

Shire of Cocos (Keeling) Islands

Shire of Cocos (Keeling) Islands

Minutes

Ordinary Meeting of Council

Wednesday 27 April 2022, 1.00pm

Council Chambers, Administration Building

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 Deputy Presiding member declare the meeting opened at 1.00pm and welcome Councillors and Staff to the meeting.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

Deputy President: Cr S Iku

Councillors: Cr M Hamiril
Cr T Lacy
Cr H Liu

Officers: K Small, Chief Executive Officer
V Lauritsen, Manager Finance and Corporate Services
I Macrae, Governance & Risk Coordinator

Public: 0

Visitors: Nil

Apologies: Cr I Minkom

Approved Leave of Absence: Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

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

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

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

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

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

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

Nil

5. LEAVE OF ABSENCE

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

5.1 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Councillor	Date of Leave	Approved by Council
NIL		

5.2 APPLICATION FOR LEAVE OF ABSENCE

Cr Young requested leave of absence for period 27 April 2022 inclusive be approved.

COUNCIL RESOLUTION

MOVED CR HAMIRIL

SECONDED CR LACY

THAT CR YOUNG BE GRANTED LEAVE OF ABSENCE IN ACCORDANCE TO SECTION 2.25 OF THE LOCAL GOVERNMENT ACT 1995 FOR THE 27 APRIL 2022 INCLUSIVE.

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

FOR: HAMIRIL, IKU, LACY, LIU

AGAINST: NIL

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)

7.1 Ordinary Council Meeting held on 23 March 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 MARCH 2022, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

COUNCIL RESOLUTION

MOVED CR HAMIRIL

SECONDED CR LACY

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 MARCH 2022, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

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

FOR: HAMIRIL, IKU, LACY, LIU

AGAINST: NIL

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

Nil

9. DECLARATION OF INTERESTS

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

Name	Item No.	Interest	Nature
NIL			

10. REPORT AND RECOMMENDATIONS OF COMMITTEE

10.1 FINANCE

10.1.1 MONTHLY FINANCIAL REPORT – MARCH 2022

Report Information

Date: 27 April 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 - 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 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 March 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 March 2022. The current closing municipal surplus for this period is \$2,411,042 compared to a budget position of \$1,825,916. This is considered a satisfactory result for the Shire as it is maintaining a healthy surplus position.

Income for the March 2022 period year to date is \$6,871,509 which is made up \$6,265,070 in operating revenues and \$606,439 in non-operating grants, contributions, and subsidies. The budget estimated \$6,813,009 would be received for the same period. The variance to budget is \$58,500.

Expenditure for the March 2022 period year to date is \$6,284,686. This is made up of \$4,910,635 in operating expenditure and \$1,374,041 in capital expenditure. The budget estimated \$6,829,418 would be spent for the same period. The variance to budget is \$544,732.

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

Policy and Legislative Implications

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

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

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

Strategic Implications

Nil

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action

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

Risk Matrix

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

Conclusion

That the Monthly Financial Report for the period ending 31 March 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 31 MARCH 2022, AS CONTAINED IN ATTACHMENT 10.1.1.1; AND
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 31 MARCH 2022, AS CONTAINED IN ATTACHMENT 10.1.1.1.

COUNCIL RESOLUTION – ITEM NO 10.1.1

MOVED CR LACY

SECONDED CR LIU

- 1. BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDING 31 MARCH 2022, AS CONTAINED IN ATTACHMENT 10.1.1.1; AND**
- 2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 31 MARCH 2022, AS CONTAINED IN ATTACHMENT 10.1.1.1.**

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

FOR: HAMIRIL, IKU, LACY, LIU

AGAINST: NIL

10.1.2 SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD 1 MARCH 2022 TO 31 MARCH 2022

Report Information

Date: 14 April 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 March 2022 to 31 March 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	\$322,716.69
Direct Debit Payment	\$48,188.38
Cheque Payment	\$687.70
Total Payments	\$371,592.77

Contained within Attachment 10.1.2.1 is a detailed transaction listing of credit card expenditure for the period ended 31 March 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 31 March 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 MARCH 2022 TO 31 MARCH 2022 TOTALLING \$371,592.77 AS CONTAINED IN ATTACHMENT 10.1.2.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 31 MARCH 2022, AS CONTAINED IN ATTACHMENT 10.1.2.1.

COUNCIL RESOLUTION – ITEM NO 10.1.2

MOVED CR HAMIRIL

SECONDED CR LACY

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 MARCH 2022 TO 31 MARCH 2022 TOTALLING \$371,592.77 AS CONTAINED IN ATTACHMENT 10.1.2.1.

2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD ENDED 31 MARCH 2022, AS CONTAINED IN ATTACHMENT 10.1.2.1.

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

FOR: HAMIRIL, IKU, LACY, LIU,
AGAINST: NIL

10.1.3 DIFFERENTIAL RATING 2022/2023 FINANCIAL YEAR

Report Information

Date: 20 April 2022
 Location: Not Applicable
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Manager Finance & Corporate Services
 Island: Shire Wide
 Attachments: 10.1.3.1 – Statement of Objectives and Reasons – Differential Rates 2022-2023

Authority / Discretion

Definition

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

Report Purpose

This report is provided for Council to consider the Statement of Objects and Reasons and the proposed differential rates and minimum payments for the 2022/2023 financial year for the purpose of advertising and seeking public submissions as required by the *Local Government Act 1995 (WA)(CKI)*.

Relevant Documents

Available for viewing at the meeting.

Nil

Background

The *Local Government Act 1995 (WA) (CKI)* (the Act) provides, that before imposing differential general rates or a minimum payment applying to a differential rate category, a local government is to give 21 days' local public notice of the intention to do so. Where a local government proposes to modify the proposed rates or minimum payments after considering any submissions received during the advertising period, it is not required to give local public notice of the modified rate or minimum payment.

The Act provides that a local government may impose differential general rates according to any, or a combination, of the following characteristics:

- A. The purpose for which the land is zoned under a town planning scheme in force under the *Planning and Development Act 2005 (WA)(CKI)*.
- B. A purpose for which the land is held or used as determined by the local government.
- C. Whether or not the land is vacant; or
- D. Any other characteristic or combination of characteristics prescribed.

Section 6.33 of the Act also dictates that without the approval of the Minister, a local government is not to impose a differential general rate that is more than twice the lowest differential rate.

Section 6.35 of the Act provides that a local government may impose on any rateable land a minimum payment which is greater than the general rate which would otherwise be payable on that land. A minimum payment is not to be imposed on more than 50% of the total number of properties for each category, unless the general minimum does not exceed the prescribed amount (\$200).

Comment

Every four years the Office of the Valuer General undertakes a revaluation of all properties on Cocos (Keeling) Islands. The last valuation was completed in August 2018 and took effect 1 July 2019, thus there will be no change to the overall valuations until the rate year beginning 1 July 2023. Without a change in valuations, an increase to rate revenue is only achieved by increasing the rate in the dollar. An increase in Rate revenue is required to assist in maintaining the current level of services as well as meeting compliance requirements in an environment of ever-increasing costs.

The Local Government Cost Index issued by WALGA forecasts costs to increase 5.7% over 2021/22 and a further 2.5% for 2022/23. This index is based on cost increases across Local Governments within Western Australia without taking into account further Cocos Island specific costs such as shipping, that has increased approximately 14% since February.

With the exception of 2020/21, rates have been increased 3% year on year between 2014/15 – 2019/20. Due to the COVID-19 Pandemic Council rates were frozen for 2020/21 as well as reducing the rate in the dollar for Holiday Accommodation in response to the travel ban that was in place. The travel ban was lifted in August 2020 and the tourism industry has seen high

levels of visitation since. The reduction in Holiday Accommodation was reversed in 2021/22, and rates on all categories were again increased by 3%.

The application of differential rates aims to provide an equitable solution for the rates charged according to the use of the property. The land use is the recommended way to determine the categories. Historically, the Shire of Cocos (Keeling) Islands has applied rates across 4 different categories, with the current year 2021/22 Adopted categories and Rate in the Dollar (RiD) outlined below:

RATING CATEGORY	2021/22 RiD	# Properties	2021/22 Minimum	# Properties	Total Properties	% on Min Pmt
GRV General Developed	\$ 0.1122	128	\$ 725	3	131	2.3%
GRV Vacant Land	\$ 0.2240	11	\$ 825	4	15	26.7%
GRV Business	\$ 0.1184	25	\$ 725	24	49	49.0%
GRV Holiday Accommodation	\$ 0.1665	16	\$ 725	0	16	0.0%
		180		31		

With the addition of a number of small commercial leases this year, the number of properties in the GRV Business category is expected to increase and exceed the allowable percentage of properties on the Minimum rate (50%). To avoid non-compliance with the Act, it is recommended that the GRV Holiday Accommodation and GRV Business categories are amalgamated. In accordance with the proposed Objects and Reasons the two categories place a similar demand on the Shire services such as waste, infrastructure and economic and tourism promotion. The proposed Objects and Reasons for Differential Rates have been reviewed and are outlined in Attachment 10.1.3.1.

For the purposes of amalgamation, the RiD for GRV Holiday Accommodation was reduced, equal to the GRV Business RiD (rather than unfairly increasing the RiD for GRV Business). This results in a reduction of \$14,330 to the base Rate revenue, partially offset by the additional properties included in the valuation as outlined in the table below:

No Increase to RiD (variance shown for Category Amalgamation):

RATING CATEGORY	Number of Properties	Rateable value	Rate in \$ 2022/23	Total Rate Revenue 2022/23	Average Increase \$pa	Increase %	Number of Properties	Rateable value	Rate in \$ 2021/22	Total Rate Revenue 2021/22	Average Rates \$ 2021/22	
GRV General Developed	129	\$ 2,212,600	\$ 0.1122	\$ 248,254	\$ -	0.0%	128	\$ 2,196,740	\$ 0.1122	\$ 246,474	\$ 1,926	
GRV Vacant Land	11	\$ 55,200	\$ 0.2240	\$ 12,365	\$ -	0.0%	11	\$ 55,200	\$ 0.2240	\$ 12,365	\$ 1,124	
GRV Business	25	\$ 835,595	\$ 0.1184	\$ 98,934	\$ -	0.0%	25	\$ 835,595	\$ 0.1184	\$ 98,934	\$ 3,957	
GRV Holiday Accommodation	16	\$ 297,920	\$ 0.1184	\$ 35,274	\$ 895.62	-28.9%	16	\$ 297,920	\$ 0.1665	\$ 49,604	\$ 3,100	
	181	\$ 3,401,315		\$ 394,827			180	\$ 3,385,455		\$ 407,377		
Minimum			<i>Minimum Value</i>						<i>Minimum Value</i>			
GRV General Developed	3	\$ 3,540	\$ 725	\$ 2,175	\$ -	0.0%	3	\$ 3,540	\$ 725	\$ 2,175	\$ 725	
GRV Vacant Land	5	\$ 16,120	\$ 825	\$ 4,125	\$ -	0.0%	4	\$ 13,620	\$ 825	\$ 3,300	\$ 825	
GRV Business	34	\$ 109,064	\$ 725	\$ 24,650	\$ -	0.0%	24	\$ 91,564	\$ 725	\$ 17,400	\$ 725	
GRV Holiday Accommodation												
	42	\$ 128,724		\$ 30,950			31	\$ 108,724		\$ 22,875		
Interims				\$ 500						\$ 500		
	223	\$ 3,530,039		\$ 426,277			211	\$ 3,494,179		\$ 430,752		
				Net Increase / (Decrease) to Rate Revenue	-\$ 4,475							
				additional properties	\$ 9,854							
				Rate Amalgamation - GRV Holiday Accom	-\$ 14,330							
				Increase in RiD	\$ 0							
				Net Increase / (Decrease) to Rate Revenue	-\$ 4,475							

The tables below present the sensitivity of each Rate Category to various percentage (%) increases to the RiD & Minimum Payments (post amalgamation).

2.5% Increase to RiD and Minimum Payments:

RATING CATEGORY	Number of Properties	Rateable value	Rate in \$ 2022/23	Total Rate Revenue 2022/23	Average Rates \$ 2022/23	Average Increase \$pa	Average increase \$/week	Highest increase \$/week
GRV General Developed	129	\$ 2,212,600	\$ 0.1150	\$ 254,449	\$ 1,972.47	\$ 48.03	\$ 0.92	\$ 1.25
GRV Vacant Land	11	\$ 55,200	\$ 0.2296	\$ 12,674	\$ 1,152.17	\$ 28.10	\$ 0.54	\$ 1.16
GRV Business	25	\$ 835,595	\$ 0.1214	\$ 101,441	\$ 4,057.65	\$ 100.27	\$ 1.93	\$ 10.29
GRV Holiday Accomodation	16	\$ 297,920	\$ 0.1214	\$ 36,167	\$ 2,260.47	-\$ 839.76	-\$ 16.15	-
	181	\$ 3,401,315		\$ 404,732				
Minimum		<i>Minimum Value</i>						
GRV General Developed	3	\$ 3,540	\$ 744	\$ 2,232	\$ 744	\$ 19.00	\$ 0.37	
GRV Vacant Land	5	\$ 16,120	\$ 846	\$ 4,230	\$ 846	\$ 21.00	\$ 0.40	
GRV Business	34	\$ 109,064	\$ 744	\$ 25,296	\$ 744	\$ 19.00	\$ 0.37	
GRV Holiday Accomodation								
	42	\$ 128,724		\$ 31,758				
Interims				\$ 500				
	223	\$ 3,530,039		\$ 436,990				
				Net Increase / (Decrease) to Rate Revenue \$ 6,237				
				additional properties \$ 9,854				
				Rate Amalgamation - GRV Holiday Accom -\$ 14,330				
				Increase in RiD \$ 10,713				
				Net Increase / (Decrease) to Rate Revenue \$ 6,237				

A 2.5% increase results in an overall increase of \$6,237 to Rate Revenue, the highest expected increase being \$10.29 per week (\$1.93 per week on average) for a GRV Business rated property and for GRV General Developed the highest expected increase being \$1.25 per week (\$0.92 per week on average).

3.5% Increase to RiD and Minimum Payments:

RATING CATEGORY	Number of Properties	Rateable value	Rate in \$ 2022/23	Total Rate Revenue 2022/23	Average Rates \$ 2022/23	Average Increase \$pa	Average increase \$/week	Highest increase \$/week
GRV General Developed	129	\$ 2,212,600	\$ 0.1161	\$ 256,883	\$ 1,991.34	\$ 66.89	\$ 1.29	\$ 1.74
GRV Vacant Land	11	\$ 55,200	\$ 0.2318	\$ 12,795	\$ 1,163.21	\$ 39.14	\$ 0.75	\$ 1.62
GRV Business	25	\$ 835,595	\$ 0.1225	\$ 102,360	\$ 4,094.42	\$ 137.04	\$ 2.64	\$ 14.06
GRV Holiday Accomodation	16	\$ 297,920	\$ 0.1225	\$ 36,495	\$ 2,280.95	-\$ 819.28	-\$ 15.76	-
	181	\$ 3,401,315		\$ 408,534				
Minimum		<i>Minimum Value</i>						
GRV General Developed	3	\$ 3,540	\$ 751	\$ 2,253	\$ 751	\$ 26.00	\$ 0.50	
GRV Vacant Land	5	\$ 16,120	\$ 854	\$ 4,270	\$ 854	\$ 29.00	\$ 0.56	
GRV Business	34	\$ 109,064	\$ 751	\$ 25,534	\$ 751	\$ 26.00	\$ 0.50	
GRV Holiday Accomodation								
	42	\$ 128,724		\$ 32,057				
Interims				\$ 500				
	223	\$ 3,530,039		\$ 441,091				
				Net Increase / (Decrease) to Rate Revenue \$ 10,339				
				additional properties \$ 9,854				
				Rate Amalgamation - GRV Holiday Accom -\$ 14,330				
				Increase in RiD \$ 14,814				
				Net Increase / (Decrease) to Rate Revenue \$ 10,339				

A 3.5% increase results in an overall increase of \$10,339 to Rate Revenue, the highest expected increase being \$14.06 per week (\$2.64 per week on average) for a GRV Business rated property and for GRV General Developed the highest expected increase being \$1.74 per week (\$1.29 per week on average).

4.5% Increase to RiD and Minimum Payments:

RATING CATEGORY	Number of Properties	Rateable value	Rate in \$ 2022/23	Total Rate Revenue 2022/23	Average Rates \$ 2022/23	Average Increase \$pa	Average increase \$/week	Highest increase \$/week
GRV General Developed	129	\$ 2,212,600	\$ 0.1172	\$ 259,317	\$ 2,010.21	\$ 85.76	\$ 1.65	\$ 2.23
GRV Vacant Land	11	\$ 55,200	\$ 0.2341	\$ 12,922	\$ 1,174.76	\$ 50.68	\$ 0.97	\$ 2.10
GRV Business	25	\$ 835,595	\$ 0.1237	\$ 103,363	\$ 4,134.52	\$ 177.15	\$ 3.41	\$ 18.18
GRV Holiday Accomodation	16	\$ 297,920	\$ 0.1237	\$ 36,853	\$ 2,303.29	-\$ 796.94	-\$ 15.33	-
	181	\$ 3,401,315		\$ 412,455				
Minimum		<i>Minimum Value</i>						
GRV General Developed	3	\$ 3,540	\$ 758	\$ 2,274	\$ 758	\$ 33.00	\$ 0.63	
GRV Vacant Land	5	\$ 16,120	\$ 863	\$ 4,315	\$ 863	\$ 38.00	\$ 0.73	
GRV Business	34	\$ 109,064	\$ 758	\$ 25,772	\$ 758	\$ 33.00	\$ 0.63	
GRV Holiday Accomodation								
	42	\$ 128,724		\$ 32,361				
Interims				\$ 500				
	223	\$ 3,530,039		\$ 445,316				
				Net Increase / (Decrease) to Rate Revenue \$ 14,564				
				additional properties \$ 9,854				
				Rate Amalgamation - GRV Holiday Accom -\$ 14,330				
				Increase in RiD \$ 19,039				
				Net Increase / (Decrease) to Rate Revenue \$ 14,564				

A 4.5% increase results in an overall increase of \$14,564 to Rate Revenue, the highest expected increase being \$18.18 per week (\$3.41 per week on average) for a GRV Business rated property and for GRV General Developed the highest expected increase being \$2.23 per week (\$1.65 per week on average).

With costs expected to increase significantly over the current and next financial year, an increase to Rate revenue is recommended. However, it is also recognised that Rates are a very small portion of the Shire's total revenue (<7%) and the increase required to effectively mitigate the expected cost increases would be too large for residents and local businesses to absorb. With this in mind, it is recommended that Rates are increased 3.5% for 2022/23.

Before the Shire of Cocos (Keeling) Islands can impose differential rates, Council must advertise the proposed differential rates for a minimum of 21 days. The advertising period cannot commence before 1 May 2022 which will be 2 months before the adoption of the budget. This period of advertising allows ratepayers the ability to inspect the proposed Objects and Reasons and make a public submission in respect to the proposed differential rates and minimum payments prior to Council's adoption of the rates as part of the 2022/2023 Budget. Council can adopt a different rate in the dollar and minimum payment at the time Council adopts the 2022/2023 Budget.

Policy and Legislative Implications

Sections 6.33, 6.35 & 6.36 of the *Local Government Act 1995 (WA) (CKI)*.

Financial Implications

The differential rates model as endorsed by Council will directly influence Council's ability to fund expenditure requirements proposed to be included in the 2022/2023 Budget.

Expenses will be incurred in relation to advertising, which are accommodated within the current budget.

If imposed, the above rates would yield an estimated revenue of \$441,091 compared to the 2021/2022 Adopted Budget Rates of \$430,752.

Strategic Implications

The level of Rate revenue may have a direct impact the Shires ability to maintain current service levels and meet community expectations.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Reputation	If rates are not considered fair and equitable, members of the community may develop a poor opinion of Council.	Low (3)	Consideration has been given to both the historical increases, Shire cost increases as well as the communities ability to meet rate payments when developing the rates model.
Compliance	That the differential rates are not raised as per the <i>Local Government Act 1995 (WA) (CKI)</i> .	Low (3)	This report is prepared to allow time for the differential rates to be advertised for the statutory period before adoption.

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 officer's recommendation is for the statement of objects and reasons and proposed differential rates and minimum payments be endorsed by Council for advertising as follows:

RATING CATEGORY	2021/22	2021/22	Proposed	Proposed	Increase
	RiD	Minimum	22/23 RiD	22/23 Minimum	
GRV General Developed	\$ 0.1122	\$ 725	\$ 0.1161	\$ 751	3.5%
GRV Vacant Land	\$ 0.2240	\$ 825	\$ 0.2318	\$ 854	3.5%
GRV Business	\$ 0.1184	\$ 725	\$ 0.1225	\$ 751	3.5%

This is based on a general increase of 3.5% and amalgamating the GRV Business and GRV Holiday accommodation rating categories into one category – GRV Business. This is expected to result in an overall rates revenue for 2022/23 of \$441,091, noting that some adjustments may still occur and vary this result prior to billing.

OFFICER RECOMMENDATION – ITEM NO 10.1.3

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 6.33, 6.35 AND 6.36 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI)

1. ENDORSE THE ADVERTISING OF THE DIFFERENTIAL RATES AND MINIMUM PAYMENTS THAT ARE BEING PROPOSED FOR THE 2022/23 FINANCIAL YEAR AS FOLLOWS:

RATING CATEGORY	Proposed	Proposed
	22/23 RiD	22/23 Minimum
GRV General Developed	\$ 0.1161	\$ 751
GRV Vacant Land	\$ 0.2318	\$ 854
GRV Business	\$ 0.1225	\$ 751

2. ADOPT THE SHIRE OF COCOS (KEELING) ISLANDS STATEMENT OF OBJECTS AND REASONS AS CONTAINED IN ATTACHMENT 10.1.3.1; AND
3. COMMENCE THE PUBLIC SUBMISSION PERIOD, INCLUDING THE PUBLISHING OF NOTICE FROM 1 MAY 2022.

COUNCIL RESOLUTION – ITEM NO 10.1.3

MOVED CR LACY

SECONDED CR HAMIRIL

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 6.33, 6.35 AND 6.36 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI)

1. ENDORSE THE ADVERTISING OF THE DIFFERENTIAL RATES AND MINIMUM PAYMENTS THAT ARE BEING PROPOSED FOR THE 2022/23 FINANCIAL YEAR AS FOLLOWS:

RATING CATEGORY	Proposed	Proposed
	22/23 RiD	22/23 Minimum
GRV General Developed	\$ 0.1161	\$ 751
GRV Vacant Land	\$ 0.2318	\$ 854
GRV Business	\$ 0.1225	\$ 751

2. ADOPT THE SHIRE OF COCOS (KEELING) ISLANDS STATEMENT OF OBJECTS AND REASONS AS CONTAINED IN ATTACHMENT 10.1.3.1; AND

- 3. COMMENCE THE PUBLIC SUBMISSION PERIOD, INCLUDING THE PUBLISHING OF NOTICE FROM 1 MAY 2022.**

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

FOR: HAMIRIL, IKU, LACY, LIU

AGAINST: NIL

10.2 LEASES

Nil

10.3 PLANNING/BUILDING

10.3.1 SHIRE OF COCOS (KEELING) ISLANDS REPORT OF REVIEW – LPS1 SCHEME REVIEW

Report Information

Date: 20 April 2022
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: Not Applicable
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Not Applicable
 Attachments: 10.3.1.1 - Shire of Cocos (Keeling) Islands Report of Review – LPS1 Scheme Review

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 recommend that Council approve the Report of Review for Local Planning Scheme No 1 (LPS1) and forward a copy of the Report to the Western Australian Planning Commission (WAPC), which if approved by the WAPC will commence the process of reviewing LPS1 and developing a Local Planning Strategy.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Shire of Cocos (Keeling) Islands' Local Planning Scheme No. 1 (LPS 1) has been operational since 2007.

In accordance with the *Planning and Development Act 2005 (WA) (CKI)* and associated *Planning and Development (Local Planning Schemes) Regulations 2015 (WA) (CKI)* (the Regulations), a local planning scheme must be reviewed every five years. In addition, each local planning scheme is to be supported by a local planning strategy prepared in accordance with Part 3 of the Regulations.

There is no local planning strategy associated with LPS 1, and a review of the Scheme has not yet been conducted.

A local planning 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 local planning scheme is the primary mechanism to implement the strategy, through various provisions and subsidiary plans, such as local planning policies. Implementing a local planning strategy is a key point listed in the Cocos (Keeling) Islands Master Plan (2019).

Comment

The Report of Review for LPS 1, as contained in Attachment 10.3.1.1, has been prepared pursuant to Part 6 of the Regulations and is the first step in reviewing the local planning scheme and developing a local planning strategy.

To ensure the local planning framework remains responsive to the issues and opportunities faced by CKI, it is recommended a new local planning strategy and new local planning scheme be prepared in accordance with relevant planning legislation, policy and practices. It is essential that the new strategy and scheme address and achieve the following:

- the legislative requirements of the *Planning and Development Act 2005 (WA)(CKI)* and the *Planning and Development (Local Planning Schemes) Regulations 2015 (WA)(CKI)*;
- the objectives, policy measures, and *Guidelines* of State Planning Policies of the Western Australian Planning Commission¹;

¹ <https://www.wa.gov.au/organisation/department-of-planning-lands-and-heritage/state-planning-framework>

- the guidance (including structure and content for local planning strategies) provided in the Western Australian Planning Commission's *Local Planning Strategy Guidelines* (WAPC 2021)²;
- the Shire's responsibilities and outputs under the Integrated Planning and Reporting Framework (WALGA, 2016)³.

The strategy will be generally structured in the format detailed in the WAPC's *Local Planning Strategy Guidelines*, including spatial plans, and supporting documents and studies. The strategy will provide a framework for land use planning and development on CKI and the strategic basis and rationale for the new scheme. The strategy will set out the local government's objectives for future planning and development over the next 10 - 15 years and includes strategies and actions by which to pursue those objectives. The strategy will need to address the social, environmental, resource management and economic factors that affect, and are in turn affected by, land use and development.

The new scheme will be made under the *Planning and Development Act 2005 (WA)(CKI)* which sets out the general objects of schemes and the matters which may be addressed in schemes and comprise the principal statutory tool for implementing the objectives, strategies and actions of the new strategy to achieve the Shire's aims and objectives with respect to the development of its local area. The new scheme text and maps will be consistent with the model scheme format prescribed by Schedules 1 and 3 of the Regulations.

A key objective of the Shire will be effective community and stakeholder engagement in the preparation of the new strategy and scheme.

In the short-term, as a proactive measure to ensure the local planning framework addresses the CKI's vulnerability to coastal hazards (namely coastal inundation and erosion), the Shire will work closely with the CKI community and government stakeholders to undertake a Coastal Hazard Risk Management and Adaptation Planning (CHRMAP) that is consistent with the objectives, policy measures, and guidelines of State Planning Policy 2.6 - State Coastal Planning Policy (Western Australian Planning Commission, 2013; SPP 2.6)⁴.

Policy and Legislative Implications

Planning and Development (Local Planning Schemes) Regulations 2015 (WA)(CKI) – Part 4

65. Review of local planning scheme

² <https://www.wa.gov.au/system/files/2021-10/Local-Planning-Strategy-guidelines.pdf>

³ <https://www.dlgsc.wa.gov.au/local-government/strengthening-local-government/intergrated-planning-and-reporting>

⁴ <https://www.wa.gov.au/government/publications/state-planning-policy-26-coastal-planning>

(1) A local government must carry out a review of each local planning scheme prepared by the local government —

- (a) in the 5th year after the scheme is published in the Gazette under section 87(3) of the Act; and*
- (b) in the 5th year after the completion of each review carried out under this Division.*

(2) Sub regulation (1) applies to a local planning scheme that was published in the Gazette more than 5 years before the commencement of this regulation as if it were published in the Gazette on the day that is 3 years before the day on which this regulation comes into operation.

(3) The review must consider whether the local planning scheme is up-to-date and complies with these regulations.

(4) The review may be undertaken in conjunction with the preparation of a consolidation of a scheme under Part 5 Division 5 of the Act.

66. Report of review

(1) The local government must, no later than 6 months after the requirement to carry out the review of a local planning scheme arises under regulation 65, or such longer period as the Commission allows —

- (a) prepare a report of the review; and*
- (b) approve the report by resolution; and*
- (c) provide the approved report to the Commission.*

(2) The report must be prepared in the manner and form approved by the Commission and must include the following information —

- (a) the date on which the local planning scheme was published in the Gazette in accordance with section 87(3) of the Act;*
- (b) the date on which each amendment made to the scheme was published in the Gazette in accordance with section 87(3) of the Act;*
- (c) the date on which the scheme was last consolidated under Part 5 Division 5 of the Act;*
- (d) an overview of the subdivision and development activity, lot take-up and population changes in the scheme area since the later of —*
 - (i) the date on which the scheme was published in the Gazette in accordance with section 87(3) of the Act; and*
 - (ii) the date on which the scheme was last reviewed;*
- (e) an overview of the extent to which the scheme has been amended to comply with the requirements of any relevant legislation, region planning scheme or State planning policy.*

(3) The report must make recommendations as to —

- (a) whether the scheme —*
 - (i) is satisfactory in its existing form; or*
 - (ii) should be amended; or*

- (iii) should be repealed and a new scheme prepared in its place; and*
- (b) whether the local planning strategy for the scheme —*
 - (i) is satisfactory in its existing form; or*
 - (ii) should be reviewed; or*
 - (iii) should be repealed and a new strategy prepared in its place.*

67. Decision of Commission

(1) Within 90 days of receiving a report of a review of a local planning scheme, or such longer period as the Minister or an authorised person allows, the Commission must consider the report and —

- (a) decide whether the Commission agrees or disagrees with the recommendations in the report; and*
- (b) notify the local government which prepared the report of the Commission's decision.*

(2) After receiving notification of the Commission's decision on a report of a review of a local planning scheme the local government must —

- (a) publish the report and notice of the Commission's decision on the website of the local government or in any other manner approved by the Commission; and*
- (b) make the report and notice of the Commission's decision available for inspection at the office of the local government.*

Financial Implications

The Report of Review was prepared by officers with the support of the Department of Planning, Lands and Heritage. If the WAPC supports the recommendations of the report, there will be financial implications for the Shire to prepare a new Scheme and Strategy. A budget allocation for the 2022/23 financial year will be proposed for the Shire to engage a consultant to undertake the community engagement and prepare the updated Strategy and Scheme documents. The process may take longer than 12 months and any unspent funds will be carried forward to the following financial year.

Strategic Implications

Shire of Cocos Keeling Islands Corporate Business Plan
Key Result Area 4 – Civic Leadership
Objective 5 – Implement a proactive approach to planning

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Compliance	Council resolve not to proceed with the Report of Review	High (15)	The Regulations require that the local government must perform a review of its LPS within 6 months of the fifth year that the Scheme came into operation. If the Report of Review was not adopted, the Shire will continue to be not compliant with the provisions of the Regulations.
Reputation	Council resolve not to proceed with the Report of Review	Low (12)	It is important that the Shire has an up-to-date Local Planning Framework to ensure that it responding to the needs to the community and is consistent with State policy. As the Scheme and Strategy provide the basis for the guiding the development around the Shire, it must be kept relevant.

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 officer's recommendation is for Council to endorse the Report of Review and make recommendations to the Western Australian Planning Commission in regard to preparing a new Local Planning Scheme and Local Planning Strategy.

OFFICER RECOMMENDATION – ITEM NO 10.3.1

THAT COUNCIL, BY SIMPLE MAJORITY:

1. ENDORSES THE SHIRE OF COCOS (KEELING) ISLANDS REPORT OF REVIEW – LPS1 SCHEME REVIEW AS CONTAINED IN ATTACHMENT 10.3.1.1 AND FORWARD A COPY TO THE WESTERN AUSTRALIAN PLANNING COMMISSION;
2. PURSUANT TO REGULATION 66(3)(A)(III) OF THE *PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015 (WA)(CKI)* MAKE A RECOMMENDATION TO THE WESTERN AUSTRALIAN PLANNING COMMISSION THAT THE SHIRE OF COCOS (KEELING) ISLANDS' LOCAL PLANNING SCHEME NO. 1 BE REPEALED AND A NEW SCHEME BE PREPARED IN ITS PLACE; AND
3. PURSUANT TO REGULATION 66(3)(B)(III) OF THE *PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015 (WA)(CKI)* MAKE A RECOMMENDATION TO THE WESTERN AUSTRALIAN PLANNING COMMISSION THAT A NEW LOCAL PLANNING STRATEGY SHOULD BE PREPARED FOR THE NEW SCHEME.

COUNCIL RESOLUTION – ITEM NO 10.3.1

MOVED CR LACY

SECONDED CR LIU

1. ENDORSES THE SHIRE OF COCOS (KEELING) ISLANDS REPORT OF REVIEW – LPS1 SCHEME REVIEW AS CONTAINED IN ATTACHMENT 10.3.1.1 AND FORWARD A COPY TO THE WESTERN AUSTRALIAN PLANNING COMMISSION;
2. PURSUANT TO REGULATION 66(3)(A)(III) OF THE *PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015 (WA)(CKI)* MAKE A RECOMMENDATION TO THE WESTERN AUSTRALIAN PLANNING COMMISSION THAT THE SHIRE OF COCOS (KEELING) ISLANDS' LOCAL PLANNING SCHEME NO. 1 BE REPEALED AND A NEW SCHEME BE PREPARED IN ITS PLACE; AND
3. PURSUANT TO REGULATION 66(3)(B)(III) OF THE *PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015 (WA)(CKI)* MAKE A RECOMMENDATION TO THE WESTERN AUSTRALIAN PLANNING COMMISSION THAT A NEW LOCAL PLANNING STRATEGY SHOULD BE PREPARED FOR THE NEW SCHEME.

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

FOR: HAMIRIL, IKU, LACY, LIU

AGAINST: NIL

10.4 ADMINISTRATION

10.4.1 VACANT OFFICE OF COUNCIL MEMBER

Report Information

Date: 13 April 2022
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: Not Applicable
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Not Applicable
 Attachments: Nil

Authority / Discretion

Definition

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

Report Purpose

For Council to consider the vacant position of Council and to determine to hold an extraordinary election or to apply to have the position remain vacant until the next ordinary elections of Council.

Relevant Documents

Available for viewing at the meeting

Nil

Background

On 25 April 2022, Jamil Ibram's disqualification from office due to failure to attend three (3) consecutive ordinary council meetings, without obtaining leave of absence, was confirmed. In accordance with section 2.32 of the *Local Government Act 1995 (WA) (CKI) (the Act)*, this has resulted in the office of councillor becoming vacant (extraordinary vacancy).

Comment

When a vacancy of office occurs, section 4.8 of the Act requires an extraordinary election to be held not later than four (4) months after the vacancy occurs. Council may, with the approval of the Electoral Commissioner apply for the position to remain vacant until the next ordinary local government election under section 4.17 of the Act where the office is for a district that has no wards; and at least 80% of the number of offices of member of the council in the district are still filled.

The Shire has seven (7) elected member offices, and the district is not made up of wards. Keeping the elected member office vacant will result in six (6) offices filled and one (1) vacant, equating to 85.7% of offices remaining filled – continuing to provide a fair representation of the community on Council.

The next local government ordinary election is due to be held in October 2023.

Should Council resolve to hold an extraordinary election of Council to fill the vacancy, it is likely that the full costs of a local government ordinary election would be incurred. In 2021, the ordinary election costs totalled \$25,536. At the time the ordinary elections costs were covered under a Service Delivery Agreement (SDA) between the Commonwealth Government and the Western Australian Electoral Commission. As at 21 April 2022, confirmation has not been provided as to whether extraordinary elections are funded under this SDA and the Shire could expect to incur the same level of cost to fill this vacancy in addition to staff time and resources.

Policy and Legislative Implications

Local Government Act 1995 (WA) (CKI):

2.25. Disqualification for failure to attend meetings

(4) A member who is absent, without obtaining leave of the council, throughout 3 consecutive ordinary meetings of the council is disqualified from continuing his or her membership of the council, unless all of the meetings are within a 2-month period.

2.32. How extraordinary vacancies occur in offices elected by electors

The office of a member of a council as an elector mayor or president or as a councillor becomes vacant if the member —

(a) dies; or

(b) resigns from the office; or

(c) does not make the declaration required by section 2.29(1) within 2 months after being declared elected to the office; or

- (d) advises or accepts under section 2.27 that he or she is disqualified, or is declared to be disqualified by the State Administrative Tribunal acting on an application under section 2.27; or*
- (da) is disqualified by an order under section 5.113, 5.117 or 5.119 from holding office as a member of a council; or*
- (db) is dismissed under section 8.15L or 8.25(2); or*
- (e) becomes the holder of any office or position in the employment of the local government; or*
- (f) having been elected to an office of councillor, is elected by the electors to the office of mayor or president of the council.*

4.8. Extraordinary elections

- (1) If the office of a councillor or of an elector mayor or president becomes vacant under section 2.32 an election to fill the office is to be held.*
- (2) An election is also to be held under this section if section 4.57 or 4.58 so requires.*
- (3) An election under this section is called an extraordinary election.*

4.17. Cases in which vacant offices can remain unfilled

- (3) If a councillor's office becomes vacant under section 2.32 and under subsection (4A) this subsection applies, the council may, with the approval of the Electoral Commissioner, allow* the vacancy to remain unfilled and, subject to subsection (4), in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*

** Absolute majority required.*

(4A) Subsection (3) applies —

(a) if —

- (i) the office is for a district that has no wards; and*
- (ii) at least 80% of the number of offices of member of the council in the district are still filled; or*

(b) if —

- (i) the office is for a ward for which there are 5 or more offices of councillor; and*
- (ii) at least 80% of the number of offices of councillor for the ward are still filled.*

- (4) If an ordinary or an extraordinary election is to be held in a district then an election to fill any vacancy in the office of councillor in that district that was allowed to remain unfilled under subsection (3) is to be held on the same election day and Division 9 applies to those elections as if they were one election to fill all the offices of councillor for the district or ward that need to be filled.*

Financial Implications

Should Council resolve to hold an extraordinary election, unbudgeted electoral costs will be incurred. The previous ordinary election costs totaled \$25,536. The ordinary local government elections are funded by the Commonwealth Government through a Service Delivery

Arrangement (SDA) with the Western Australian Electoral Commission. As at 21 April 2022, confirmation has not been provided as to whether extraordinary elections are funded under this SDA. Holding an extraordinary election may result in the Shire expending an equivalent amount as the local government ordinary election, \$25,000 in addition to staff time and resources.

Strategic Implications

Shire of Cocos Keeling Islands Corporate Business Plan

Key Result Area 4 – Civic Leadership

Objective 1 – Attract and retain quality staff and elected members.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	That an extraordinary election is held incurring unbudgeted funds.	Moderate (6)	Should this decision be taken, savings will have to be identified in other areas or funds drawn from reserve subject to Council approval.
Reputation	Council determine not to hold an extraordinary election, leaving the office vacant until October 2023 elections may result in the community feeling as though a the vacancy should be filled.	Low (4)	Communicate with the community reasons for the decision and process in place to ensure council decisions remain valid and transparent.

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 given Council meets the criteria in section 4.17 (3) and (4a) of the *Local Government Act 1995 (WA)(CKI)*, continues to have a fair representation of the community on Council, and to reduce any cost impost on the Shire, the Officer recommendation is that Council apply to the

Electoral Commissioner to hold the office vacant until the next ordinary elections of Council to be held in October 2023.

OFFICER RECOMMENDATION – ITEM NO 10.4.1

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTION 4.17(3) OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)*:

1. ACKNOWLEDGE THE CONTRIBUTION TO COUNCIL MR JAMIL IBRAM HAS MADE DURING HIS TERM; AND
2. APPLY TO THE ELECTORAL COMMISSIONER TO HOLD THE COUNCIL MEMBER OFFICE VACANT UNTIL THE ORDINARY ELECTIONS TO BE HELD IN OCTOBER 2023.

COUNCIL RESOLUTION – ITEM NO 10.4.1

MOVED CR LIU

SECONDED CR HAMIRIL

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTION 4.17(3) OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)*:

1. ACKNOWLEDGE THE CONTRIBUTION TO COUNCIL MR JAMIL IBRAM HAS MADE DURING HIS TERM; AND
2. APPLY TO THE ELECTORAL COMMISSIONER TO HOLD THE COUNCIL MEMBER OFFICE VACANT UNTIL THE ORDINARY ELECTIONS TO BE HELD IN OCTOBER 2023.

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

FOR: HAMIRIL, IKU, LACY, LIU

AGAINST: NIL

10.4.2 POLICY MANUAL REVIEW 2022 – PART ONE

Date: 21 April 2022
 Location: Not applicable
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.4.2.1 – Shire of Cocos (Keeling) Islands Policy Manual with Tracked Changes
 10.4.2.2 – Shire of Cocos (Keeling) Islands Policy Manual Changes Accepted

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

This report brings Part one of the reviewed and updated Policy Manual before Council for consideration. To enable a thorough review of the policy manual the review has been broken down into two parts. Part one of the review is presented in this report for Council consideration, Part two will be presented at a Council Meeting in the near future.

Relevant Documents

Available for viewing at the meeting.

Nil

Background

Section 2.7 of the *Local Government Act (WA) (CKI)* 1995 prescribes part of the role of a Council is to “determine the local government’s policies”.

Policies provide guidance to Council, staff and our community and aim to articulate and communicate Council position on matters affecting the good governance of the Shire and to enable the effective and efficient management of Shire resources. They assist in ensuring sound and equitable decision-making.

Policies are not binding on Council, instead they provide a structure to avoid ad-hoc decision making. Generally, policies are living documents that evolve through a process of review and refinement in respond to internal and external environment changes.

The last full review and adoption of Council Policies occurred in April 2021.

Comment

Attachment 10.4.2.1 contains the review of each policy (with tracked changes) including a summary page of the review and amendment undertaken for each policy reviewed. For ease of reading, Attachment 10.4.2.2 contains the revised policy manual with no tracked changes.

The following policies have been included in this review and are proposed to remain in the Policy Manual:

- Approval of leave for Chief Executive Officer and Acting Chief Executive Officer - CPA1
- After Hours Use of Shire Vehicles Policy - CPA2
- Communications and Social Media Policy- CPA3
- Designated Senior Employees Policy - CPA5
- Public Communications Policy - CPA8
- Recognition of Service and Retirement Policy - CPA9
- Legal Representation for Council Members and Employees Policy - CPA10
- New Councillor Training and Continuing Professional Development Policy - CPA11
- Use of Council Chambers Policy - CPA12
- e-Meetings Policy - CPA13
- Attendance at Events Policy - CPA14
- Complaints Handling and Public Interest Disclosures Policy - CPA15
- Importation of Poultry and other Species to Cocos (Keeling) Islands Policy – CPC1
- Motor Vehicles on Home Island Policy – CPC2
- Prevention of Cats Being Imported to Cocos (Keeling) Islands Policy – CPC3
- Shipping and/or Sea Containers Policy – CPC4
- Community Funding Program - CPC5
- Camping Policy - CPC7
- Business Improvement Grants Policy - CPC8
- Publishing of Delegated Legislation and State-wide Public Notices Policy - CPP2

The following policies have been identified as HR Policies and are not Council Policies. HR Policies are to be reviewed and maintained by the CEO as an Administrative function:

- Dealing with Family Members Policy - CPA4
- Drug & Alcohol Policy - CPA6
- Office Dress Standards Policy - CPA7
- Annual Airfares Entitlement Policy - CPE1
- Ferry Travel Allowance Policy - CPE2
- Fitness for Work Policy - CPE3
- Internet and Email Usage Policy - CPE4
- Shire Employees Undertaking Secondary Employment Policy - CPE5
- Superannuation Contribution Policy - CPE6
- Travel Allowance Policy - CPE7
- Recruitment and Selection Policy - CPE8
- Occupational Safety and Health Policy - CPR1
- Personal Protective Equipment and Clothing Policy - CPR2

The following policies have been identified as not being a Council policy and are standalone documents, and are to be removed from the Policy Manual, however, will remain as corporate documents and be available on the Shire's website:

- Customer Service Charter
- Customer Service Feedback Form

Policies that are still requiring review and will be presented to Council at an Ordinary Council Meeting in the near future as Part two of the review are:

- Home Island Housing Policy - CPC6
- Corporate Credit Card Policy - CPF1
- Funding Contributions – Resident Further Education Policy - CPF2
- Investment Policy - CPF3
- Purchasing Policy - CPF4
- Related Party Transactions Disclosure Policy - CPF5
- COVID-19 Financial Hardships Policy - CPF6
- Recovery of Sundry Debts Policy - CPF7
- Building Heights Policy - CPR3
- Temporary Signs Policy - CPR4
- Caretaker's Dwelling Policy - CPR5
- Asset Management Policy - CPR6
- Naming of Roads, Reserves and Structures Policy - CPP1
- South End Precinct Commercial Development Policy - CPP3
- New Bed and Breakfast Establishments Policy - CPP4
- New Holiday Homes Policy - CPP5
- Coastal Development Policy - CPP6
- Growth & Essential Services Policy - CPP7

Future Policy Reviews

A review of every policy is to be made at least every three years by the Chief Executive Officer and presented to Council for consideration at a Councillor Workshop in each review year with an intent to adopt the updated policies at an Ordinary Meeting of Council. Where required, policies will be reviewed outside of this timeframe.

To ensure in-depth reviews can occur for each policy a rotation of categories will be adopted for review unless an interim review of an individual or group of policies is required:

- 2022 – All Policies Reviewed
- 2023 – Finance & Risk
- 2024 – Administrative
- 2025 – Community & Planning
- 2024 – Finance & Risk
- 2025 onwards – Continue with Cycle

Policy and Legislative Implications

Section 2.7 of the *Local Government Act (WA) (CKI) 1995* prescribes part of the role of a Council is to “determine the local government’s policies”.

Sections 5.128, 5.90A and 5.39 relate to specific policies relating to Council and require an Absolute Majority of Council decision.

Strategic Implications

- Shire of Cocos Keeling Islands Corporate Business Plan
- Key Result Area 4 – Civic Leadership*
- Objective 2 – Provide quality information for Council Decision Making*
- Objective 4 - Ensure efficient and effective management of the organization and financial resources*

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Reputation	Lack of transparency in decision making. Inconsistent decision. Perception that decisions are based on personalities rather than good policy.	High (16)	Carefully considered and communicated policies that guide administrative action and Council decisions and inform Council of a policy position rather than a response to a specific enquiry.
Service Interruption	Decisions held up due to lack of policy	Moderate 8	Good policies to smooth and fast track

	position – reinventing the wheel		decision making and actions.
Compliance	Decisions not consistent with legislation	Moderate 8	Policies that ensure legislative compliance

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

Absolute Majority

Conclusion

The draft updated Shire of Cocos (Keeling) Islands Policy Manual is presented to Council after Part one of a thorough review. The officer's recommendation is that Council adopts the proposed Shire of Cocos (Keeling) Islands Policy Manual as contained in Attachment 10.4.2.2

OFFICER RECOMMENDATION – ITEM NO 10.4.1

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTION 2.7, 5.128, 5.90A, 5.39 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) RESOLVES TO ADOPT THE AMENDMENTS IN PART ONE OF POLICY MANUAL REVIEW, RESULTING IN THE SHIRE OF COCOS (KEELING) ISLANDS POLICY MANUAL AS CONTAINED IN ATTACHMENT 10.4.2.2

COUNCIL RESOLUTION – ITEM NO 10.4.2

MOVED CR LIU

SECONDED CR LACY

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTION 2.7, 5.128, 5.90A, 5.39 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) RESOLVES TO ADOPT THE AMENDMENTS IN PART ONE OF POLICY MANUAL REVIEW, RESULTING IN THE SHIRE OF COCOS (KEELING) ISLANDS POLICY MANUAL AS CONTAINED IN ATTACHMENT 10.4.2.2.

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

FOR: HAMIRIL, IKU, LACY, LIU

AGAINST: NIL

11. MINUTES TO BE RECEIVED

11.1 MINUTES FROM CEO RECRUITMENT AND SELECTION COMMITTEE MEETING TO BE RECEIVED

Report Information

Date: 20 April 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 – CEO Recruitment and Selection Committee Meeting Minutes (Confirmed) 1 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 (Confirmed) minutes of CEO Recruitment and Selection Committee of Council from the previous meeting.

Background

The Shire has established the CEO Recruitment and Selection Committee as a Committee of Council. The CEO Recruitment and Selection 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 confirmed minutes of the meeting of CEO Recruitment and Selection Committee of Council held on the 1 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 CEO Recruitment and Selection Committee meeting held on the 1 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 CEO RECRUITMENT AND SELECTION COMMITTEE MEETING HELD ON 1 MARCH 2022.

COUNCIL RESOLUTION – ITEM NO 11.1

MOVED CR LIU

SECONDED CR HAMIRIL

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

THAT COUNCIL, BY SIMPLE MAJORITY PURSUANT TO *SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995* RESOLVES TO RECEIVE THE MINUTES OF THE CEO RECRUITMENT AND SELECTION COMMITTEE MEETING HELD ON 1 MARCH 2022.

FOR: HAMIRIL, IKU, LACY, LIU

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

Nil

15.3 TRUSTS FINANCE

Nil

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

Moved Cr Lacy, Seconded Cr Hamiril 4/0

16.1 PRESENTATION OF THE 2020/2021 AUDITORS REPORT INCLUDING ADOPTION OF THE 2020/2021 ANNUAL REPORT

Report Information

Date: 20 April 2022
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: Not Applicable
 Disclosure of Interest: Nil
 Reporting Officer: Manager Finance and Corporate Services
 Island: Shire Wide
 Attachments: 16.1.1 - Annual Financial Statements for the year ended 30 June 2021, Independent Auditors Report 2021, Annual Report 2020/21
 16.1.2 – Confidential Auditors Management Letter

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 receive the Audit Report for the 2020/2021 Financial Year, recognise the meeting held with the Shires Auditors and adopt the 2020/2021 Annual Report.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Office of the Auditor General (OAG) conducted an on-site Audit from the 15 to the 19 November 2021. This year's Annual Financial Statements included adjustments to separate the Land Trust 1979 and Land Trust 1984 from the Shires Financial Statements, requiring significant time, effort and expense from staff, consultants and auditors. Following the conclusion of the Audit an Audit Exit Meeting was held on the 8 April 2022 between Kelli Small - CEO, Vikki Lauritsen – Manager Finance & Corporate Services and Efthalia Samaras – Director of Financial Audit at the OAG. It is a requirement under *Section 7.12A (2) of the Local Government Act 1995 (WA) (CKI)* that the Audit and Governance Committee meets with the Local Governments Auditor at least once every 12 months.

As a requirement of the *Local Government Act 1995 (WA)(CKI)* the Shires Auditors are required to report on certain compliance matters and any other matters which arise during the course of their audit. The Independent Auditors Report is the format in which the Auditors report this information and was received on 8 April 2022.

The Audit Committee is to examine the Annual Financial Report, review any matters raised by the Auditor in the Management Report and ensure that appropriate action is taken in respect to those matters raised.

Section 5.27 of the *Local Government Act 1995 (WA) (CKI)* requires a general meeting of electors to be held not more than 56 days after the local government accepts the annual report.

In order to set a date for the 2022 Electors' General Meeting (EGM), the Council is required to have both received the audit report for the prior period as well as having accepted the Annual Report. In addition to acceptance of the Annual Report at the next Ordinary Council Meeting, approval of Council will be sought to set the date of the Electors' General Meeting.

Upon acceptance of the Annual Report and approval of the EGM date and time, statutory advertising will take place and the final version of the Annual Report will be made available for viewing on the night of the Elector's General Meeting and at any time on the Shire's website.

This report presents the audited Annual Financial Report including the Independent Auditor's Report and the Management Letter from the Shire's Auditors for the year ended 30 June 2021. A copy of the draft Annual Report for the year ended 30 June 2021 is attached for the Council's review.

An unqualified opinion has been issued, meaning that the Shire of Cocos (Keeling) Island's financial records and statements are fairly and appropriately presented, and in accordance with Australian Accounting Standards Board (AASB) and the *Local Government Act 1995 (WA)(CKI)*.

Comment

The Audit Report received shows an unqualified audit opinion of the 2020/2021 Annual Financial Statements for the Shire. However, the report highlighted several material matters, two matters regarding adverse trends in two of the Shires Ratio calculations in Note 29 and four matters indicating non-compliance with Part 6 of the Act, the Regulations or applicable financial controls.

The first material matter noted the significant adverse trend in the Shires Asset Sustainability Ratio and Own Source Revenue Coverage Ratio.

Asset Sustainability Ratio:

The Asset Sustainability Ratio expresses capital expenditure on renewal and replacement of existing assets as a percentage of depreciation costs. It is used to identify any potential decline or improvement in asset conditions. A percentage of less than 100% on an ongoing basis indicates assets may be deteriorating at a greater rate than spending on renewal or replacement.

The DLGSC states that the purpose of this ratio is to indicate whether a local government is replacing or renewing existing non-financial assets at the same rate that its overall asset stock is wearing out. This ratio has been below the Department of Local Government, Sport and Cultural Industries target level of 0.90 for at least the last 3 years.

As a result of the last Community Strategic Plan, the Shire has focused on constructing new capital assets and community amenities in response to community feedback at the expense of renewing existing assets. The Shire continues to work to balance the expectations of the community and the services it provides with the revenue sources available at the time.

The Shire will be developing a new Long Term Financial Plan in the 2022/23 Financial Year and will include a review of the Shires asset management plans. Ratios provide useful information when compared to industry and internal benchmarks and can assist in identifying trends. Whilst not conclusive in themselves, understanding ratios, their trends and how they interact is beneficial for the allocation of scarce resources and planning for the future.

Own Source Revenue Coverage Ratio:

The Own Source Revenue ratio is a measurement of the Shires ability to cover its costs through its own revenue efforts with a basic standard being achieved if the ratio is between 0.40 and 0.60.

This ratio is affected by the level of private works obtained from year to year and also the level of operational grant funding received. Given the Shires dependency on Commonwealth funding (Federal Assistance Grants) and its limited rates base, it is unlikely to meet the DLGSCI benchmark for this ratio.

The Audit Report also identified 4 items of non-compliance outlined below,

- The Shire has not reported the Asset Renewal Funding Ratio for the last three years as the Shire is yet to revise the Long-Term Financial Plan and Asset Management Plan following the separation of the Trust Assets from the Shires accounts. The Shire will be developing its Long-Term Financial Plan as well as revisiting its Asset Management Plans in 2022/23 and expects to be able to report on this ratio for the 2022/23 Annual Financial Report.
- The Shire has not reported the Operating Surplus Ratio and Own Source Coverage Ratio for 2019 as disclosed at Note 29. The time and expense required to re-state the 2019 operating revenues and expenses in line with the Trust separation outweighed the benefit of restating the ratio for 2019.
- The Shire does not have policies and procedures in place for financial management and internal controls for key areas of the business such as revenue processes, risk management, business continuity and disaster recovery. The Shire aims to implement a 'Significant Accounting Policy' prior to June 2022. The Shire considers this to be an administrative policy that does not require Council adoption. The Governance and Risk Coordinator has drafted a Risk Management Policy to be presented to Council prior to June 2022. The outcome following this will be to introduce the Risk Management Framework including Risk Registers into the Organisation.
- The OAG identified significant weaknesses in remote access and network security controls at the Shire. In February 2022 the Shire engaged an experienced contractor to complete an IT Health Check. The subsequent report was presented to Council in March 2022 with Council voting to acknowledge the risk to the Shire should the recommendations within the IT Health Check report remain outstanding. As a result of this review a number of recommended actions are expected to be completed through the remainder of the 2022 and 2023 budgets. These actions will address the remote access and network security issues as well as business continuity and disaster recovery plans.

Policy and Legislative Implications

Local Government Act 1995 (WA) (CKI)

Section 1.4 Financial Report

Section 5.27 Electors General Meeting

Section 5.53 Annual Reports

Section 5.54 Acceptance of Annual Reports

Section 5.55 Notice of Annual Reports

Division 3A Financial Audit

Financial Implications

Due to the significant work required in relation to the separation of Trust accounts from the Shire accounts, the OAG Audit fee is expected to be approximately \$10,000 higher than budgeted.

Strategic Implications

Strategic Community Plan: Civic Leadership

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Reputation	For transparency it is important that the audit report is presented to the audit and governance committee.	Moderate (6)	There is a process in place to ensure the audit report to presented to the audit committee.
Compliance	The Report is to be presented to the Audit Committee annually in order to comply with relevant legislation.	Low (4)	There are processes in place to ensure compliance with relevant legislation.
Fraud	That the annual financial statements are materially misstated.	Moderate (8)	Annual statements are audited by the office of the auditor general.

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 Audit and Governance Committee recommends that Council receives the 2020/2021 Auditors Report of the Shire of Cocos (Keeling) Islands and notes the meeting held with the Shire's external auditors.

AUDIT AND GOVERNANCE COMMITTEE RECOMMENDATION – ITEM NO 16.1

THAT COUNCIL, IN ACCORDANCE WITH SECTION 5.54 OF THE *LOCAL GOVERNMENT ACT 1995 (WA)(CKI)*:

1. RECEIVE:
 - a. THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2021, INCLUDING THE INDEPENDENT AUDITORS REPORT AS DETAILED AT ATTACHMENT 16.1.1.
 - b. THE AUDITORS MANAGEMENT LETTER AS DETAILED IN CONFIDENTIAL ATTACHMENT 16.1.2; AND
 - c. THE 2020/2021 ANNUAL REPORT AS DETAILED IN ATTACHMENT 16.1.1; AND

2. SET THE DATE FOR THE ANNUAL ELECTORS GENERAL MEETING AS WEDNESDAY 22 JUNE 2022 AT 3:45PM AT THE HOME ISLAND COUNCIL CHAMBERS AND AUTHORISE THE CEO TO GIVE PUBLIC NOTICE OF THE MEETING AND THE AVAILABILITY OF THE ANNUAL REPORT.

COUNCIL RESOLUTION – ITEM NO 16.1

MOVED CR LACY

SECONDED CR HAMIRIL

THAT COUNCIL, IN ACCORDANCE WITH SECTION 5.54 OF THE *LOCAL GOVERNMENT ACT 1995 (WA)(CKI)*:

1. RECEIVE:
 - a. THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2021, INCLUDING THE INDEPENDENT AUDITORS REPORT AS DETAILED AT ATTACHMENT 16.1.1.
 - b. THE AUDITORS MANAGEMENT LETTER AS DETAILED IN CONFIDENTIAL ATTACHMENT 16.1.2; AND
 - c. THE 2020/2021 ANNUAL REPORT AS DETAILED IN ATTACHMENT 16.1.1; AND

2. SET THE DATE FOR THE ANNUAL ELECTORS GENERAL MEETING AS WEDNESDAY 22 JUNE 2022 AT 3:45PM AT THE HOME ISLAND COUNCIL CHAMBERS AND AUTHORISE THE CEO TO GIVE PUBLIC NOTICE OF THE MEETING AND THE AVAILABILITY OF THE ANNUAL REPORT.

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

FOR: HAMIRIL, IKU, LACY, LIU

AGAINST: NIL

