Licence agreement with a third party. The disposal of land is covered under the *Local Government Act 1995(WA) (CKI)* and the *Local Government (Functions and General) Regulations 1996*.

With an increase in unsolicited requests to lease land it is imperative that Council consider a strategy for the future leasing of land and sets policy that provides for principles to ensure that all requests to lease or licence Shire of Cocos (Keeling) Islands owned, managed or controlled Property, including Crown land:

- are dealt with in a fair, equitable, and where possible, a consistent manner.
- minimise the risk to the Shire of Cocos (Keeling) Islands and to maximise the overall benefit to the community.
- ensure compliance with the *Local Government Act 1995 (WA) (CKI)* and any other relevant laws, and Shire policies.
- provide criteria for assessing applications against the purposes of the land trusts (when relevant)

With so many outstanding key strategic processes yet to be completed or currently going through review Officers recommend that Council discontinue with the land lease request at this stage.

Once the Shire is in a better strategic position to understand the future challenges and desires of the Community and it remain a priority to encourage tourism development at Trannies Beach officers will be in a better position to workshop with council and the community to develop a business case and concept for these lots.

Officers recognise that Council may wish to continue with the Community Reference Group engagement and provide the following options for consideration.

Option One (Recommended)

Given the number of current uncertainties, informing strategies, policies and processes currently underway and/or requiring review, it is proposed that Council reconsider their intentions for lots 223 and 224 Trannies Beach at a future date once the following items have been achieved to better inform them in their decision making:

1. Adopted Major review of Strategic Community Plan (Estimated mid 2022)
2. Received the information held in the Coastal Vulnerability Study (Estimated Mid-late 2022)
3. Based on the results of the CVS, at a minimum have a timeline for the CHRMAP Process (usually ~18months)

4. Council to consider their position on adopting Local Planning Strategy and reviewing Local (Town) Planning Scheme before the CHRMAP process is carried out or at the conclusion of the CHRMAP process
5. Develop a leasing strategy and policy for all trust land in the Shire.

Option Two

Conduct the community reference group engagement session and reconsider the request to lease Lots 223 and 224 Trannies Beach upon receiving the outcomes of this session.

The reason that Officers do not support this option is due to the proponent, community and Shire resources involved in conducting this session noting that the above key strategic processes will remain underway and unresolved at this point in time.

Policy and Legislative Implications

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

Financial Implications

There are no direct financial implications associated with this report.

Strategic Implications

Strategic Community Plan 2026:

Key Result Area 1 – Economic:

Outcome 1.1. *Encourage economic stability for the Islands.*

Key Result Area 4 – Civic Leadership:

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*

Voting Requirements

Simple Majority

Conclusion

Due to the current strategic processes underway, the Officer recommended option is for Option One presented above, to not respectfully decline the request to lease Lots 223 and 224 Trannies Beach and for Council to reconsider their intentions at a later date.

Cr Lacy moved a motion different from the Officer's Recommendation to delete Point 2 from the Motion and include Option 2 from the Officer's report that Council conduct the community reference group engagement session and reconsider the request to lease Lots 223 and 224 Trannies Beach upon receiving the outcomes of this session.

Delete from the Motion:

- *Respectfully decline the proponents request to lease lots 223 and 224 trannies beach;*

Cr Iku seconded Cr Lacy's motion.

COUNCIL RESOLUTION

MOVED CR LACY

SECONDED CR IKU

THAT COUNCIL SUPSEND STANDING ORDERS, THE TIME BEING 4.52PM.

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

FOR: HAMIRIL, IKU, LACY, MINKOM, YOUNG

AGAINST: NIL

Members of the public left the meeting room at 5.20pm.

COUNCIL RESOLUTION

MOVED CR LACY

SECONDED CR YOUNG

THAT COUNCIL RESUME STANDING ORDERS, THE TIME BEING 5.24PM.

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

FOR: HAMIRIL, IKU, LACY, MINKOM, YOUNG

AGAINST: NIL

COUNCIL RESOLUTION

MOVED CR LACY

SECONDED CR IKU

THAT COUNCIL, BY SIMPLE MAJORITY:

- 1. RECEIVE THE WRITTEN SUBMISSIONS ON THE REQUEST TO LEASE LOTS 223 AND 224 TRANNIES BEACH AS CONTAINED IN CONFIDENTIAL ATTACHMENT 15.2.1.1 AND DIRECT THE CEO TO PROVIDE THE OUTCOME OF THIS REPORT TO EACH SUBMISSION;**
- 2. CONDUCT THE COMMUNITY REFERENCE GROUP ENGAGEMENT SESSION AND RECONSIDER THE REQUEST TO LEASE LOTS 223 AND 224 TRANNIES BEACH UPON RECEIVING THE OUTCOMES OF THIS SESSION.**

3. RECONSIDER COUNCILS INTENTIONS FOR LOTS 223 AND 224 TRANNIES BEACH AT A FUTURE DATE ONCE THE FOLLOWING ITEMS HAVE BEEN ACHIEVED TO BETTER INFORM THEM IN THEIR DECISION MAKING:
- a) ADOPTED MAJOR REVIEW OF STRATEGIC COMMUNITY PLAN.
 - b) RECEIVED THE INFORMATION HELD IN THE COASTAL VULNERABILITY STUDY.
 - c) BASED ON THE RESULTS OF THE CVS, AT A MINIMUM HAVE A TIMELINE FOR THE CHRMAP PROCESS.
 - d) COUNCIL TO CONSIDER THEIR POSITION ON ADOPTING LOCAL PLANNING STRATEGY AND REVIEWING LOCAL (TOWN) PLANNING SCHEME BEFORE THE CHRMAP PROCESS IS CARRIED OUT OR AT THE CONCLUSION OF THE CHRMAP PROCESS.
 - e) DEVELOP A LEASING STRATEGY FOR ALL TRUST LAND IN THE SHIRE.

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

FOR: NIL

AGAINST: HAMIRIL, IKU, LACY, MINKOM, YOUNG

PROCEDURAL MOTION

MOVED CR LACY

SECONDED CR YOUNG

THAT COUNCIL RESOLVES TO DEFER THIS ITEM TO THE MAY 2022 ORDINARY MEETING OF COUNCIL.

THE MOTION WAS PUT AND DECLARED LOST (2/3)

FOR: LACY, YOUNG

AGAINST: HAMIRIL, IKU, MINKOM,

OFFICER RECOMMENDATION – ITEM NO 15.2.1

THAT COUNCIL, BY SIMPLE MAJORITY:

1. RECEIVE THE WRITTEN SUBMISSIONS ON THE REQUEST TO LEASE LOTS 223 AND 224 TRANNIES BEACH AS CONTAINED IN CONFIDENTIAL ATTACHMENT 15.2.1.1 AND DIRECT THE CEO TO PROVIDE THE OUTCOME OF THIS REPORT TO EACH SUBMISSION;
2. RESPECTFULLY DECLINE THE PROPONENTS REQUEST TO LEASE LOTS 223 AND 224 TRANNIES BEACH;
3. RECONSIDER COUNCILS INTENTIONS FOR LOTS 223 AND 224 TRANNIES BEACH AT A FUTURE DATE ONCE THE FOLLOWING ITEMS HAVE BEEN ACHIEVED TO BETTER INFORM THEM IN THEIR DECISION MAKING:
 - a) ADOPTED MAJOR REVIEW OF STRATEGIC COMMUNITY PLAN.
 - b) RECEIVED THE INFORMATION HELD IN THE COASTAL VULNERABILITY STUDY.
 - c) BASED ON THE RESULTS OF THE CVS, AT A MINIMUM HAVE A TIMELINE FOR THE CHRMAP PROCESS.
 - d) COUNCIL TO CONSIDER THEIR POSITION ON ADOPTING LOCAL PLANNING STRATEGY AND REVIEWING LOCAL (TOWN) PLANNING SCHEME BEFORE THE

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

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

COUNCIL RESOLUTION – ITEM NO 15.2.1

MOVED CR HAMIRIL

SECONDED CR IKU

THAT COUNCIL, BY SIMPLE MAJORITY:

1. RECEIVE THE WRITTEN SUBMISSIONS ON THE REQUEST TO LEASE LOTS 223 AND 224 TRANNIES BEACH AS CONTAINED IN CONFIDENTIAL ATTACHMENT 15.2.1.1 AND DIRECT THE CEO TO PROVIDE THE OUTCOME OF THIS REPORT TO EACH SUBMISSION;
2. RESPECTFULLY DECLINE THE PROPONENTS REQUEST TO LEASE LOTS 223 AND 224 TRANNIES BEACH;
3. RECONSIDER COUNCILS INTENTIONS FOR LOTS 223 AND 224 TRANNIES BEACH AT A FUTURE DATE ONCE THE FOLLOWING ITEMS HAVE BEEN ACHIEVED TO BETTER INFORM THEM IN THEIR DECISION MAKING:
 - a. ADOPTED MAJOR REVIEW OF STRATEGIC COMMUNITY PLAN.
 - b. RECEIVED THE INFORMATION HELD IN THE COASTAL VULNERABILITY STUDY.
 - c. BASED ON THE RESULTS OF THE CVS, AT A MINIMUM HAVE A TIMELINE FOR THE CHRMAP PROCESS.
 - d. COUNCIL TO CONSIDER THEIR POSITION ON ADOPTING LOCAL PLANNING STRATEGY AND REVIEWING LOCAL (TOWN) PLANNING SCHEME BEFORE THE CHRMAP PROCESS IS CARRIED OUT OR AT THE CONCLUSION OF THE CHRMAP PROCESS.
 - e. DEVELOP A LEASING STRATEGY FOR ALL TRUST LAND IN THE SHIRE.

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

FOR: HAMIRIL, IKU, MINKOM, YOUNG

AGAINST: LACY

