

Shire of Cocos (Keeling) Islands

Shire of Cocos (Keeling) Islands

Minutes

Ordinary Meeting of Council

Wednesday 22 February 2023, 4.00pm

Community Resource Centre Meeting Room,

Administration Building, West Island

Disclaimer

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

OUR VALUES

Service

Provide the best service we can.

We serve the community and each other.

Accountability

We take responsibility for our own actions.

We do what we say we will do.

Mistakes are an opportunity to learn.

Support

We support our team and our community.

Look for opportunities to help each other.

Respect

We respect and value others.

Our interactions are always respectful towards others.

Integrity

We will be honest and transparent with all our dealings.

Maintain confidentiality.

Trust each other.

Achievement

Being proactive and enabling the outcomes.

Be creative and think outside the square.

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1. OPENING/ANNOUNCEMENTS OF VISITORS

The Presiding Member declares the meeting open at 4.10pm and welcomed Councillors and staff.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

President:	Cr A Minkom
Deputy President:	Cr S Iku
Councillors:	Cr T Lacy (entered via video link at 4:20pm) Cr H Liu Cr Young
Officers:	V Lauritsen, Acting CEO M Faulkner, Manager Infrastructure I Macrae, Governance Risk Coordinator A Hajat, Community Development Coordinator A Alim, Administration Officer
Public:	4
Visitors:	Nil
Apologies:	Nil

Approved Leave of Absence: Cr Knight

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
Cr Lacy	28 January 2023 – 21 February 2023	27 January 2023
Cr Young	24 February 2023 – 16 March 2023	27 January 2023
Cr Knight	3 February 2023 – 3 May 2023	27 January 2023

5.2 APPLICATION FOR LEAVE OF ABSENCE

Nil

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)

7.1 Special Council Meeting held on 27 January 2023 - 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 SPECIAL COUNCIL MEETING HELD ON 27 JANUARY 2023, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

COUNCIL RESOLUTION – ITEM NO 7.1

MOVED CR IKU

SECONDED CR YOUNG

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 5.22(2) AND 3.18 OF THE LOCAL GOVERNMENT ACT 1995 (WA)(CKI), RESOLVES THAT THE MINUTES OF THE SPECIAL COUNCIL MEETING HELD ON 27 JANUARY 2023, 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: IKU, LIU, MINKOM, YOUNG

AGAINST: NIL

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

Nil

9. DECLARATION OF INTERESTS

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

Name	Item No.	Interest	Nature
Cr Minkom	10.1.3	Impartiality	Cr Minkom is the Chairperson of the Cocos Marine Care Inc.
Cr Iku	10.1.3	Impartiality	Cr Iku is a committee member and treasurer of the Cocos Marine Care Inc.

Cr Lacy	14.1	Impartiality	Cr Lacy initiated the lodgement of the breach of the Code of Conduct.
Cr Liu	14.1	Impartiality	Cr Liu is the subject of the councillor complaint.
Cr Lacy	15.1.1	Financial	Cr Lacy is the applicant and owner of Cocos Artisans Collective Pty Ltd.

10. REPORT FROM COMMITTEES AND OFFICERS

10.1 CHIEF EXECUTIVE OFFICER

10.1.1 FISHERIES SERVICES IN THE COCOS (KEELING) ISLANDS

Report Information

Date: 12 January 2023
 Location: Cocos (Keeling) Islands
 Applicant: Chief Executive Officer
 File Ref: Nil
 Disclosure of Interest: Not Applicable
 Reporting Officer: Chief Executive Officer
 Island: Cocos (Keeling) Islands
 Attachments: 10.1.1.1 – CKI Proposal_CKI fisheries contract 24 November 2023
 10.1.1.2 – CKI Fisheries Contract (for consideration of SOCKI) 22 Dec 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 table to Council the draft “Services Contract in Relation to Fisheries Services in the Cocos (Keeling) Islands” for review, adoption and signing.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Commonwealth of Australia, represented by the Department of Infrastructure, Transport, Regional Development, Communications, and the Arts has provided the Shire of Cocos (Keeling) Islands with a draft copy of the “Services Contract in Relation to Fisheries Services in the Cocos (Keeling) Islands” for review, adoption and signing.

The Cocos (Keeling) Islands Applied Laws Amendment (Fish Resources Management) Ordinance 2022 (the Ordinance) came into effect in April 2022.

The Ordinance amends the applied Fish Resources Management Act 1994 (WA) (FRMA 1994) and the Fish Resources Management Regulations 1995 (WA) (FRMR 1994) to create a recreational fishing management framework that is tailored to the unique marine environments and interests of the Cocos (Keeling) Islands (CKI) community.

Cocos Marine Care (CMC) formed organically amongst CKI residents to represent the community in interactions with the Australian Government around development of the Ordinance.

The Western Australian Department of Primary Industries and Regional Development (DPIRD) previously provided fisheries services to the Indian Ocean Territories (IOT), including CKI under a Service Delivery Arrangement. However, DPIRD have progressively withdrawn services (final services to be withdrawn in June 2023) resulting in the need for a new IOT Fisheries Management Framework (Framework).

Following introduction of the Ordinance and staged withdrawal of DPIRD, the Australian Government, in consultation with stakeholders developed a new Framework for the IOT. With reference to CKI, the elements of this Framework include:

- Establishment of a ministerially appointed Fisheries Advisory Committee (FAC).
- Provision of funds to the Service Provider to work closely with local fisheries management committee, CMC to deliver selected fisheries services including:
 - engagement of a Community Fisheries Ranger,
 - engagement of a technical fisheries partner,
 - development of a community education campaign,
 - undertaking of conduct stock assessments, and
 - other specified tasks.

- Compliance activities are proposed to be undertaken by Australian Federal Police (AFP).
- Engagement of experts to assist with management and application of applied fisheries legislation, for example scientists, researchers, and licensing specialists.
- Engagement with Parks Australia in the context of IOT marine park management planning.
- Delegations under fisheries applied law to departmental Senior Executive Service.

A phased approach to establishing the IOT fisheries management framework has been agreed. Phase one includes:

- Establishment of FAC,
- Development of a Science and Monitoring Plan,
- Development of a Community Education Plan,
- Development of compliance arrangements, and
- Provision of funds to the Service Provider to work closely with local fisheries management committee, CMC in delivering the Services.

The CMC is a newly created independent organisation that has not previously been in receipt of funding from the Australian Government. To support CMC and ensure appropriate application of established processes and policies to the Services, the Service Provider will manage and work closely with CMC in delivering the Services.

Phase 2 focuses on implementation and capacity building activities. While Phase 3 will involve ongoing fisheries management functions by the Service Provider, CMC, FAC and the Australian Government. Enforcement is proposed to be undertaken by the AFP with localised monitoring activities undertaken by rangers.

Further detail on the Proposal is set out in the document titled “Cocos (Keeling) Islands Fisheries Management (attached) a copy of the “Services Contract in Relation to Fisheries Services in the Cocos (Keeling) Islands” (attached) and the draft Cocos (Keeling) Islands Fisheries Management – Initial 12-month plan (attached).

Policy and Legislative Implications

Once approved by Council provides direction and meets legislative requirements

Financial Implications

As detailed in the attached contract – 12-month budget of \$327,666.00

Strategic Implications

As detailed in the attached contract

Risk Implications

Addresses risk once approved

Voting Requirements

Simple majority

OFFICER RECOMMENDATION – ITEM NO 10.1.1

1. THAT COUNCIL ADOPT THE DRAFT COCOS (KEELING) ISLANDS FISHERIES MANAGEMENT – INITIAL 12-MONTH PLAN AND FISHERIES MANAGEMENT CONTRACT AS TABLED
2. THAT COUNCIL APPROVE THE CHIEF EXECUTIVE OFFICER TO SIGN THE CONTRACT ON BEHALF OF COUNCIL.

COUNCIL RESOLUTION – ITEM NO 10.1.1

MOVED CR LIU

SECONDED CR IKU

1. THAT COUNCIL ADOPT THE DRAFT COCOS (KEELING) ISLANDS FISHERIES MANAGEMENT – INITIAL 12-MONTH PLAN AND FISHERIES MANAGEMENT CONTRACT AS TABLED
2. THAT COUNCIL APPROVE THE CHIEF EXECUTIVE OFFICER TO SIGN THE CONTRACT ON BEHALF OF COUNCIL.

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

FOR: IKU, LIU, MINKOM, YOUNG

AGAINST: NIL

10.1.2 IOT SERVICE DELIVERY ARRANGEMENTS

Report Information

Date: 12 January 2023
 Location: Cocos (Keeling) Islands
 Applicant: Chief Executive Officer
 File Ref: Nil
 Disclosure of Interest: Not Applicable
 Reporting Officer: Chief Executive Officer
 Island: Cocos (Keeling) Islands
 Attachments: Nil

Authority / Discretion

Definition

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<input 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 table to Council the recently renegotiated Indian Ocean Territories Service Delivery Arrangements with West Australian Government agencies.

Relevant Documents

Available for viewing at the meeting

Nil

Background

Advice has been received from Jillian McCormack, Acting Assistant Director • IOT Government Arrangements/IOT • Territories the Department of Infrastructure, Transport, Regional

Development, Communications, and the Arts that several Indian Ocean Territories Service Delivery Arrangements with Western Australian Government Agencies have been renegotiated as follows:

- Department of Lands, Planning and Heritage – 01.09.2022 to 30.06.2027
- Parliamentary Commissioner for Administrative Investigations (Ombudsman WA) – 01.01.2023 to 30.06.2026
- WA Land Information Authority (trading as Landgate) 01.01.2023 to 30.06.2027
- WA Planning Commission 01.09.2022 to 30.06.2027

Comment

Renewal of the service delivery arrangements between the Shire of Cocos (Keeling) Islands and the various agencies involved, provides a working and legislative platform for both parties to work from.

Policy and Legislative Implications

Once approved by Council provides direction and meets legislative requirements

Financial Implications

To be determined during formation of half yearly budget review

Strategic Implications

Provides strategic direction for the Shire

Risk Implications

Addresses risk once approved

Voting Requirements

Simple majority

OFFICER RECOMMENDATION – ITEM NO 10.1.2

THAT COUNCIL ADOPT AND APPROVE THE RENEGOTIATED INDIAN OCEAN TERRITORIES SERVICE DELIVERY ARRANGEMENTS WITH WEST AUSTRALIAN GOVERNMENT AGENCIES AS TABLED.

COUNCIL RESOLUTION – ITEM NO 10.1.2

MOVED CR LIU

SECONDED CR YOUNG

THAT COUNCIL ADOPT AND APPROVE THE RENEGOTIATED INDIAN OCEAN TERRITORIES SERVICE DELIVERY ARRANGEMENTS WITH WEST AUSTRALIAN GOVERNMENT AGENCIES AS TABLED.

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

FOR: IKU, LIU, MINKOM, YOUNG

AGAINST: NIL

Cr Minkom declared an impartiality interest in Item 10.1.3 as he is the Chairperson of the Cocos Marine Care Inc and remained in meeting venue.

Cr Iku declared an impartiality interest in Item 10.1.3 as she is a committee member and treasurer of the Cocos Marine Care Inc and remained in meeting venue.

10.1.3 MOU COCOS MARINE CARE

Report Information

Date: 12 January 2023
 Location: Cocos (Keeling) Islands
 Applicant: Chief Executive Officer
 File Ref: Nil
 Disclosure of Interest: Not Applicable
 Reporting Officer: Chief Executive Officer
 Island: Cocos (Keeling) Islands
 Attachments: 10.1.3.1 – Memorandum of Understanding – Cocos Marine Care Inc and Shire of Cocos (Keeling) Islands

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input 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>
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<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

The purpose of this report is to table to Council the proposed Memorandum of Understanding between the Shire of Cocos (Keeling) Islands and Cocos Marine Care for adoption.

Available for viewing at the meeting

Nil

Background

Cocos Marine Care (CMC) is a representative body of the Cocos (Keeling) Islands' community, acting as the local voice on matters related to the management and use of the local marine environment and fisheries resources. CMC's aim is to ensure the sustainable management and use of Cocos (Keeling) Islands' marine environment for the local community and empower the community to act as custodians of their land and marine areas. CMC was established in 2021 and became an incorporated body in 2022.

Since establishment, CMC has taken an increasingly active role in marine-related matters at the Cocos (Keeling) Islands, including fisheries management, marine park planning and management and marine science and research. It is recognised as the primary community stakeholder group for the marine environment by relevant Australian government agencies, including Parks Australia and the Department of Infrastructure, Transport, Regional Development, Communication, and the Arts.

The Shire of Cocos (Keeling) Islands has informally supported CMC in their activities over the last year (2022), through the provision of office space, equipment, and materials for use by CMC personnel.

Development and adoption of the attached Memorandum of Understanding (MOU) formalises the relationship between the Shire and Cocos Marine Care. The MOU outlines expectations of both parties and provides clarity of the relationship.

Policy and Legislative Implications

Once approved by Council outlines expectations of both parties and provides clarity of the relationship.

Financial Implications

This MOU does not create and financial or funding obligation on either party and that such obligations shall arise only upon joint execution of a subsequent agreement or workplan (which shall include a budget) that specifically delineates the terms and nature of such obligations.

Strategic Implications

Provides strategic direction for the Shire and Cocos Marine Care

Risk Implications

Addresses risk once approved

Voting Requirements

Simple majority

OFFICER RECOMMENDATION – ITEM NO 10.1.3

THAT COUNCIL ADOPT THE PROPOSED MEMORANDUM OF UNDERSTANDING BETWEEN THE SHIRE OF COCOS (KEELING) ISLANDS AND COCOS MARINE CARE AS TABLED.

COUNCIL RESOLUTION – ITEM NO 10.1.3

MOVED CR IKU

SECONDED CR YOUNG

THAT COUNCIL ADOPT THE PROPOSED MEMORANDUM OF UNDERSTANDING BETWEEN THE SHIRE OF COCOS (KEELING) ISLANDS AND COCOS MARINE CARE AS TABLED.

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

FOR: IKU, LIU, MINKOM, YOUNG

AGAINST: NIL

10.1.4 FEBRUARY 2023 CEO REPORT

Report Information

Date: 9 February 2023
 Location: Cocos (Keeling) Islands
 Applicant: Chief Executive Officer
 File Ref: Nil
 Disclosure of Interest: Not Applicable
 Reporting Officer: Chief Executive Officer
 Island: Cocos (Keeling) Islands
 Attachments: Nil

Authority / Discretion

Definition

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<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input 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

The purpose of this report is to provide Council with an update of the actions of the Chief Executive Officer for the December 2022 and January/February 2023 reporting period.

Relevant Documents

Available for viewing at the meeting

Nil

Background

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

Work Health & Safety

Attended a meeting with senior staff, coordinators and team leaders to discuss matters relating to WH&S. Priority to be given to training, making sure staff understand their obligations and comply with pre-starts.

End of Year

Hosted an end of year luncheon for all staff. This proved to be very popular and was a great opportunity for all staff to meet in a relaxed out of work atmosphere.

Audit

With Manager of Finance and Corporate Services attended an Audit Exit meeting with Jency Santhou. The results of the audit have since been tabled and endorsed by Council for inclusion in the Annual Report.

Acting Administrator

Participated in meetings with Sarah Vandenbroek the Acting Administrator and Kim Forbes the Assistant Secretary for the Indian Ocean Territories to discuss a number of matters including leasing, Commonwealth and West Australian legal relationships and impacts on the Shire. Discussions will be ongoing.

West Island

Met with West Island residents to discuss various matters including vehicles being parked in the laneway next to the Co-op building on Sydney Highway, sandbagging, boat ramp, waste management and road closures.

Leasing Inspections

Assisted Councils Leasing and Policy Development Officer, Suzie Bulka to carry out inspections on leased properties on West Island. Letters of inspection outcomes were sent as a follow up to this process. It was pleasing to see a marked improvement in the standard of tidiness of the majority of the Shire's leased properties.

Annual leave

Took two days annual leave between Christmas and the New Year and enjoyed the opportunity to explore the waters in and surrounding the southern atoll.

Cocos (Keeling) Islands Emergency Management Committee meeting

General discussion on preparedness for any weather event and the roles of various agencies on West and Home Island. Council staff inspect and ready to manage evacuation centres as required.

Seniors

Attended a meeting with the seniors to discuss a number of matters including land tenure, waste management, possible improvements at the beach area near the yacht club, council elections, roads, the chicken plot and flooding within the kampong.

Haji Adam

Met with Haji Adam and members of the mosque committee to discuss the future of the West Island Mosque. Contacted the Commonwealth to ascertain if they have a vision for the future of the mosque and waiting on a response to that.

Performance Reviews

Carried out staff performance reviews and training and development plans with all staff reporting to the Chief Executive Officer.

Radio

Participated in radio interview with ABC and Triple M regarding the Runway Upgrade Project and Marine Parks Grants.

Civic Legal

Continued meetings and discussions with Civic Legal regarding Housing Policy, leasing, trusts and historical matters. Separate reports to Council relate to these discussions.

Leadership meeting

Conducted a post-Christmas Leadership Team meeting to discuss relevant matters such as WH&S, performance reviews, staff training, staff leave and higher duties, strategic communications plan and management of staff with the need for the Shire to become the employer of choice for the Cocos Keeling Islands.

Pyramid of Life

Held several meetings with Rafael Trenor (Spanish artist) regarding placement of a pyramid sculpture to connect with other sculptures around the world depicting the pyramids of life. Future of the sculpture to be determined after further consultation with Rafael.

Council Elections

Met with and supported West Australian Electoral Commission staff member Michele Librizzi during the conduct of the extraordinary council election.

Building Better Regions Funding

Discussed the future of the Tokoh Building with the Manager of Infrastructure and Sarah Vandebroek the Acting Administrator of IOT's in light of the decision of BBRF to deny a change of scope to the project. A separate report to Council now addresses this matter.

Audit and Governance Committee Meeting

Attended this meeting as an observer where the annual report for 2021 – 2022 financial year was tabled and endorsed.

Australia Day

Attended the Australia Day celebration arranged by Council staff, which was held on Direction Island. The day was a huge success with many families, adults and children enjoying the activities and BBQ. A special kudos to Adim and Nadia for arranging the day and also to the other staff and Councillors who worked so tirelessly to make the day a success and then clean up afterwards.

Policy and Legislative Implications

Not applicable

Financial Implications

Nil

Strategic Implications

Not applicable

Risk Implications

Nil

Voting Requirements

Simple majority

OFFICER RECOMMENDATION – ITEM NO 10.1.4

THAT COUNCIL NOTE AND RECEIVE THE CEO REPORT.

COUNCIL RESOLUTION – ITEM NO 10.1.4

MOVED CR IKU

SECONDED CR LIU

THAT COUNCIL NOTE AND RECEIVE THE CEO REPORT.

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

FOR: IKU, LIU, MINKOM, YOUNG

AGAINST: NIL

Cr Lacy entered the meeting a via video-link at 4.20pm.

10.1.5 STRATEGIC IT PLAN 2022 - 2025

Report Information

Date: 21 December 2022
 Location: Cocos (Keeling) Islands
 Applicant: Communication and IT Officer
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Communications and IT Officer
 Island: Cocos (Keeling) Islands
 Attachments: 10.1.5.1 - Strategic IT Plan 2022 - 2025

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 present to Council the Shire of Cocos (Keeling) Islands Strategic IT Plan 2022 – 2025 for endorsement.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Shire's Strategic Information Technology Plan (IT Plan) provides direction for addressing both short term and long-term requirements for cost effective, practical technological solutions which in turn supports the Shire with its internal and external customer services. Internally it focuses on collaboration, shared input and providing the right tools for its employees. Externally it focuses on delivering services expected by its members, the public and other stakeholders.

The Shire's plan provides a framework for effectively managing information technology (IT). The primary goal of IT is to support the business objectives of the Shire and to facilitate departmental efforts to provide efficient and effective services to its members, the public and other stakeholders. The plan also provides a foundation for an enterprise-wide approach to the management of IT.

Technology is the most fundamental element in all corporate affairs. It is required to be used as the basis for communication, interoperability, data resource sharing. Furthermore, technology is a vehicle through which cost reduction can occur by increasing the efficiency and effectiveness of services through corporate architecture and standards.

The plan is not intended to limit department autonomy but to provide a comprehensive roadmap focused on solving everyday problems and enabling collaboration. The plan is built on to the IT management model, which utilises the best features of centralised IT management and outsourced IT support. The plan also requires developing IT architecture and standards, which are critical for actual economies of scale and interoperability.

Comment

The Strategic Information Technology Plan (IT Plan) sets the pathway for the Shire for the next half of this financial year. Focus Networks were appointed to perform an IT health check for the Shire of Cocos (Keeling) Islands last year in February 2022 and a number of high-risk weaknesses were encountered. The Strategic Information Technology Plan (IT Plan) will provide guidance to the Shire's needs and goals with IT to provide improved functions and enhanced customer service.

Policy and Legislative Implications

Once approved by Council provides direction and meets legislation requirements.

Financial Implications

To be determined during formation of half yearly budget review.

Strategic Implications

Provides strategic direction for the Shire.

Risk Implications

Addresses risk once approved.

Voting Requirements

Simple majority

OFFICER RECOMMENDATION – ITEM NO 10.1.5

THAT COUNCIL ENDORSE THE SHIRE OF COCOS (KEELING) ISLANDS STRATEGIC IT PLAN 2022 – 2025 AS TABLED.

COUNCIL RESOLUTION – ITEM NO 10.1.5

MOVED CR LIU

SECONDED CR IKU

THAT COUNCIL ENDORSE THE SHIRE OF COCOS (KEELING) ISLANDS STRATEGIC IT PLAN 2022 – 2025 AS TABLED.

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

10.1.6 COMMUNITY DEVELOPMENT UPDATE – FEBRUARY 2023

Report Information

Date: 1 February 2023
 Location: Cocos (Keeling) Islands
 Applicant: Community Development Coordinator
 File Ref: Community Development
 Disclosure of Interest: Nil
 Reporting Officer: Community Development Coordinator
 Island: Cocos (Keeling) Islands
 Attachments:

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>
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<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

Monthly update to Councillors on various Community Development programs and projects for information only.

Relevant Documents

Available for viewing at the meeting

Nil

Background

Australia Day 2023

It is a day the nation celebrates and shares the idea of being Australian. Promoting in understanding and acceptance in our diverse community. Thank you to the Shire President for addressing the community and also presenting the well-deserved Australia Day Awards for 2023. This year we had four award recipients. Amy Rossbach, Chris Dabbs, Zaitu Feyrel and Cocos Marine Care Inc.

The Community Development Team continues to work closely across all key stakeholders to ensuring the success and inclusion in all community events.

The event was well attended by Home Islanders, West Islanders, and visitors. The Shire will continue to host the event on Direction Island however, there have been mentioned of having alternative Australia Day functions on both islands. There was an increase in family and friends' and community groups such as the Seniors Group gathering and celebrating Australia Day on the Home Island foreshore which was great to see.

Sport and Recreation Program

The following sporting clinics have been confirmed for 2023. The dates and clinics are tabled below:

Lacrosse – 7 to 10 February 2023

Volleyball – 7 to 10 March 2023

Rugby – 21 to 28 April 2023

Tennis – 28 April to 4 May 2023

Olympians – 9 to 12 May 2023

Soccer – 20 May to 9 June 2023

Sailing – 4 to 11 July 2023

These sporting clinics have been the outcome of several meeting with the youth, community groups and individuals with the IOT Coordinator – Sport and Recreation during her visit in 2022. The clinics will bring in sporting representatives that have extensive experiences in playing the sport at a national and international level. They also bring an opportunity to support community groups in building capacity, governance, and affiliations.

Shire Market Days

Monthly Market Days have been well received in the community. Selling precooked foods are the like. It is also an opportunity as a meeting place to gather with new residents on island. The Shire will be organising a Twilight Market Day on the 8th of March. Coinciding with the Volleyball Clinic and the prelude to the month of Ramadan. All residents are welcome to sell food and other items as it will be an all-inclusive evening. There will be activities for all ages. The Twilight market will commence at 4.30pm.

Upcoming Community Funding Programs

The Shire is committed to provide funding assistance to community groups and small businesses to promote the economic and community capacity. The Shire has provided information on the four funding assistances and continues to promote on a regular basis on our social media page, the Atoll, letter and email reminders to community groups and businesses.

The first funding program on offer is the:
Community Funding Program

- Round 1 - which will be advertised in April and closes in May.

The Adopt a Spot funding is open all year round. Last year the Shire received no applications for this funding. The Community Development Team will be organising several Info Sessions with assistance from the Shire's Environment Officer in the coming months to entice more interest from the community groups and not for profit organisations. The first session will be held with the Senior's Group on the 14th of February. Outcomes of these Info Sessions will form the basis to investigate probable amendments to the Policy for Council's approval.

Comment

The community development programs are aligned with the following plans and through feedback from several meetings with community groups and relevant key agencies. The Community development section adheres to the following Shire Plans for guidance and direction.

Shire's Corporate Business Plan
Shire's Strategic Plan

Policy and Legislative Implications

Strategic Plan

- 3.1.2 Protects the Islands environment
- 4.1.1 To provide leadership to the community
- 2.1.3 Maintain the cultural heritage

Corporate Business Plan

- S2.1.2.3 Develop and implement a volunteer support program to encourage, incentivise, acknowledge and thank our volunteers

Financial Implications

In the event of an increase in costs for the Community Garden Program, the Community Development Coordinator will review the budget as per the Mid-Year Budget Review in December 2022 in consultation with the Executive Team.

Strategic Implications

Shire’s Corporate Business Plan – ED 1.1.3.3
Shire’s Strategic Plan – E 1.12

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Cost of labour hours and use of plant and equipment increase	Moderate 6	Increase in budget allocation for the following financial year.
Health & Safety	Community activities and events.	Moderate 6	Risk assessment plan conducted prior to commencing events and activities
Reputation	Shire to take a leading role and setting high standards.	Low 3	Transparency and management of programs in accordance with Policies and Strategic direction.
Compliance	Programs undertaken by Shire to adhere to Work, Health & Safety Policy.	Low 3	Risk assessment, JSA and HR policies.
Property	Programs and events conducted on Shire owned property or land (where possible)	Low 3	Written permission and follow procedures when undertaken events on non-Shire property.
Environment	Adhere to Shire’s Strategic Plan – environment.	Low 3	Consult with parks Australia North on environmental impacts.
Fraud	Compliance with Shire’s Policy and Procedures.	Low 3	Void program and investigate cause.

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.

OFFICER RECOMMENDATION – ITEM NO 10.1.6

THAT COUNCIL NOTE AND RECEIVE THE COMMUNITY DEVELOPMENT UPDATE REPORT.

COUNCIL RESOLUTION – ITEM NO 10.1.6

MOVED CR IKU

SECONDED CR YOUNG

THAT COUNCIL NOTE AND RECEIVE THE COMMUNITY DEVELOPMENT UPDATE REPORT.

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

10.1.7 PROPOSED RESIDENTIAL ADDITIONS – LOT 315 BUFFET CLOSE, WEST ISLAND

Report Information

Date: 9 February 2023
 Location: Lot 315 Buffet Close, West Island
 Applicant: Evolve Architecture on behalf of Mike Kirkpatrick
 File Ref: WL315
 Reporting Officer: Chief Executive Officer
 Island: West Island
 Attachments: Nil

Authority / Discretion

Definition

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

Report Purpose

For Council to consider an application for development approval for additions to the existing dwelling on the subject property.

Relevant Documents

Available for viewing at the meeting

Development Approval Application and Plans
 Development report

Background

There is an existing modest 80m², 2-bedroom dwelling on the subject property which is zoned 'Residential' with a density coding of R15 under the *Shire of Cocos (Keeling) Islands Local Planning Scheme No.1*.

The Buffet Close property adjoins public parklands to its rear and north side boundaries, and another residential property it is southern side boundary as shown in the location map below.



Location map of Lot 315 Buffet Close, West Island.

Initial plans for the property included the addition of second symmetrical octagon pavilion to that of the existing building, however this second structure linked via a deck never eventuated.

The subject development application now proposes the addition of an architectural designed second pavilion linked via a deck and landscaping. The addition will have 2-bedrooms, a garage and a second larger bathroom, laundry, kitchen, living space and alfresco.

The proposal seeks variation to the 'deemed-to-comply' provisions of State Planning Policy 7.3 Residential Design Codes for the rear boundary setback. A minimum rear setback of 3.5m is sought in lieu of the 6m.

Comment

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

P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:

- reduce impacts of building bulk on adjoining properties;
- provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and
- minimise the extent of overlooking and resultant loss of privacy on adjoining properties.

It is considered the proposal meets the above design principle for the following reasons:

- The rear property boundary adjoins public parkland rather than other residential properties therefore the impacts of building bulk, sunlight and ventilation and privacy are neutralised to this property boundary.
- The residential additions have been architecturally designed to ensure the finished structure is compatible with its setting and minimises any adverse impacts on the surrounding locality.

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

Policy and Legislative Implications

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

Financial Implications

None identified.

Strategic Implications

None identified.

Risk Implications

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

Risk Matrix

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

Voting Requirements

Simple Majority

Conclusion

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

OFFICER RECOMMENDATION – ITEM NO 10.1.7

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR RESIDENTIAL ADDITIONS UPON LOT 315 BUFFET CLOSE, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITION AND ADVICE NOTE:

CONDITION:

ALL DEVELOPMENT SHALL BE CARRIED OUT ONLY IN ACCORDANCE WITH THE DETAILS OF THE APPLICATION AS APPROVED HEREIN AND ANY APPROVED PLAN. SUBJECT TO ANY MODIFICATIONS REQUIRED AS A CONSEQUENCE OF ANY CONDITIONS OF THIS APPROVAL THE APPROVED PLANS SHALL NOT BE ALTERED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTE:

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

COUNCIL RESOLUTION – ITEM NO 10.1.7

MOVED CR IKU

SECONDED CR LACY

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR RESIDENTIAL ADDITIONS UPON LOT 315 BUFFET CLOSE, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITION AND ADVICE NOTE:

CONDITION:

ALL DEVELOPMENT SHALL BE CARRIED OUT ONLY IN ACCORDANCE WITH THE DETAILS OF THE APPLICATION AS APPROVED HEREIN AND ANY APPROVED PLAN. SUBJECT TO ANY MODIFICATIONS REQUIRED AS A CONSEQUENCE OF ANY CONDITIONS OF THIS APPROVAL THE APPROVED PLANS SHALL NOT BE ALTERED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTE:

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

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

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

10.1.8 6 APRIL 1984 ANNIVERSARY

Report Information

Date: 18 January 2023
 Location: Cocos (Keeling) Islands
 Applicant: Chief Executive Officer
 File Ref: Nil
 Disclosure of Interest: Not Applicable
 Reporting Officer: Chief Executive Officer
 Island: Cocos (Keeling) Islands
 Attachments: Nil

Authority / Discretion

Definition

<input 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>
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<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Report Purpose

The purpose of this report is to seek Council guidance and support for the conduct of an appropriate function to celebrate the 40-year anniversary of the Cocos Malay people voting to integrate into Australian society.

Available for viewing at the meeting

Nil

Background

Historically, in short – On 6 December 1825, Captain John Clunies Ross, a Scottish trader sailing made a brief landing on the islands, and he returned, with his family, in 1827 with the intention of commencing a settlement on the Islands. The Clunies Ross family, who became

known as 'Kings of the Cocos', owned/occupied the islands for more than 150 years. In 1955 they became a Territory of the Commonwealth of Australia, and in 1978 Australia purchased all of the lands, excepting the family home, from the Clunies Ross family.

In 1984 through the United Nations supervised Act of Self Determination (ASD) the Cocos-Malay population voted to integrate with the Australian community. The Territory is now administered by the Australian Government (<https://www.dcceew.gov.au/parks-heritage/national-parks/pulu-keeling-national-park/history/cocos-keeling-islands-history#:~:text=Captain%20William%20Keeling%20is%20believed,century%20that%20they%20were%20settled>)

On 6 April 1984, the Cocos Malay community of the Cocos (Keeling) Islands voted overwhelmingly in favour of integration with Australia in an Act of Self Determination supervised by the United Nations. At this time, the Australian Government gave a commitment to the people of the Cocos (Keeling) Islands to respect their religious beliefs, traditions, and culture.

Leading up to the day of the vote, the United Nations, Human Rights committee were actively engaged with the Commonwealth Government of the time and the Cocos Malay Community. The United Nations visited the Cocos (Keeling) Islands in 1984 and oversaw the process of voting by the Cocos Malay people.

The Cocos Malay community of the Cocos (Keeling) Islands celebrate the anniversary of integration day i.e., April 6, every year as the vote to integrate was a life changing event for the people.

Since integration, the Cocos Malay community have been administered by the Commonwealth Government in one form or another, despite having their own elected representative body, the equivalent of today, which is the Council for the Shire of Cocos (Keeling) Islands.

Comment

Prior to and enmeshed in the vote for integration was a proliferation of meetings, dialogue, correspondence, and offerings to the Cocos Malay people by the Commonwealth of Australia, much of which was overseen by the United Nations.

Much of the correspondence and meetings of the time would now be archived in various places and could prove difficult to obtain. However, two examples located, are as follows. In a rather challenging letter that would have put a very different face on the Cocos (Keeling) Islands if the Commonwealth of Australia had followed the content and intent of it, as follows:

Letter dated 21.03.1983 Pertaining to a meeting held in Canberra between Mr Hayden the Minister for Foreign Affairs and Mr Hawke the Prime Minister to discuss integration of the Cocos Malay people with Australia. In part the letter reads - *“The Cocos Malay people were all very happy to hear that it is the government’s intention to give all the land of the Cocos Islands to the Malay people, that is to the Council as the representative community. We remember that the Cocos Islands are our homeland. We are also pleased to know that the*

Government will ensure that no outsiders are allowed to settle here, and the no outsiders will be permitted to buy our land.”

In 1992, the Territories Law Reform Act 1992 (Cth) amended the Cocos (Keeling) Islands Act to introduce a modern body of Australian law to the Cocos (Keeling) Islands, including provisions to enliven the application of most Australian Government laws and regulations and to apply Western Australian laws to the territory. This was a major step in extending residents of the Cocos (Keeling) Islands the same rights, responsibilities, and obligations as those enjoyed by their fellow Australians.

The Commonwealth 1992 Territories Law Reform Act was also introduced purportedly for the benefit of the Cocos Malay people. A precursor to this legislation was could well have been the Prime Minister Bob Hawke signed, *1990 Memorandum of Understanding (MOU) relating to the achievement of mainland equivalent living standards and levels of services on the Cocos (Keeling) Islands.*

Section 6 of the MOU states – *“As part of the process of review of the legal regime, the Commonwealth will legislate to give Council the full range of powers, functions, and responsibilities applicable to local government on the mainland, using Western Australia as the model. Current controls over and restraints upon the Council which go beyond those applying to local government authorities in Western Australia will be removed” et al.....*

The two items listed above are examples of the intent of the government of the time and the United Nations who played an important role in the integration of the Cocos Malay people to Australia.

There is an extensive library of historical documentation held by the Cocos (Keeling) Islands Shire Museum that will provide further insight to the intent of government at the time and reference to land tenure in parliamentary committee recommendations that also need to be researched.

Policy and Legislative Implications

It is apparent that a considerable amount of Commonwealth Policy prior to and post the vote of the Cocos Malay people to integrate into Australian Society, has been swept aside or ignored much to the detriment of the people it was intended to support.

Financial Implications

Determining financial implications is a moot point at this stage as the ramifications of policy not acted upon is difficult if not impossible to calculate.

Strategic Implications

Strategic implications to the Shire would be a direct result of determination of land tenure for the Cocos Malay people and is difficult to estimate at this point.

Risk Implications

Risk implications to the Shire would be a direct result of determination of land tenure for the Cocos Malay people and is difficult to estimate at this point.

Voting Requirements

Simple majority

Conclusion

Land tenure, especially that “promised” by a government and then not actually awarded can be an extremely complex and at times litigious process.

A detailed and comprehensive brief regarding the proposed land tenure of the Cocos Malay people will be time consuming and involve various staff carrying out research as well as seeking legal opinions by Civic Legal.

The Commonwealth via the Acting Administrator of the Indian Ocean Territories have indicated that they will not be supporting any review or research with respect to land tenure of the Cocos Malay people, either by the provision of resources or funding.

In 2024, Ramadan runs from the evening of Sunday March 10 to the evening of Monday April 8. Eid runs from the evening of Tue April 9 to the evening of Wednesday April 10.

OFFICER RECOMMENDATION – ITEM NO 10.1.8

1. THAT COUNCIL ENDORSE THE CHIEF EXECUTIVE OFFICER TO INVITE A DELEGATION FROM THE UN HUMAN RIGHTS COMMISSION, THE PRIME MINISTER OF AUSTRALIA, THE FEDERAL MEMBER FOR CLIMATE CHANGE, THE FEDERAL MEMBER FOR LOCAL GOVERNMENT, THE FEDERAL MINISTER FOR TERRITORIES, THE PREMIER OF WESTERN AUSTRALIA AND THE MINISTER FOR LOCAL GOVERNMENT IN WESTERN AUSTRALIA TO ATTEND A TWO DAY FORUM ON COCOS (KEELING) ISLANDS THAT COINCIDES WITH THE END OF RAMADAN AND EID, AT A DATE TO BE FIXED TO DISCUSS THE TRANSITION OF COCOS MALAY PEOPLE SINCE INTEGRATION TO AUSTRALIA IN 1984.
2. THAT COUNCIL ENDORSE THE CHIEF EXECUTIVE OFFICER TO SUBMIT AN APPLICATION FOR FUNDING FOR THE PROPOSED EVENT TO THE COMMONWEALTH OF AUSTRALIA REPRESENTED BY THE DEPARTMENT OF INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT, COMMUNICATIONS AND THE ARTS.

COUNCIL RESOLUTION – ITEM NO 10.1.8

MOVED CR LACY

SECONDED CR IKU

- 1. THAT COUNCIL ENDORSE THE CHIEF EXECUTIVE OFFICER TO INVITE A DELEGATION FROM THE UN HUMAN RIGHTS COMMISSION, THE PRIME MINISTER OF AUSTRALIA, THE FEDERAL MEMBER FOR CLIMATE CHANGE, THE FEDERAL MEMBER FOR LOCAL GOVERNMENT, THE FEDERAL MINISTER FOR TERRITORIES, THE PREMIER OF WESTERN AUSTRALIA AND THE MINISTER FOR LOCAL GOVERNMENT IN WESTERN AUSTRALIA TO ATTEND A TWO DAY FORUM ON COCOS (KEELING) ISLANDS THAT COINCIDES WITH THE END OF RAMADAN AND EID, AT A DATE TO BE FIXED TO DISCUSS THE TRANSITION OF COCOS MALAY PEOPLE SINCE INTEGRATION TO AUSTRALIA IN 1984.**
- 2. THAT COUNCIL ENDORSE THE CHIEF EXECUTIVE OFFICER TO SUBMIT AN APPLICATION FOR FUNDING FOR THE PROPOSED EVENT TO THE COMMONWEALTH OF AUSTRALIA REPRESENTED BY THE DEPARTMENT OF INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT, COMMUNICATIONS AND THE ARTS.**

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

FOR: IKU, LACY, MINKOM, YOUNG

AGAINST: LIU

10.1.9 PROPOSED OUTBUILDING – LOT 136 HAJIDUN LANE, WEST ISLAND

Report Information

Date: 17 February 2023
 Location: Lot 136 Hajidun Lane, West Island
 Applicant: Katie McNeill-Love
 File Ref: WLI36
 Reporting Officer: Chief Executive Officer
 Island: West Island

Authority / Discretion

Definition

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

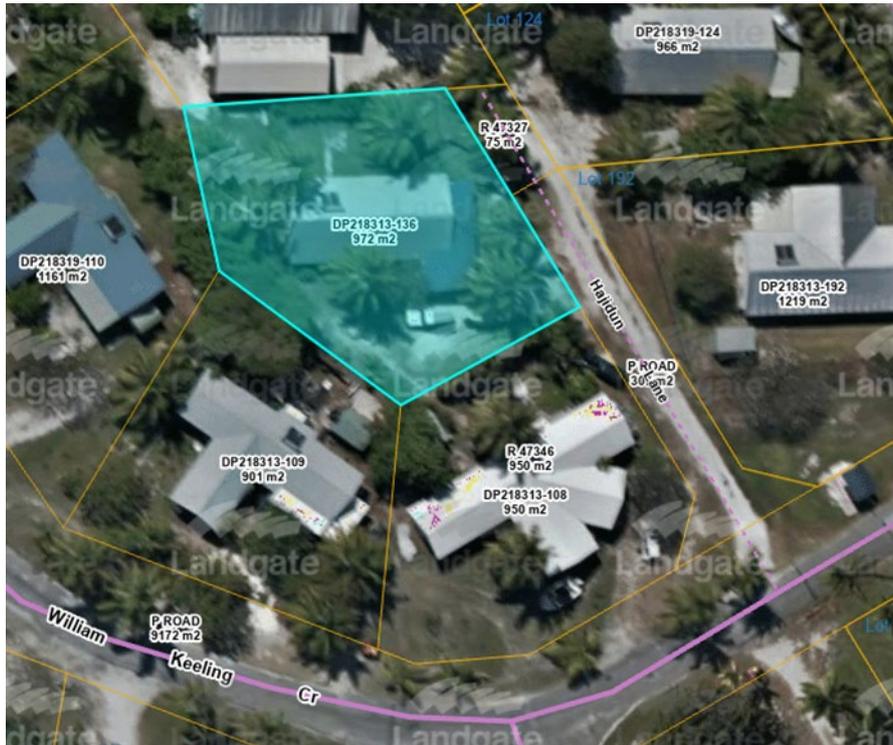
Report Purpose

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

Relevant Documents

Available for viewing at the meeting
 Development Plans

Background



Location Map – 36 Hajidun Lane, West Island

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

The proposal seeks variation to the ‘deemed-to-comply’ provisions of State Planning Policy 7.3 Residential Design Codes (R-Codes) for the side boundary setback and outbuilding area and wall height.

A side setback of 1m is sought in lieu of the 1.5m for the 12 long, 2.7m high wall which will address this property boundary.

The R-Codes exempts an outbuilding which is on or under 60sqm in area; 2.4m in wall height; and 4.2m in ridge height. The proposed garage will be 72sqm in area (20% variation); with a wall height of 2.7m (13% variation); and a complying ridge height of 3.5m.

Comment

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

Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:

- *reduce impacts of building bulk on adjoining properties;*
- *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*

and

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

It is considered the proposal meets the above design principles for the following reasons:

- The outbuilding will be clad in fibre cement walling and steel roofing to match the appearance of the existing dwelling to ensure it is compatible with its setting and minimises any adverse visual impacts on the surrounding locality.
- The outbuilding mass and scale and position in a rear concern of the property behind the build line of the existing dwelling ensures the dwelling remains the dominant building on the residential property, resulting in adjoining properties not being significantly impacted by the outbuilding.
- The proposal complies with the deemed-to-comply provisions of the R-Codes for overshadowing as the outbuilding will not cast a shadow more than 25% on adjoining southern properties at midday on winter solstice.
- The outbuilding will have not significantly impact the privacy of neighbouring landowners.

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

Policy and Legislative Implications

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

Financial Implications

None identified.

Strategic Implications

None identified.

Risk Implications

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

Risk Matrix

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

Voting Requirements

Simple Majority

Conclusion

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

OFFICER RECOMMENDATION – ITEM NO 10.1.9

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR AN OUTBUILDING UPON LOT 136 HAJIDUN LANE, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTE:

CONDITIONS:

1. ALL DEVELOPMENT SHALL BE CARRIED OUT ONLY IN ACCORDANCE WITH THE DETAILS OF THE APPLICATION AS APPROVED HEREIN AND ANY APPROVED PLAN. SUBJECT TO ANY MODIFICATIONS REQUIRED AS A CONSEQUENCE OF ANY CONDITIONS OF THIS APPROVAL THE APPROVED PLANS SHALL NOT BE ALTERED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.
2. THE OUTBUILDING IS NOT TO BE USED FOR HUMAN HABITATION, TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTE:

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

COUNCIL RESOLUTION – ITEM NO 10.1.9

MOVED CR LACY

SECONDED CR IKU

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR AN OUTBUILDING UPON LOT 136 HAJIDUN LANE, WEST ISLAND SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTE:

CONDITIONS:

1. ALL DEVELOPMENT SHALL BE CARRIED OUT ONLY IN ACCORDANCE WITH THE DETAILS OF THE APPLICATION AS APPROVED HEREIN AND ANY APPROVED PLAN. SUBJECT TO ANY MODIFICATIONS REQUIRED AS A CONSEQUENCE OF ANY CONDITIONS OF THIS APPROVAL THE APPROVED PLANS SHALL NOT BE ALTERED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.
2. THE OUTBUILDING IS NOT TO BE USED FOR HUMAN HABITATION, TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS.

ADVICE NOTE:

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

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

10.2 MANAGER FINANCE AND CORPORATE SERVICES

10.2.1 MONTHLY FINANCIAL REPORT – DECEMBER 2022

Report Information

Date: 23 January 2023
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Manager Finance & Corporate Services
 Island: Shire Wide
 Attachments: 10.2.1.1 - Monthly Financial Report - December 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 December 2022, which includes rating, investment, reserve, debtor, and general financial information to Elected Members in accordance with Section 6.4 of the *Local Government Act 1995 (WA) (CKI)*.

This report is a summary of the financial activities of the Shire as at the reporting date.

Relevant Documents

Available for viewing at the meeting.

Nil

Background

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

Comment

The period of review is December 2022. The current closing municipal surplus for this period is \$308,550 compared to a budget position of \$(473,356).

Income for the period year to date is \$3,919,449 which is made up \$3,412,236 in operating revenues and \$507,213 in non-operating grants, contributions, and subsidies. The budget estimated \$4,054,594 would be received for the same period. The variance to budget is (\$135,145).

Expenditure for the period year to date is \$4,813,792. This is made up of \$3,220,064 in operating expenditure and \$1,593,728 in capital expenditure. The budget estimated \$6,063,090 would be spent for the same period. The variance to budget is \$1,249,298.

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

Policy and Legislative Implications

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

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

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

Strategic Implications

Nil

Risk Implications

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

Risk Matrix

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

Conclusion

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

OFFICER RECOMMENDATION – ITEM NO 10.2.1

THAT COUNCIL:

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

COUNCIL RESOLUTION – ITEM NO 10.2.1

MOVED CR LIU

SECONDED CR YOUNG

THAT COUNCIL:

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

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

10.2.2 MONTHLY FINANCIAL REPORT – JANUARY 2023

Report Information

Date: 06 February 2023
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Manager Finance & Corporate Services
 Island: Shire Wide
 Attachments: 10.2.2.1 - Monthly Financial Report – January 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

The purpose of this report is to provide a monthly financial report for January 2023, which includes rating, investment, reserve, debtor, and general financial information to Elected Members in accordance with Section 6.4 of the *Local Government Act 1995 (WA) (CKI)*.

This report is a summary of the financial activities of the Shire as at the reporting date.

Relevant Documents

Available for viewing at the meeting.

Nil

Background

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

Comment

The period of review is January 2023. The current closing municipal surplus for this period is \$2,865,507 compared to a budget position of \$853,650.

Income for the period year to date is \$6,770,796 which is made up \$5,952,583 in operating revenues and \$818,213 in non-operating grants, contributions, and subsidies. The budget estimated \$6,681,731 would be received for the same period. The variance to budget is \$89,065.

Expenditure for the period year to date is \$5,549,817. This is made up of \$3,827,080 in operating expenditure and \$1,722,737 in capital expenditure. The budget estimated \$7,459,259 would be spent for the same period. The variance to budget is \$1,909,442.

Details of all significant variances against the current budget are provided in the notes to the Monthly Financial Report contained within Attachment 10.2.2.1.

Policy and Legislative Implications

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

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

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

Strategic Implications

Nil

Risk Implications

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

Risk Matrix

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

Conclusion

That the Monthly Financial Report for the period ending 31 January 2023, including explanations of material variances, be received.

OFFICER RECOMMENDATION – ITEM NO 10.2.2

THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDING 31 JANUARY 2023, AS CONTAINED IN ATTACHMENT 10.2.2.1; AND
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 31 JANUARY 2023, AS CONTAINED IN ATTACHMENT 10.2.2.1.

COUNCIL RESOLUTION – ITEM NO 10.2.2

MOVED CR IKU

SECONDED CR LIU

THAT COUNCIL:

- 1. BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDING 31 JANUARY 2023, AS CONTAINED IN ATTACHMENT 10.2.2.1; AND**
- 2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 31 JANUARY 2023, AS CONTAINED IN ATTACHMENT 10.2.2.1.**

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

10.2.3 SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD DECEMBER 2022 & JANUARY 2023

Report Information

Date: 07 February 2023
 Location: Not applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Finance Officer
 Island: Shire Wide
 Attachments: 10.2.3.1 - Schedule of Accounts paid

Authority / Discretion

Definition

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

Report Purpose

The purpose of this report is to present to Council a list of accounts paid under delegated authority for the period December 2022 and January 2023, 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 further details of the accounts paid contained within Attachment 10.2.3.1.

Payment Type	Amount (\$)
EFT Payments #9492 to #9601	\$632,607.63
Direct Debit Payment	\$133,823.14
Cheque Payment 11694 to 11699	\$15,958.97
Total Payments	\$782,389.74

Contained within Attachment 10.2.3.1 is a detailed transaction listing of payments, including credit card expenditure as per the Summary table above.

Policy and Legislative Implications

Nil

Strategic Implications:

Nil

Risk Implications

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

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

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

Conclusion

It is recommended that Council receives the reports provided for the periods December 2022 and January 2023.

OFFICER RECOMMENDATION – ITEM NO 10.2.3

THAT COUNCIL:

1. BY SIMPLE MAJORITY, PURSUANT TO REGULATION 13(1) OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO PAYMENTS MADE FROM MUNICIPAL OR TRUST FUNDS FOR THE PERIOD DECEMBER 2022 AND JANUARY 2023 TOTALLING \$782,389.74 AS CONTAINED IN ATTACHMENT 10.2.3.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD DECEMBER 2022 AND JANUARY 2023, AS CONTAINED IN ATTACHMENT 10.2.3.1.

COUNCIL RESOLUTION – ITEM NO 10.2.3

MOVED CR LIU

SECONDED CR LACY

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 DECEMBER 2022 AND JANUARY 2023 TOTALLING \$782,389.74 AS CONTAINED IN ATTACHMENT 10.2.3.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD DECEMBER 2022 AND JANUARY 2023, AS CONTAINED IN ATTACHMENT 10.2.3.1.

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

10.2.4 WRITE OFF SMALL RATES BALANCES

Report Information

Date: 07 February 2023
 Location: Not Applicable
 Applicant: Not Applicable
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Manager Finance & Corporate Services
 Island: Shire Wide
 Attachments: Nil

Authority / Discretion

Definition

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

Report Purpose

The purpose of this report is to request approval to write off small Rates debtor 'interest only' balances below \$15.00.

Relevant Documents

Available for viewing at the meeting.

Nil

Background

In accordance with s6.12(1)(c) of the *Local Government Act 1995 (WA) (CKI)*, a local government may write off any amount of money which is owed to the local government.

Under s6.51(3) accrued interest is, for the purpose of its recovery, taken to be a rate or service charge, that is due and payable. Delegation 2.1.11 – Defer, grant Discounts, Waive or Write off Debts does not apply to debts, which are prescribed debts that are taken to be a rate or service charge and thus Council approval is sought to write off small interest balances on rates debtors.

Comment

Due to the charging of interest on overdue rates, there are some small amounts showing as outstanding on a number of assessments.

Below is a list of the amounts outstanding that are less than \$15.00 each, with the total amount being \$28.57. Writing off these debts maintains the Rates Ledger, avoids further interest being charged and allows for a clear opening balance for the next financial year. The amounts are insignificant for accounting purposes and will eliminate needless enquiries on small balances.

Assessment Number	Balance
A6034	2.66
A6063	14.21
A6156	2.75
A6189	8.95
Total	28.57

Policy and Legislative Implications

Local Government Act 1995 (WA) (CKI) s6.12(1)(c)

Local Government Act 1995 (WA) (CKI) s6.51 (3)

Strategic Implications

Nil

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Income varies significantly from Budget	Low (2)	Write-offs are limited to small, immaterial amounts.

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 detailed small balances be approved for write-off.

OFFICER RECOMMENDATION – ITEM NO 10.2.4

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO THE SECTION 6.12(1)(C) *LOCAL GOVERNMENT ACT 1995 (WA)(CKI)*, APPROVES THE WRITE-OFF OF SMALL RATES BALANCES TOTALLING \$28.57 PER TABLE BELOW:

Assessment Number	Balance
A6034	2.66
A6063	14.21
A6156	2.75
A6189	8.95
Total	28.57

COUNCIL RESOLUTION – ITEM NO 10.2.4

MOVED CR YOUNG

SECONDED CR LIU

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO THE SECTION 6.12(1)(C) *LOCAL GOVERNMENT ACT 1995 (WA)(CKI)*, APPROVES THE WRITE-OFF OF SMALL RATES BALANCES TOTALLING \$28.57 PER TABLE BELOW:

Assessment Number	Balance
A6034	2.66
A6053	14.21
A6156	2.75
A6189	8.95
Total	28.57

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

10.3 MANAGER INFRASTRUCTURE

10.3.1 BBRF PROJECT – TOKOH REDEVELOPMENT

Report Information

Date: 22 February 2022
 Location: Cocos (Keeling) Islands
 Applicant: Manager Infrastructure
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Manager Infrastructure
 Island: Cocos (Keeling) Islands
 Attachments: 10.3.1.1 – BRFIPV000814 COCOS (KEELING) ISLANDS SHIRE
 10.3.1.2 - BRFIPV000814 - COCOS (KEELING) ISLANDS SHIRE
 10.3.1.3 – TOKOH Drawings

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 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 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

The purpose of this report is to provide Council with an update on the status of the BBRF project redeveloping the TOKOH building and seek guidance for the next course of action.

Relevant Documents

Nil

Background

At its February 2022 meeting, Council agreed to accept the BBRF grant funding and proceed with the Stage 1 Tokoh Redevelopment project over the next 2 years.

At that time, as part of the budget review, Council

- were informed of the Council contribution of up to \$750,000
- endorsed the transfer of \$480,000 to reserve for the construction
- endorsed \$60,000 to capital works for the design
- were informed that the costs had increased by in excess of \$300,000 since the application was submitted

The funding agreement was executed in April 2022. The financial components of the project are as follow.

TOTAL PROJECT:	\$2,253,382
BBRF FUNDING:	\$1,562,000
SHIRE CONTRIBUTION:	\$661,382
EXTERNAL CONTRIBUTION:	\$30,000
BUDGET FY22/23:	\$1, 101, 666
FORECAST FY23/24:	\$1, 151, 716

At its July 2022 meeting, Council noted that:

1. A FURTHER REVIEW OF THE PROJECT COSTING FOR THE TOKOH BUILDING UPGRADE IS BEING UNDERTAKEN WITH A FUTURE REPORT TO COUNCIL ON ADDITIONAL EXPENDITURE IF NECESSARY.
2. THE CHIEF EXECUTIVE OFFICER IS NEGOTIATING WITH THE BBRF FUNDING BODY IN REGARD TO PROJECT DELIVERY MILESTONES AND EXPENDITURE EXCLUSIONS RELATING TO INTERNAL LABOUR.

At its November 2022 meeting, Council considered a report (10.3.1 BBRF PROJECT – TOKOH REDEVELOPMENT) which identified that the detailed design of the redevelopment is nearing completion and an updated estimate had been received. The revised estimate of \$3,201,400 left an unfunded cost of \$948,000

In addition to the increased costs, the report identified further risks with the project including overly ambitious project delivery milestones and expenditure exclusions relating to internal labour.

At that time, Council resolved as follows (COUNCIL RESOLUTION – ITEM NO 10.3.1)

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO S 3.1 OF THE *LOCAL GOVERNMENT ACT 1995 (WA)* (CKI) ENDORSES:

THE CHIEF EXECUTIVE OFFICER TO NEGOTIATE WITH THE FUNDING BODY FOR A

- a. REDUCTION IN SCOPE TO DELIVER ON IMPROVED STRUCTURAL BUILDING ELEMENTS, REPAIR THE ROOF AND UNDERTAKE THE REPLACEMENT OF DOORS/WINDOWS
 - b. EXTENSION TO PROJECT DELIVERY MILESTONES AND
-

c. EXPENDITURE EXCLUSIONS RELATING TO INTERNAL LABOUR.

Comment

After requesting a meeting with the BBRF team on 18 October 2022 and following up a week later, Shire staff eventually had preliminary discussions with the BBRF team on 3 November 2022 to discuss the identified risks and scope review. It was made clear at that time there was no opportunity to revise the completion milestones.

A request for scope review was sent to the BBRF funding team on 7 November 2022 (Attachment 10.3.1.1) noting that due to significant escalation of costs for materials, freight and labour on island, we cannot deliver all the eligible activities identified in the Clause B of the Agreement.

A variation to the Agreement was requested for the Shire to deliver the following eligible activities to achieve the project outcome

- construct a business space;
- complete internal building works;
- improve structural building elements;
- repair the roof and undertake the replacement of doors/windows;

Noting the ambitious timeframes and logistics of construction on the islands, staff sought a response on 15 November 2022, 9 December 2022 and 13 January 2023. On 17 January 2023 the Chief Executive sought the support of the Acting Administrator and the Assistant Secretary of the Indian Ocean Territories without success.

On 24 January 2023, the Shire received a response from the BBRF team (Attachment 10.3.1.2) advising the 'request has been reviewed by the policy partner, Department of Infrastructure, Transport, Regional Development, Communications and the Arts. Given the project scope would significantly change and not deliver the intended project outcome approved by the Ministerial Panel the **request has been declined**. 'A copy of a Deed of Termination was attached for execution.

Given its presence on the Commonwealth Heritage List it is disappointing that the variation request to upgrade the TOKOH Building has been denied. It is now likely to fall further into disrepair. In the absence of \$1.5m of Commonwealth funding, there is likely to be an impact on employment over the next 12 months across the islands.

Expenditure to date on the design and consultancy fees are \$91,620.

There are a few options for Council consideration.

- Appeal the decision.
- Endorse the Chief Executive Officer signing the Deed of Release and terminate the funding Agreement.
- The allocation of Shire funds to make the structure safe and replace the damaged trusses and open roof estimated at \$300,000.

- Reallocation of existing Shire commitment of \$570,000 to other projects including Kampong House Maintenance.

Policy and Legislative Implications

Nil

Financial Implications

The revised estimate is an additional 40% from the November 21 estimate and nearly 50% more than the funding application.

Strategic Implications

The project is identified in the 2019 Masterplan.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Projects exceed budget allocation	Extreme	Ensure projects are delivered in schedule time and finances are monitored.
Health & Safety	Staff do not comply with Work Health and Safety requirements	Moderate	Adequate training all for staff and constant monitoring by WHS Representatives, Supervisors and Managers that requirements are adhered to.
Reputation	Projects are not delivered and up to required standard	High	Works are scheduled and project updates are provided accordingly
Service Interruption	Loss of key personnel to undertake project	Moderate	Ensure adequate staff is available for project delivery – limit number of projects to be delivered each FY
Compliance	Non-compliant with regulations and codes	Moderate	Ensure Supervisors and Managers have the necessary knowledge in standards, regulations and codes.
Property	Damage to property	Moderate	Ensure staff are aware of their surroundings

			and to avoid damage to property as necessary.
Environment	Damage to environment and surroundings	Moderate	Ensure minimal impact on environment at every means possible. Rehabilitation and replanting of area at the completion should it be impacted by project.

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.

OFFICER RECOMMENDATION – ITEM NO 10.3.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.1 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* ENDORSES:

1. THE CHIEF EXECUTIVE OFFICER TO WRITE TO THE BUILDING BETTER REGIONS FUND TEAM AND THE DEPARTMENT OF INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT, COMMUNICATIONS AND THE ARTS APPEALING THE DECISION TO NOT GRANT A CHANGE OF SCOPE TO THE PROJECT AS TABLED.

COUNCIL RESOLUTION – ITEM NO 10.3.1

MOVED CR LIU

SECONDED CR IKU

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.1 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* ENDORSES:

1. THE CHIEF EXECUTIVE OFFICER TO WRITE TO THE BUILDING BETTER REGIONS FUND TEAM AND THE DEPARTMENT OF INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT, COMMUNICATIONS AND THE ARTS APPEALING THE DECISION TO NOT GRANT A CHANGE OF SCOPE TO THE PROJECT AS TABLED.

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

10.3.2 INFRASTRUCTURE REPORT

Report Information

Date: 23 February 2023
 Location: Cocos (Keeling) Islands
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref: Nil
 Disclosure of Interest: Nil
 Reporting Officer: Infrastructure Manager
 Island: Cocos (Keeling) Islands
 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 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>
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<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

The purpose of this report is to provide Council with an update on the status of key capital works projects and the operations of the infrastructure team over the reporting period.

Relevant Documents

Nil

Background

The Shire has an ambitious capital works program to deliver in 2022/2023 in addition to ongoing maintenance and private works projects.

This report is provided to outline known status progress on works, budget allocation, forecast and variant implications for the Council approved capital projects. Some of these projects are those that have been rolled over into this financial year's budgets. With these continuances we have seen some completions, positive advancement of works for some and unavoidable delays on others.

CAPITAL PROJECTS

New Houses

The new houses are complete with occupation commencing early December.

Final cost for the project was \$1,547,579.

It is important that the two houses are included in a regular inspection and maintenance routines.

Retail Precinct

Stage 2 of the retail precinct commenced in late October with significant progress made since then. The eastern extension is awaiting electrical and plumbing works before internal cladding is completed.

Three tenants have moved out (two relocating to the Azmie Zaitu Centre) and the demolition of the remaining internal/external walls is complete.

The western extension is underway with footings installed last week with bearers and deck to follow.

It was understood all materials had been purchased for the retail precinct. It appears as the project progresses there is a significant shortfall. Most of the materials were ordered in 2020 and it is likely those unaccounted for have been used on other projects, such as the new houses, or for routine maintenance in the Kampong.

Council have endorsed the design and supply of some materials for the bakery tenancy. The materials have been ordered. The master metering panel has arrived and an application submitted to IOTPS for a network extension.

Both the Retail Precinct and the New Housing project were part funded from the Stimulus Funding program. The project completion milestone is intended for 30 June 2023. There is moderate risk of completion within this timeframe due to the need to purchase additional materials, availability of electrical and plumbing contractors and labour.

The current budget for the remainder of the project is \$829,376. Expenditure to date is \$290,865 with \$171,430 committed. With the need to purchase additional materials, and noting quotes are still outstanding for the restaurant fit-out and wet area flooring, there is minor risk of over expenditure.

Road Works – Jalan Bunga Mawar

In the 2021 – 2022 financial year the Shire completed repaving of Jalan Masjid and intersection of Jalan Raya and section of Jalan Bunga Mawar. It then identified a need to repave the remaining section of Jalan Bunga Mawar. The Department of Infrastructure, Transport, Regional Development, Communication, and the Arts (DITRDCA) funded the Shire to complete paving of Jalan Bunga Mawar during the 2022 – 2023 financial year.

The works were undertaken in October/November 22.

The budget allocation for the project is \$270,276 with \$200,000 made up of funding assistance received from the Commonwealth and the remainder provided by Council. The project was completed for \$232,228 noting that sections of ‘old’ kerbing were retained as they were not damaged or impacted during the removal of pavers.

It is intended that the remaining budget be utilised for the purpose of pavers for the 2023/2024 road program.

Re-sheeting of Bungalows

Council adopted as part of this financial year’s budget expenditure to the amount of \$235,424 to re clad the Shire’s two bungalow units on Home Island. Cladding material has arrived on island and is awaiting install.

Pending completion of the bathroom renovations, the commencement of works is scheduled for February 2023 for completion in May 2023.

Studio Unit

Christmas Island Maintenance Services (CIMS) has been engaged to undertake the project of installing the studio unit on LOT198 Jalan Edit, Home Island. Preliminary works have commenced with the installation of footings on the allotment.

CIMS are now awaiting the transport of the unit from West Island. It is hoped this can be achieved when unloading of the current ship is complete.

The relocation is made difficult by the lack of a side lifter truck on Home Island.

Allocated budget for this project is \$32,500. With connection to services excluded from the current contract, it is likely that the budget will be exceeded by up to \$5,000.

Once onsite, completion within 3 weeks is anticipated.

Shelter at The Spot

The works crew has successfully completed the construction of new shelter at The Spot.

Parts for the new BBQ have arrived on the recent ship, with expectations to be fully operational in February.

Kampong Bathroom Renewal

In the current budget Council approved an amount of \$104,269 for the renewal of ablution blocks for three properties. The project came about a couple of years ago when the Shire was approached by tenants for works that was promised to them but was half delivered.

There are several properties that was identified for this renewal dating back to 2005. The scope of works has never been clearly defined. The works have included a mix of refurbishment, renovation or construction of a second bathroom.

It is likely the works will be complete within budget.

Kampong Kitchen and Window Renewal

The budget allocated for this project is \$196,553 to renew kitchen and windows for Shire rental properties. Property inspections will be conducted to identify and confirm prioritisation which properties will receive the renewals. Once we determine which properties will be affected, we will work with occupiers to formalise scheduling of the works.

Given the current committed schedule of works for other projects and resources it is likely this project will be carried forward to 2023/2024.

Works will be undertaken by building maintenance staff and casuals under the direction of the Senior Building Officer.

Tokoh Building Redevelopment

See separate report.

Plant Replacement Program

In this financial year Council accepted and approved allocation of \$1,447,371.00 for an extensive plant replacement program. Listed in table below plant purchases.

PLANT	BUDGET	PURCHASE AMOUNT	STATUS	ESTIMATED DELIVERY
SELF PROPELLED ROLLER	\$180,000	\$174,830	Delivered	November
SIDE/REAR TIPPER TRUCK	\$250,000	\$242,631.35	Purchase order raised	April
EXCAVATOR	\$ 366,411	\$348,411	Delivered	October

RUBBISH TRUCK	\$234,180	\$209,180	Delivered	January
SKID STEER	\$136,780	\$87,045	Purchase order raised.	March
TRACTOR AND FLAIL MOWER	\$100,000		Removed from replacement program	
LIGHT FLEET	\$180,000	\$125,699.99	Purchase order raised. One vehicle received.	April

Sandbag Wall Maintenance and Construction

Since the adoption of the 22/23 budget, the Shire has entered into Agreements for the delivery of maintenance works on the sandbag walls and the construction of 60m of new walls on West Island.

These additional works, valued at \$667,000, have placed a strain on existing limited resources.

A thirty-metre extension to the Sydney Highway wall was completed in October. Maintenance on the seawalls at William Keeling commenced in December and completed late January. As a result of further high tides in December and January, the scope of works required to repair the walls has increased significantly and is currently under review.

A second crew has now commenced filling sandbags for the construction of a new wall adjoining the cable landing site on West Island. These works are planned for completion by the end of March.

OPERATIONAL WORKS

Home Island Cemetery

The entrance to the cemetery at Home Island has been fenced to manage the flow of traffic entering the site. This was at the request of the Cemetery Committee. Additional planting adjoining and adjacent the fence has been undertaken.

Tree Pruning Home Island

With the elevated work platform on Home Island, staff have been pruning hazardous branches from trees along roadways and reserves. Where required, coconuts have been removed.

Scout Park

As identified in the LGIS Risk Audit, the old BBQ's at Scout Park have been removed. Materials are on island for the construction of replacement BBQ's awaiting the availability of a suitable contractor.

West Island Boat Ramp

In conjunction with the harvesting of sand for seawall construction in November, staff removed 5000 cubic metres of sand within the vicinity of the buried ramp at Rumah Baru. Whilst this did uncover a portion of the ramp, it only served to destabilise the beach and prevent any beach access at all.

Since that time the sand has naturally been replenished and the beach contours re-established.

At the start of February, the temporary ramp at the old farm was lifted 500mm. However, with the interesting swell and sand movement associated with the low-pressure system, sections of the ramp have been undermined and will need to be re-laid.

Waste Management

Off island Disposal

- A full container of aluminum cans has been prepared and loaded for disposal on the next ship
- One container of asbestos gone off Island, first in many years for the Shire, another one potentially two which will include the roof sheeting, cladding and flooring from the retail precinct as soon as truck and trailer available on Home Island.
- Tyres have now been loaded into a container on West Island, Home Island will follow very soon once container we have a container available.
- Batteries will be loaded into empty container, have started one on Home Island

Waste Education

- New bin stickers for green, red and yellow bins have been attached to Home Island bins. Awaiting delivery of rest of stickers from DWER for West Island. The aim of these is to have a simple but effective image and wording to reinforce what each bin is for
- Waste Education sessions with the CKIDHS planned for May 2023 with DWER. This is a waste education program with two parts, waste, and water. Includes looking at Marine debris, collection and auditing.

Drink Tap Water

- “We refill here stickers” are being distributed to any business that would like to participate and offer water for anyone that would like to refill their bottles. Stickers are also on water bubblers
- Large sign from DWER to be put up in arrivals area at airport promoting Drink Tap Water
- Map been put together of all water refill sites also
- Local Law to ban sale of single use plastic bottles is to be progressed
- Stage 1 Plastics review WA’s plan for plastic– have started meeting with businesses to conduct audits. Continue this with Tim Francis on his next visit.

Green-waste

- Green-waste facility on Home Island has been cleaned up. A bund has been erected around to allow access from only one side. Access will be from eastern side. This will prevent anything blowing out of the bunded area
- Since this has been done a lot less rubbish is ending up there. Unfortunately, we are still seeing rubbish dumped here particularly over weekends.

Marine Debris

- Re-useable Bags and signs have been erected at 9 locations on Home and West Island. Have received great feedback from community for these.
- WA's biggest beach clean-up saw great numbers of volunteers and over 625kg of debris collected. This was a Shire hosted event and would like to continue this annually.

Comment

This report outlines several projects that should be complete this financial year, however with limited qualified trades staff and no project management staff there is some risk of project delays.

Policy and Legislative Implications

Nil

Financial Implications

Project finances are monitored to ensure wherever possible works are done within scope and set allocated budget. Should there be any unforeseen variances such as increase in freight and shipping these will identified earlier rather than later for each of the projects that are yet to commence.

Strategic Implications

Projects will continue to be delayed and not delivered on time if issues of staffing or external trades staff are resolved.

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	Projects exceed budget allocation	Moderate	Ensure projects are delivered in schedule time and finances are monitored.
Health & Safety	Staff do not comply with Work Health and Safety requirements	Moderate	Adequate training all for staff and constant monitoring by WHS Representatives, Supervisors and Managers that requirements are adhered to.
Reputation	Projects are not delivered and up to required standard	Moderate	Works are scheduled and project updates

			are provided accordingly
Service Interruption	Loss of key personnel to undertake project	Moderate	Ensure adequate staff is available for project delivery – limit number of projects to be delivered each FY
Compliance	Non-compliant with regulations and codes	Low	Ensure Supervisors and Managers have the necessary knowledge in standards, regulations and codes.
Property	Damage to property	Moderate	Ensure staff are aware of their surroundings and to avoid damage to property as necessary.
Environment	Damage to environment and surroundings	Moderate	Ensure minimal impact on environment at every means possible. Rehabilitation and replanting of area at the completion should it be impacted by project.

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.

OFFICER RECOMMENDATION – ITEM NO 10.3.2

THAT COUNCIL, NOTE AND RECEIVE THE INFRASTRUCTURE UPDATE REPORT.

COUNCIL RESOLUTION – ITEM NO 10.3.2

MOVED CR LACY

SECONDED CR IKU

THAT COUNCIL, NOTE AND RECEIVE THE INFRASTRUCTURE UPDATE REPORT.

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

11. MINUTES TO BE RECEIVED

11.1 MINUTES FROM EXTERNAL COMMITTEE MEETINGS TO BE RECEIVED

Report Information

Date: 14 February 2023
 Location: Cocos (Keeling) Islands
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref: Not applicable
 Disclosure of Interest: Nil
 Reporting Officer: Governance and Risk Coordinator
 Island: Cocos (Keeling) Islands
 Attachments: 11.1.1 - Minutes of External Committees 1. PKNPCMC 17 November 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 report formally presents the minutes of external committee from previous month.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Shire has an official Council representative on the following committees which are external to the Shire (i.e. established and managed by an external agency).

1. The Pulu Keeling National Park Community Management Committee (PKNPCMC)
2. Indian Ocean Group Training Association (IOGTA)
3. Kimberley Zone

To ensure that Council is kept informed of the activities of these external committees in which it has an interest, the minutes from all external committees will be presented for Council to receive as soon as they are available from the secretariat of the group.

It should be noted that by receiving the minutes Council is not being asked to endorse a decision of the external committee, nor can it be implied that Council is committing resources in support of a recommendation by the external committee. Should a decision or resource allocation be required from Council on a specific matter, a separate agenda item will be prepared for Council consideration.

Council's representatives on the various external committees will be able to answer any questions arising from the minutes.

Comment

The attached minutes are the minutes of the following external committees:

1. PKNPCMC Committee held on the 17 November 2022.

Policy and Legislative Implications

Nil

Financial Implications

The Officer's recommendation to receive the minutes of external committee meetings carries no financial commitment for Council.

Strategic Implications

Strategic Community Plan - Key Result Area: Civic Leadership

OFFICER RECOMMENDATION – ITEM NO 11.1

THAT COUNCIL BY SIMPLE MAJORITY PURSUANT TO SECTION 3.18 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO RECEIVE THE MINUTES OF THE PKNPCMC COMMITTEE MEETING HELD ON THE 17 NOVEMBER 2022 ON WHICH IT HAS A REPRESENTATIVE.

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 (WA) (CKI)* RESOLVES TO RECEIVE THE MINUTES OF THE PKNPCMC COMMITTEE MEETING HELD ON THE 17 NOVEMBER 2022 ON WHICH IT HAS A REPRESENTATIVE.

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

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

12.1 COCOS BORONIA RESORT

Report Information

Date: 17 January 2023
 Location: Cocos (Keeling) Islands
 Applicant: Chief Executive Officer
 File Ref: Nil
 Disclosure of Interest: Not Applicable
 Reporting Officer: Chief Executive Officer
 Island: Cocos (Keeling) Islands
 Attachments: 12.1.1 – Notice of Motion to change a decision

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 seek Council approval for change of a Council resolution made at the Ordinary Meetings of Council, in February and August 2022.

Available for viewing at the meeting

Minutes for February 2022 and August 2022 Ordinary Meetings of Council.

Background

Proposals for the Cocos Boronia Resort on Direction Island and the waters adjacent to the Island and the Cocos Eco Resort at Trannies Beach have been to Council on numerous occasions. This report refers to the proposals being discussed by Council at the Ordinary Meetings held on 23 February 2022 and 24 August 2022.

In January 2023, a review of the minutes of both meetings revealed an error in resolutions relating to the Cocos Boronia Resort on Direction Island and the waters adjacent to the Island and the Cocos Eco Resort at Trannies Beach had been made.

At the February 2022 meeting, the Chief Executive Officer submitted a report to Council that contained the following recommended resolution:

THAT COUNCIL, BY SIMPLE MAJORITY:

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

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

The recommended resolution was passed by Council and recorded in the minutes.

The basis of point .1 of the resolution was a letter received from the Assistant Secretary Indian Ocean Territories in past as follows:

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

The Chief Executive Officer at the time appears to have lifted the majority of the resolution from this letter from the Commonwealth. Without anything to the contrary to account for the reason why, the wording “will not be pursuing lease negotiations at this time” was not used and it could be assumed simplicity of error resulted in Council at the meetings referred to, resolving the following:

1. RECEIVE THE CORRESPONDENCE FROM THE ASSISTANT SECRETARY, INDIAN OCEAN TERRITORIES BRANCH, NOTING THAT THE COMMONWEALTH GOVERNMENT WILL NOT BE PROGRESSING LEASE NEGOTIATIONS IN REGARD TO THE REQUEST TO LEASE CROWN LAND (OVER WATER) AT DIRECTION ISLAND

Upon review, in January 2023, it is quite clear from the letter referred to in this report and attached, the resolution should have read “**the Commonwealth Government will not be progressing at this time**” et al.....

By way of direct correlation, this error also applies to the Council resolution of August 2022 whereby Dot point 1 of the resolution of Council in February 2022, was copied verbatim by the current Chief Executive Officer, into a report to Council. This Dot point 1 was duly resolved as presented in the report to Council.

Having determined this error, the matter of correction is now brought back to Council change the resolutions passed.

Comment

Both resolutions of Council regarding the Cocos Boronia Resort on Direction Island and the waters adjacent to the Island and the Cocos Eco Resort at Trannies Beach on 23 February 2022 and 24 August 2022 should be changed as follows:

1. RECEIVE THE CORRESPONDENCE FROM THE ASSISTANT SECRETARY, INDIAN OCEAN TERRITORIES BRANCH, NOTING THAT THE COMMONWEALTH GOVERNMENT WILL NOT BE PROGRESSING AT THIS TIME LEASE NEGOTIATIONS IN REGARD TO THE REQUEST TO LEASE CROWN LAND (OVER WATER) AT DIRECTION ISLAND et al.....

Policy and Legislative Implications

Revoking or changing a decision of Council is dealt with as per Section 5.25 (1)(e) of the West Australian Local Government Act 1995 – in particular Section 10 of the West Australian Local Government Administration Regulations 1996 – Revoking or changing decisions.

5.25. Regulations about council and committee meetings and committees

(1) Without limiting the generality of section 9.59, regulations may make provision in relation to —

(e) the circumstances and manner in which a decision made at a council or a committee meeting may be revoked or changed (which may differ from the manner in which the decision was made);

10. Revoking or changing decisions (Act s. 5.25(1)(e))

(1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —

(a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or

(b) in any other case, by at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.

(1a) Notice of a motion to revoke or change a decision referred to in sub regulation (1) is to be signed by members of the council or committee numbering at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.

(2) If a decision is made at a council or committee meeting, any decision to revoke or change the decision must be made by an absolute majority.

(3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

[Regulation 10 amended: Gazette 31 Mar 2005 p. 1030;
SL 2020/213 r. 16.]

Financial Implications

Nil

Strategic Implications

Nil

Risk Implications

Corrects an error made in the past

Voting Requirements

Absolute majority

Conclusion

As the two resolutions of Council were made as the result of simple error and the change required does substantially alter the resolution, Council members are required to sign the attached 'Notice of a motion to revoke or change a decision' as referred to above by members of the council or committee numbering at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.

The five elected members have notified, in writing, of their intent to move a motion to change two identical decisions of Council.

Cr Minkom

Cr Iku

Cr Liu

Cr Young

Cr Lacy

OFFICER RECOMMENDATION – ITEM NO 12.1

THAT COUNCIL RECEIVES THE NOTICE OF MOTION TO CHANGE A DECISION AS TABLED AND APPROVES THE CHANGE OF DECISIONS DETAILED IN THIS REPORT FROM THE FEBRUARY 2022 AND AUGUST 2022 ORDINARY MEETINGS OF COUNCIL TO BE CHANGED TO READ:

1. RECEIVE CORRESPONDENCE FROM THE ASSISTANT SECRETARY, INDIAN OCEAN BRANCH, NOTING THAT THE COMMONWEALTH GOVERNMENT WILL NOT BE PROGRESSING AT THIS TIME LEASE NEGOTIATIONS IN REGARD TO THE REQUEST TO LEASE CROWN LAND (OVER WATER) AT DIRECTION ISLAND ET AL.....

COUNCIL RESOLUTION – ITEM NO 12.1

MOVED CR LACY

SECONDED CR LIU

THAT COUNCIL RECEIVES THE NOTICE OF MOTION TO CHANGE A DECISION AS TABLED AND APPROVES THE CHANGE OF DECISIONS DETAILED IN THIS REPORT FROM THE FEBRUARY 2022 AND AUGUST 2022 ORDINARY MEETINGS OF COUNCIL TO BE CHANGED TO READ:

- 1. RECEIVE CORRESPONDENCE FROM THE ASSISTANT SECRETARY, INDIAN OCEAN BRANCH, NOTING THAT THE COMMONWEALTH GOVERNMENT WILL NOT BE PROGRESSING AT THIS TIME LEASE NEGOTIATIONS IN REGARD TO THE REQUEST TO LEASE CROWN LAND (OVER WATER) AT DIRECTION ISLAND ET AL.....**

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

13. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL

Nil

14. MATTERS BEHIND CLOSED DOORS

Pursuant to Section 5.2(1) of the Shire of Cocos (Keeling) Islands Meeting Procedures Local Law 2019, this part of the meeting was closed to the public, as a confidential discussion is required.

Confidential items, details of which have been circulated separately to Elected Members.

PROCEDURAL MOTION

MOVED CR IKU

SECONDED CR YOUNG

THAT COUNCIL BY SIMPLE MAJORITY RESOLVES TO MOVE BEHIND CLOSED DOORS AT 5.00PM IN ACCORDANCE WITH SECTION 5.23(2) OF THE LOCAL GOVERNMENT ACT 1995 AND SECTION 5.2(1) OF MEETING PROCEDURES LOCAL LAW THAT THE FOLLOWING REPORTS ARE CONFIDENTIAL AS THEY CONTAIN INFORMATION RELATING TO A MATTER THAT IF DISCLOSED WOULD REVEAL INFORMATION ABOUT THE BUSINESS, PROFESSIONAL, COMMERCIAL OR FINANCIAL AFFAIRS OF A PERSON, WHERE THE TRADE SECRET OR INFORMATION WITHHELD BY, OR IS ABOUT, A PERSON OTHER THAN THE LOCAL GOVERNMENT.

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

The Public left the gallery at 5:01pm.

14.1 CONFIDENTIAL ITEM - CEO CONFIRMATION OF APPOINTMENT

Report Information

Date: 12 January 2023
 Location: Cocos (Keeling) Islands
 Applicant: Cr Lacy
 File Ref: Nil
 Disclosure of Interest:
 Reporting Officer: Cr Lacy
 Island: Cocos (Keeling) Islands
 Attachments: Nil

Authority / Discretion

Definition

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

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

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

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

COMMITTEE RECOMMENDATION – ITEM NO 14.1

As per the Confidential item.

COUNCIL RESOLUTION – ITEM NO 14.1

MOVED CR LIU

SECONDED CR LACY

THAT COUNCIL NOTE THE CONTENTS OF THIS REPORT AND APPROVE THE RECOMMENDATIONS OF THE REVIEW COMMITTEE ACCORDINGLY.

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

Cr Lacy declared an interest on Item No 14.2 and left the meeting room. The video link was turned off at 5:04pm.

Cr Liu declared an interest on Item No 14.2 and left the meeting room at 5:04pm.

14.2 COUNCILLOR COMPLAINT

Report Information

Date: 12 January 2023
 Location: Cocos (Keeling) Islands
 Applicant: Chief Executive Officer
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Chief Executive Officer
 Island: Cocos (Keeling) Islands
 Attachments: See attachments 14.2.1 – 14.2.8

Authority / Discretion

Definition

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

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

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

(b) *the personal affairs of any person.*

OFFICER RECOMMENDATION – ITEM NO 14.2

As per the Confidential item.

COUNCIL RESOLUTION – ITEM NO 14.2

MOVED CR IKU

SECONDED CR YOUNG

- 1. THAT COUNCIL NOTE THE DESIGNATION BY THE CHIEF EXECUTIVE OFFICER OF EMPLOYEE VIKKI LAURITSEN AS THE COMPLAINTS OFFICER FOR THE SHIRE UNTIL FURTHER NOTICE.**
- 2. THAT COUNCIL NOTE THIS REPORT.**

THE MOTION WAS PUT AND DECLARED CARRIED (3/0)

FOR: IKU, MINKOM, YOUNG

AGAINST: NIL

Cr Lacy returned to the meeting room. The video link was turned on at 5:10pm.

Cr Liu returned to the meeting room at 5:10pm.

The Public did not return to the meeting room.

14.3 CIVIC LEGAL EXPENDITURE

Report Information

Date: 4 January 2023
 Location: Cocos (Keeling) Islands
 Applicant: Chief Executive Officer
 File Ref: Nil
 Disclosure of Interest: Not Applicable
 Reporting Officer: Chief Executive Officer
 Island: Cocos (Keeling) Islands
 Attachments: See Attachment 14.3.1

Authority / Discretion

Definition

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

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

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

- (ii) information that has a commercial value to a person; or*
- (iii) information about the business, professional, commercial or financial affairs of a person,*

OFFICER RECOMMENDATION – ITEM NO 14.3

As per the Confidential item.

COUNCIL RESOLUTION – ITEM NO 14.3

MOVED CR LACY

SECONDED CR IKU

1. THAT COUNCIL NOTE THE EXPENDITURE OF THE SHIRE TO DATE WITH CIVIC LEGAL IN RELATION TO THE HOUSING POLICY, LEASING, TRUSTS AND HISTORICAL AGREEMENTS.
2. THAT COUNCIL NOTE AND APPROVE THE ADDITIONAL EXPENDITURE ESTIMATE FROM CIVIC LEGAL IN RELATION TO THE HOUSING POLICY, LEASING, TRUSTS AND HISTORICAL AGREEMENTS.

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

PROCEDURAL MOTION

MOVED CR LACY

SECONDED CR YOUNG

THAT COUNCIL BY SIMPLE MAJORITY RESOLVES TO MOVE FROM BEHIND CLOSED DOORS AT 5:23PM.

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: 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

Cr Lacy declared an interest on Item No 15.1.1 and left the meeting room. The video link was turned off at 5:23pm.

15.1.1 PROPOSED SHADE HOUSE & VERANDAH – LOT 220 MAHOON ROAD, WEST ISLAND

Report Information

Date: 31 January 2023
 Location: Lots 220 Mahoon Road, West Island
 Applicant: Mr Tony Lacy of Cocos Artisans Collective Pty Ltd
 File Ref: WL219/220
 Disclosure of Interest: Cr Lacy
 Reporting Officer: Chief Executive Officer
 Island: West Island
 Attachments: Nil

Authority / Discretion

Definition

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

Report Purpose

For Council to consider a development application for the erection of shade house and verandah at Lot 220 Mahoon Road, West Island which forms part of the 'Wild Coconut Farm' which is a subsidiary of the Cocos Artisans Collective Pty Ltd.

Relevant Documents

Available for viewing at the meeting

Application for Development Approval
DA Plans Hydroponics Shed
Surveyed Leased Area Lot 219 220
Site Map

Background

On 23 March 2022, Council granted development approval for a land use of ‘rural production’ upon lots 219 and 220 Mahoon Road, West Island subject to the following conditions:

- 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.*

The land use of 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;*

The subject building works development application seeks approval for the erection of 91m² timber framed verandah extension to an existing farm shed and erection of a 391m² timber framed freestanding shade house with a translucent polycarbonate roof.

The applicant is a leaseholder of Lots 219 and 220 Mahoon Road, West Island which forms part of parent Lot 100 which is under the care and control of Shire. As such, Council is required

to give landowner's consent for the application. Should Council not grant this consent, the application cannot proceed (determination of the application is then not required).

Comment

The proposed building works of the subject development application are in keeping with the approved rural production land use of the site as it will enable the cultivation of plants for produce.

The location of the subject property outside the established urban area of West Island results in the development having minimal appearance or amenity impacts on the immediate locality or neighbouring properties. Nonetheless the approved rural production land use is subject to a condition which ensures the site does not cause a 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.

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
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

As the development is deemed compatible with the approved rural production land use for the site 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 15.1.1

THAT COUNCIL, BY SIMPLE MAJORITY:

1. AGREES TO PROVIDE LANDOWNER'S CONSENT FOR THE DEVELOPMENT APPLICATION FOR A PROPOSED SHADE HOUSE AND VERANDAH AT LOT 220 MAHOON ROAD, WEST ISLAND
2. PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR A PROPOSED SHADE HOUSE AND VERANDAH AT LOT 220 MAHOON ROAD, WEST ISLAND, SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTE:

CONDITIONS:

- A. ALL DEVELOPMENT SHALL BE CARRIED OUT ONLY IN ACCORDANCE WITH THE DETAILS OF THE APPLICATION AS APPROVED HEREIN AND ANY APPROVED PLAN. SUBJECT TO ANY MODIFICATIONS REQUIRED AS A CONSEQUENCE OF ANY CONDITIONS OF THIS APPROVAL THE APPROVED PLANS SHALL NOT BE ALTERED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.
- B. THE DEVELOPMENT IS NOT TO BE USED FOR HUMAN HABITATION, 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 15.1.1

MOVED CR IKU

SECONDED CR

THAT COUNCIL, BY SIMPLE MAJORITY:

- 1. AGREES TO PROVIDE LANDOWNER'S CONSENT FOR THE DEVELOPMENT APPLICATION FOR A PROPOSED SHADE HOUSE AND VERANDAH AT LOT 220 MAHOON ROAD, WEST ISLAND**
- 2. PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR A PROPOSED SHADE HOUSE AND VERANDAH AT LOT 220 MAHOON ROAD, WEST ISLAND, SUBJECT TO THE FOLLOWING CONDITIONS AND ADVICE NOTE:**

CONDITIONS:

- A. ALL DEVELOPMENT SHALL BE CARRIED OUT ONLY IN ACCORDANCE WITH THE DETAILS OF THE APPLICATION AS APPROVED HEREIN AND ANY APPROVED PLAN. SUBJECT TO ANY MODIFICATIONS REQUIRED AS A CONSEQUENCE OF ANY CONDITIONS OF THIS APPROVAL THE APPROVED PLANS SHALL NOT BE ALTERED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SHIRE OF COCOS (KEELING) ISLANDS.**
- B. THE DEVELOPMENT IS NOT TO BE USED FOR HUMAN HABITATION, 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.

LAPSED DUE TO NO SECONDER

Cr Lacy returned to the meeting room. The video link was turned on at 5:26pm.

15.2 TRUSTS LEASES

15.2.1 USE OF SHIRE OF COCOS (KEELING) ISLANDS COMMON SEAL

Report Information

Date: 8 March 2023
 Location: Shire of Cocos (Keeling) Islands
 Applicant: Chief Executive Officer
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: West Island
 Attachments: Nil

Authority / Discretion

Definition

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

Report Purpose

To seek Council approval for the Shire President and the Chief Executive Officer to sign and use the Shire of Cocos (Keeling) Islands Common Seal on the attached documents.

Relevant Documents

Available for viewing at the meeting.

Nil

Background

In accordance with Section 9.49A of the *Local Government Act 1995* a Common Seal may be affixed to a document made by Council Resolution. For this purpose, there are currently two (2) lease documents that require the Council Common Seal to be affixed.

Comment

The following item was resolved by Council and owing to an anomaly, Council was not requested permission to affix the Common Seal at the time of resolution.

A detailed register of the documents executed with the Common Seal is now being kept and known as the Shire of Cocos (Keeling) Islands Common Seal Register.

Description:	Authorisation:
Application to Enter into a New Lease for Part Lot 100 West Island – Water Corporation – Seawater Desalination Plant	Council Resolution 30 June 2021
Application To Renew Lease for Part Lot 100 West Island Wastewater Treatment Plant	Council Resolution 24 February 2021

Policy and Legislative Implications

Section 9.49(A) of the *Local Government Act 1995 (WA)*

Financial Implications

Nil

Strategic Implications

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

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Reputation	Inconsistent decision making	Moderate (6)	This recommendation is consistent with precedent and established process.
Compliance	Lack of legislative compliance	Moderate (6)	The process outlined in this report is consistent with legislative requirements.

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

That Council authorises the fixing of the Shire of Cocos (Keeling) Islands Common Seal.

OFFICER RECOMMENDATION – ITEM NO 15.2.1

1. THE COUNCIL APPROVE THE SHIRE PRESIDENT AND CHIEF EXECUTIVE OFFICER TO SIGN AND AFFIX THE SHIRE OF COCOS (KEELING) ISLAND COMMON SEAL TO THE TABLED DOCUMENT:
 - i. APPLICATION TO ENTER INTO A NEW LEASE FOR PART LOT 100 WEST ISLAND – WATER CORPORATION – SEAWATER DESALINATION PLANT.
 - ii. APPLICATION TO RENEW LEASE FOR PART LOT 100 WEST ISLAND WASTEWATER TREATMENT PLANT.

COUNCIL RESOLUTION – ITEM NO 15.2.1

MOVED CR LACY

SECONDED CR IKU

1. THE COUNCIL APPROVE THE SHIRE PRESIDENT AND CHIEF EXECUTIVE OFFICER TO SIGN AND AFFIX THE SHIRE OF COCOS (KEELING) ISLAND COMMON SEAL TO THE TABLED DOCUMENT:
 - i. APPLICATION TO ENTER INTO A NEW LEASE FOR PART LOT 100 WEST ISLAND – WATER CORPORATION – SEAWATER DESALINATION PLANT.
 - ii. APPLICATION TO RENEW LEASE FOR PART LOT 100 WEST ISLAND WASTEWATER TREATMENT PLANT.

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

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

15.2.2 SHIRE OF COCOS (KEELING) ISLANDS NEW COMMERCIAL LEASE TEMPLATE

Report Information

Date: 8 March 2023
 Location: Shire of Cocos (Keeling) Islands
 Applicant: Chief Executive Officer
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Shire Wide
 Attachments: Nil

Authority / Discretion

Definition

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

Report Purpose

The purpose of this report is for Council to approve the new commercial leasing templates as prepared by Civic Legal.

Relevant Documents

Available for viewing at the meeting

Template Assignment and Variation of Lease
 Template Commercial (Not Retail Lease)
 Template Expression of Interest to Lease
 Template Extension and Variation of Lease

Template Sub-lease
Template Variation of Lease

Background

The Shire currently has two (2) commercial lease agreements for the purpose of a land only lease and a land and building lease and in addition to this an Assignment to Lease agreement. These documents have not been reviewed since it became effect and is not up to date with the current relevant legislations. The revised agreements have been prepared by Civic Legal based on the Shire acting as trustee with respect to trust land.

In August 2022 the Shire placed a Moratorium over leases and tenancies while the Shire's leasing policy was under review. The Shire engaged Civic Legal to provide assistance with the commercial leasing policy and for the review and preparing of new commercial lease templates.

Comment

Whilst the Commercial Lease Policy is still in progress the leasing templates are now available. The commercial lease templates have been created to suit a variety of situations that have occurred or most likely to be encountered:

- Assignment and Variation of Lease
- Commercial (Not Retail) Lease
- Expression of Interest to Lease
- Extension and Variation of Lease
- Sub-Lease
- Variation of Lease

Shire Officers is now preparing the new lease agreements for all commercial leases for signing by relevant parties.

Whilst new commercial lease templates have now been produced, it may be prudent of the Shire to continue with the Moratorium for all new land commercial leases until the completion of the Local Town Planning Scheme and the Coastal Hazard Risk Management and Adaption Plan (CHRMAP) expected to be late 2023.

Policy and Legislative Implications

Section 9.49(A) of the *Local Government Act 1995 (WA)*

Financial Implications

The Shire will find the costings for an extensive review is expected to be significant. The current expenditure in relation to the review of the lease template matter 151379 is \$74,823.10 a break-up as follows:

Civic Invoice Number:	Civic Matter Reference Number:	Description:	Shire Account Number:	Account Description:	Amount:
510282	151379	Review of Lease Template	10422300.020	Legal Expenses MUN Legal Advice	\$1,785.80
510747	151379	Review of Lease Template	21332510.020	Property Expenses Other - Economic Services TRU Legal Advice	\$15,295.30
510747	151379	Review of Lease Template	31332510.020	Property Expenses Other - Economic Services TRU Legal Advice	\$15,295.30
510669	151379	Review of Lease Template	31332510.020	Property Expenses Other - Economic Services TRU Legal Advice	\$15,283.60
510669	151379	Review of Lease Template	21332510.020	Property Expenses Other - Economic Services TRU Legal Advice	\$15,283.60
510419	151379	Review of Lease Template	10432100.210	Governance - Other expenditure MUN Legal Advice	\$ 1,216.20
510550	151379	Review of Lease Template	H200.127.3022	General Kampong House Maintenance Legal Costs Legal Advice	\$3,663.30
510874	151379	Review of Lease Template	21332510.021	Property Expenses Other - Economic Services TRU Legal Advice	\$7,000.00
TOTAL:					\$74,823.10

Strategic Implications

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

Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Reputation	Inconsistent decision making	Moderate (6)	This recommendation is consistent with precedent and established process.
Compliance	Lack of legislative compliance	Moderate (6)	The process outlined in this report is consistent with legislative requirements.
Property	The property is being used other than what it has been intended for.	Low (3)	Inspections 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

That Council accepts the leasing template as prepared by Civic Legal.

OFFICER RECOMMENDATION – ITEM NO 15.2.2

1. THAT COUNCIL APPROVE THE FOLLOWING LEASING TEMPLATES AND THE SHIRE PREPARES THE NEW AGREEMENT FOR THE CURRENT COMMERCIAL LEASES FOR SIGNING:
 - a. TEMPLATE ASSIGNMENT AND VARIATION OF LEASE
 - b. TEMPLATE COMMERCIAL (NOT RETAIL LEASE)
 - c. TEMPLATE EXPRESSION OF INTEREST TO LEASE
 - d. TEMPLATE EXTENSION AND VARIATION OF LEASE
 - e. TEMPLATE SUB-LEASE
 - f. TEMPLATE VARIATION OF LEASE
2. THAT COUNCIL APPROVE THE EXTENSION OF THE LEASE MORATORIUM FOR COMMERCIAL LAND PURPOSES UNTIL THE COMPLETION OF THE LOCAL TOWN PLANNING SCHEME AND THE COASTAL HAZARD RISK MANAGEMENT AND ADAPTION PLAN (CHRMAP) EXPECTED TO BE LATE 2023.

COUNCIL RESOLUTION – ITEM NO 15.2.2

MOVED CR LACY

SECONDED CR YOUNG

1. THAT COUNCIL APPROVE THE FOLLOWING LEASING TEMPLATES AND THE SHIRE PREPARES THE NEW AGREEMENT FOR THE CURRENT COMMERCIAL LEASES FOR SIGNING:
 - a. TEMPLATE ASSIGNMENT AND VARIATION OF LEASE
 - b. TEMPLATE COMMERCIAL (NOT RETAIL LEASE)
 - c. TEMPLATE EXPRESSION OF INTEREST TO LEASE
 - d. TEMPLATE EXTENSION AND VARIATION OF LEASE
 - e. TEMPLATE SUB-LEASE
 - f. TEMPLATE VARIATION OF LEASE
2. THAT COUNCIL APPROVE THE EXTENSION OF THE LEASE MORATORIUM FOR COMMERCIAL LAND PURPOSES UNTIL THE COMPLETION OF THE LOCAL TOWN PLANNING SCHEME AND THE COASTAL HAZARD RISK MANAGEMENT AND ADAPTION PLAN (CHRMAP) EXPECTED TO BE LATE 2023.

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

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

