

# Shire of Cocos (Keeling) Islands

## Shire of Cocos (Keeling) Islands

### Minutes

### Ordinary Meeting of Council

Wednesday 31 May 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 4:03pm and welcomed Councillors and staff.

## 2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

President: Cr A Minkom

Deputy President: Cr S Iku

Councillors: Cr Knight  
Cr T Lacy  
Cr Young

Officers: Frank Mills, Chief Executive Officer  
Vikki Lauritsen, Manager Finance and Corporate Services  
M Faulkner, Manager Infrastructure  
A Alim, Administration Officer  
A Hajat, Community Development Coordinator

Public: 2

Visitors: Ni

Apologies: Nil

Approved Leave of Absence: Nil

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

Nil

## 4. PUBLIC QUESTION TIME

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

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

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

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

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

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

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

Question 1: Is there any future development for the Boat Ramp?

*Response:* An article regarding the Boat Ramp will be put out on the next Atoll. The Shire President and the CEO will raise this issue with the appropriate Minister during our Canberra visit in June.

**5. LEAVE OF ABSENCE**

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

**5.1 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**

Councillor	Date of Leave	Approved by Council
NIL		

**5.2 APPLICATION FOR LEAVE OF ABSENCE**

Cr Minkom request for leave of absence for the period 27 June 2023 to 14 July 2023.

**COUNCIL RESOLUTION – ITEM NO 2.1**

**MOVED CR IKU**

**SECONDED CR LACY**

**THAT CR MINKOM REQUEST FOR LEAVE FOR THE PERIOD 27 JUNE 2023 TO 14 JULY 2023 BE APPROVED.**

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

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

## **6. PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil

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

7.1 Ordinary Council Meeting held on 19 April 2023 - Attachment 7.1

### **OFFICER RECOMMENDATION – ITEM NO 7.1**

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 5.22(2) AND 3.18 OF THE *LOCAL GOVERNMENT ACT 1995 (WA)(CKI)*, RESOLVES THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 19 APRIL 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 KNIGHT**

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO SECTIONS 5.22(2) AND 3.18 OF THE *LOCAL GOVERNMENT ACT 1995 (WA)(CKI)*, RESOLVES THAT THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 19 APRIL 2023, AS PRESENTED IN ATTACHMENT 7.1, BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

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

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



## 8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

Nil

## 9. DECLARATION OF INTERESTS

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

Name	Item No.	Interest	Nature
Cr Lacy	16.1	Financial	Cr Lacy is the applicant.

## 10. REPORT FROM COMMITTEES AND OFFICERS

### 10.1 CHIEF EXECUTIVE OFFICER

#### 10.1.1 CHIEF EXECUTIVE OFFICER REPORT

##### Report Information

Date: 15 May 2023  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Nil  
 Reporting Officer: Chief Executive Officer  
 Island: Shire wide  
 Attachments: n/a

##### 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</i>

		<i>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 April/May 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.

**Waste Management**

Involved with the Shire of Cocos (Keeling) Islands waste management review is the need for community consultation. Coming from a community meeting held at the Community Resource Centre on West Island on 24 May 2023, was a very clear message from community that the Transfer Stations should be open to receive waste at the 2022 – 2023 waste management prices. Council staff are well advanced in the waste management review for the Shire and accordingly the request from the community has merit and is appropriate.

**Civic Legal**

Attended various teams’ meetings and phone calls with Melanie Fraser and Anthony Quahe of Civic Legal regarding the development of a new leasing policy for Kampong residents and a visit to Home Island from 14 to 17 July to carry out community consultations. Further details of the process to be followed for this will be included in the June 2023 Ordinary Meeting of Council Chief Executive Officer Report.

**Building Better Regions Funding**

Council has been advised in the past that a proposed variation for the Building Better Regions Funding for the redevelopment of the Tokoh building was refused. At the request of Council, this decision was challenged, and the following response received:

Hi Frank,

*Your request has been reviewed by the Delegate and the decision to decline the variation request remains.*

*As advised in my earlier email the project scope is a significant change and would not deliver the intended project outcome approved by the Ministerial Panel.*

*There is no appeals process for this decision.*

*Kind regards,*

*Alison*

*Building Better Regions Fund Team*

Unfortunately, the redevelopment must now be considered untenable due to the costs involved and the limited financial resources of Council.

### **Emergency Management Meeting**

Attended an emergency management meeting to round off the end of “cyclone” season and discuss the emergency management review currently underway. A suite of draft documents has been compiled and are being reviewed prior to being formalised and it is intended that these be tabled to the June 2023 Ordinary Meeting of Council for endorsement.

### **West Australian Electoral Commission**

Attended a teams’ meeting with Shani Wood of the West Australian Electoral Commission regarding the conduct of the October 2023 Ordinary Council Elections (see attached discussion paper). A follow up webinar has been arranged for 25 May 2023 and any information coming out of the webinar can be discussed with Council along with this report.

### **State Library**

Met with Janet Deegan and Steve McQuade, members of the State Library Committee during their visit to the Cocos (Keeling) Islands. Pleasing to hear from Janet and Steve, such positive feedback about the library services the Shire is supporting on both Home and West Island.

### **Surveyors – Rumah Baru and Airport**

Attended on site visits with John Crowhurst and Andre Schreuder surveyors from Digital Surveying Solutions carrying out works on West Island. The works being carried out included - *“We have been asked by Dept of Defence to carry out some works for the Airport access Road from Sydney highway. Andre is working on the Air 555 project for Manteena at the airport near the Fuel Facility and John is carry out licensed work at the MOF for Dept of Infrastructure and Landgate”.*

As a result of these discussions, it seems there may very well be some major anomalies with the Shire Road Network and proclamation of roads on West Island and possibly Home Island. There also may be similar issues with the Commonwealth lease over the Port area and stilling

basin at Rumah Baru. The surveys were generated by the Commonwealth Department of Infrastructure, Transport, Regional Development, Communications, and the Arts and seem to have raised more questions than they have answered, especially at the projected site of the Material Off Load Facility (MOF), the lease area associated with Ports and the jetty and the stilling basin/lay down area proposed for the MOF. Kim Forbes Assistant Secretary, Indian Ocean Territories, Department of Infrastructure, Transport, Regional Development, Communications, and the Arts, has been contacted for comment.

### **Main Roads West Australia**

Aet with Kellie Keable, Maintenance Planning Manager, Metropolitan and Southern Regions and Metropolitan Region, Main Roads West Australia to discuss:

- Fulton Hogan plans regarding use of the road network on West Island before, during and post the runway upgrade project. *(As a consequence of the discussions, it is planned that AECOM the project managers for Fulton Hogan will conduct a meeting of all relevant parties prior to the May Ordinary Meeting of Council. If this is the case, any information coming out of the webinar can be discussed with Council along with this report).*
- The Shires, road network signage for both Home and West Island, with Kellie confirming, the current signs are adequate for both islands.

### **Indian Ocean Territories Regional Development Organisation (IOT RDO)**

Met with Bianca McKinney to discuss the role of the IOT RDO in the development and submission to the Inquiry into the availability and access to enabling communications infrastructure in Australia's external territories conducted by the Joint Standing Committee on the National Capital and External Territories in 2021. Discussions also included the development of a draft Digital Action Plan for Cocos (Keeling) Islands. Shire staff will continue to work closely with Bianca as discussions with Telstra regarding future services to the Cocos (Keeling) Islands continue.

### **Policy and Legislative Implications**

With a lack of support from the Commonwealth Department of Infrastructure, Transport, Regional Development, Communications, and the Arts and the Office of the Administrator Indian Ocean Territories, Christmas and Cocos Keeling Islands and the Minister for Territories, policy and legislative support for the Shire and the people of the Cocos (Keeling) Islands needs to be addressed by alternative process. Meetings with the Premier of West Australia and the West Australian Minister for Transport, Planning and Ports as well as Federal Ministers with portfolios such as Climate Change, Foreign Affairs, Emergency Management, and the Attorney General can only be of benefit to the Shire Cocos (Keeling) Islands and its residents.

### **Financial Implications**

The costs involved for the Shire President and Chief Executive Officer to travel to Canberra are budgeted for in the 2022 – 2023 financial budget.

### **Strategic Implications**

It is strategically advisable to align with both State and Commonwealth Ministers to support the goals and aspirations of the people of the Cocos (Keeling) Islands.

### **Risk Implications**

Failure to align with both State and Commonwealth Ministers increase risk to ongoing viability of programs and projects for the Shire of Cocos (Keeling) Islands.

### **Voting Requirements**

Simple majority.

### **OFFICER RECOMMENDATION – ITEM NO 10.1.1**

THAT COUNCIL, BY SIMPLE MAJORITY:

1. NOTE AND RECEIVE THE CEO'S REPORT.
2. APPROVE THE RE-OPENING OF THE TRANSFER STATIONS ON HOME AND WEST ISLANDS FOR THE MONTH OF JUNE 2023 IN LINE WITH THE PRE-MORATORIUM TIMETABLES TO RECEIVE WASTE FROM THE COMMUNITY AT THE RATES IN THE SHIRE OF COCOS (KEELING) ISLANDS 2022 – 2023 SCHEDULE OF FEES AND CHARGES.

### **COUNCIL RESOLUTION – ITEM NO 10.1.1**

MOVED CR LACY

SECONDED CR YOUNG

THAT COUNCIL, BY SIMPLE MAJORITY:

1. NOTE AND RECEIVE THE CEO'S REPORT.
2. APPROVE THE RE-OPENING OF THE TRANSFER STATIONS ON HOME AND WEST ISLANDS FOR THE MONTH OF JUNE 2023 IN LINE WITH THE PRE-MORATORIUM TIMETABLES TO RECEIVE WASTE FROM THE COMMUNITY AT THE RATES IN THE SHIRE OF COCOS (KEELING) ISLANDS 2022 – 2023 SCHEDULE OF FEES AND CHARGES.

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

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

**AGAINST:** NIL

## 10.1.2 COMMUNITY DEVELOPMENT SECTION UPDATE – MAY 2023

### Report Information

Date: 8 May 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: 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 type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input checked="" type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

### Report Purpose

To provide Council with an update of the programs and projects of the Community Development team for the months of April/May 2023.

### Relevant Documents

Available for viewing at the meeting

Nil

## **Background**

### Sport and Recreation Program

Arranged sporting clinics for Cocos are scheduled below:

Rugby – NRL Coach Development Officer – School and community activation 9<sup>th</sup> to 12<sup>th</sup> May

Olympians – Australian Olympic Committee – 23<sup>rd</sup> to 26<sup>th</sup> May

Soccer – 20<sup>th</sup> May to 9<sup>th</sup> June

Sailing – 4<sup>th</sup> to 11<sup>th</sup> July – School Holiday Program

Athletics – 25<sup>th</sup> to 28<sup>th</sup> July (TBC)

The clinics bring experienced sports coaches who have played or are playing at a national and international level. They also bring an opportunity to support community groups in building capacity, governance, and support to the school physical education teachers and community coaches.

### Office of Multicultural Interest

The Community Development Co-ordinator (CDC) met with Zinab Al Hilaly who is the Community Engagement Officer at the Office of Multicultural Interests.

The Office of Multicultural Interests (OMI) is part of the Department of Local Government, Sport and Cultural Industries. The role includes engaging with communities, stakeholders and groups across Western Australia and the Indian Ocean Territories (Christmas Island and Cocos Keeling Islands).

Zainab visited the Cocos (Keeling) Islands on 2 May to 5 May to meet with community groups and organisations to get a better understand any emerging issues and gaps as well as opportunities to better support communities. The CDC provided interpreting services during the meeting with the Seniors Group, Imam Haji Adam and Chongkin Sebie.

She also attended the Department of Local Government Sports and Cultural Industries Public Hearing on Home Island again to understand and listen to the Councillors and the wider public forum on the issues affecting the local government in remote communities such as the Indian Ocean Territories.

### Community Funding Program

The Community Funding Program 2023 Round 1 closed on the 3 April. The Shire received three applications from various community organisations from Home and West Island. Deliberation on the funding will be announced by the end of May.

### Maritime Museums of Australia Project Support Scheme (MMAPSS)

In collaboration with Tim Eastwood from the WA Museum a proposal will be submitted under the Australian National Maritime Museum's MMAPSS for the restoration of the five Jukongs (collection) in the Home Island Museum.

The collection has significance importance to cultural and traditional boat building, industry, and social connection to the Cocos Malays. The proposed project will not only secure its preservation but allow visitors to the Home Island Museum Precinct to connect with the local boat builders through engagement and understanding of the building the Jukong.

Shire contribution is proposed to be in the form of in-kind labour to relocation of the five boats inside the Chula Shed and minor construction such as jigs for the boats and workbenches. Materials, equipment, and expertise labour (Cocos Malay seniors) will be sourced through the proposed funding.

#### **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**

Nil

#### **Strategic Implications**

*Shire's Corporate Business Plan – ED 1.1.3.3*  
*Shire's Strategic Plan – E 1.12*



**Risk Implications**

<b>Risk Category</b>	<b>Description</b>	<b>Rating (consequence x likelihood)</b>	<b>Mitigation Action</b>
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**

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

**Voting Requirements**

Simple majority.

**OFFICER RECOMMENDATION – ITEM NO 10.1.2**

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

1. NOTES AND RECEIVES THE SHIRE’S COMMUNITY DEVELOPMENT SECTION MONTHLY UPDATE FOR MAY 2023.

**COUNCIL RESOLUTION – ITEM NO 10.1.2**

**MOVED CR YOUNG                      SECONDED CR IKU**

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

1. NOTES AND RECEIVES THE SHIRE’S COMMUNITY DEVELOPMENT SECTION MONTHLY UPDATE FOR MAY 2023.

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

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

**AGAINST: NIL**

### 10.1.3 APPOINTMENT OF COUNCIL REPRESENTATIVE TO THE COMMUNITY FUNDING PROGRAM COMMITTEE

#### Report Information

Date: 1 May 2023  
 Location: Cocos (Keeling) Islands  
 Applicant: The Shire of Cocos (Keeling) Islands  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Community Development Coordinator  
 Island: Cocos (Keeling) Islands  
 Attachments: 10.1.3.1 – Terms of Reference Community Funding Program Committee

#### 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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	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

#### Report Purpose

This report seeks Council's consideration of appointing a new member to the Community Funding Program Committee.

#### Relevant Documents

Available for viewing at the meeting

Nil

## Background

Council Committees dissolve at the time of a Local Government Election, which occur every two years, and therefore cannot meet until re-established by a Council decision. The Local Government Elections were held on 16 October 2021.

The Shire of Cocos (Keeling) Islands is required to re-establish the Committees and delegates after the Council election. This also provides an opportunity for the formation of any new Committees.

Section 5.8 of the *Local Government Act 1995 (WA) (CKI)* allows Council to establish, by absolute majority, Committees of three or more persons to assist Council and to exercise the powers and discharge the duties of the local government that can be delegated to Committees.

The Shire of (Cocos) Keeling Islands Community Funding Program Committee;

- Cr Seri Iku
- Cr Tony Lacy
- Cr Helen Liu – Tendered resignation

## Comments

The Committee of Council, being the Community Funding Program Committee, is established at the discretion of the Council and must have its terms of reference formally determined by Council resolution. The primary objective of the Community Funding Program Committee (the Committee) is to assist with the facilitation of a fair, equitable and transparent process for Council funding of community projects, programs and initiatives. See attachment 10.4.1.2 - Terms of Reference for the Community Funding Program Committee.

Council Committees have an important role in assisting Council to undertake its duties efficiently and effectively.

Good risk management practice is for Committee workloads to be fairly shared across the elected members of Council. This ensures that individual Councillors do not suffer inequitable workload pressures. It also helps ensure that decision-making influence remains equitable across all Councillors.

## Financial Implications

Nil - there are no direct financial implications; however, Committees established by Council all require allocation of officer resources, for secretariat support and Committee coordination and, in relation to the business of a Committee as provided in its terms of reference, allocation of officer resources for preparation of necessary reports.

**Policy and Legislative Implications**

Section 5.8 of the *Local Government Act 1995 (WA) (CKI)* allows Council to establish Committees to assist it in discharging its duties under the Act, with a minimum number of three (3) or more persons.

**Strategic Implications**

Strategic Community Plan - *Key Result Area: Civic Leadership Outcome 4.1 – An informed Council leading working with others to advance our Islands.*

**OFFICER RECOMMENDATION – ITEM NO 10.1.3**

THAT COUNCIL, BY SIMPLE MAJORITY:

1. ENDORSE THE REQUIREMENT OF A NEW ELECTED MEMBER ATTENDING MEETINGS FOR EXTERNAL COMMITTEE AND TO PROVIDE A WRITTEN REPORT TO ALL ELECTED MEMBERS ON SIGNIFICANT MATTERS ARISING FROM THESE MEETINGS; AND
2. APPROVE ONE OTHER ELECTED MEMBER APPOINTMENT TO THE COUNCIL COMMUNITY FUNDING PROGRAM COMMITTEE AS FOLLOWS:

POSITION / ORGANISATION	NAME
Councillor	

**COUNCIL RESOLUTION – ITEM NO 10.1.3**

**MOVED CR LACY**

**SECONDED CR YOUNG**

**THAT COUNCIL:**

1. **ENDORSE THE REQUIREMENT OF A NEW ELECTED MEMBER ATTENDING MEETINGS FOR EXTERNAL COMMITTEE AND TO PROVIDE A WRITTEN REPORT TO ALL ELECTED MEMBERS ON SIGNIFICANT MATTERS ARISING FROM THESE MEETINGS; AND**
2. **APPROVE ONE OTHER ELECTED MEMBER APPOINTMENT TO THE COUNCIL COMMUNITY FUNDING PROGRAM COMMITTEE AS FOLLOWS:**

**COMMUNITY FUNDING PROGRAM COMMITTEE MEMBER**

POSITION / ORGANISATION	NAME
Councillor	<b>SIGNA KNIGHT</b>

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

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

**AGAINST: NIL**

#### 10.1.4 THE GOVERNORS CHAPLAINCY AWARDS

##### Report Information

Date: 17 May 2023  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Nil  
 Reporting Officer: Chief Executive Officer  
 Island: Shire wide  
 Attachments: 10.1.4.1 - GCA Invitation 3 July 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>
	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 the Chief Executive Officer and his wife to attend the 2023 Governors Chaplaincy Awards to be held in Perth on 3 July 2023.

##### Relevant Documents

Available for viewing at the meeting

Yes

## Background

An invitation has been received via email as follows:



*Dear Frank Mills*

*On behalf of His Excellency the Honourable Chris Dawson AC APM, Governor of Western Australia,  
the honour of your presence is requested at the Governor's Chaplaincy Awards 2023.*

*Monday, 3 July 2023  
Optus Stadium  
(333 Victoria Park Dr, Burswood WA 6100)*

*Time: 16:00 – 18:15*

*RSVP by Friday, 16 June 2023  
To [rsvp.wa@thegovernorsawards.com](mailto:rsvp.wa@thegovernorsawards.com)  
Please advise if you will be accompanied by a guest  
or have special dietary requirements.*

*Dress code: Business Formal*

The invitation is further outlined in the attachment to this report.

## Policy and Legislative Implications

Nil

## Financial Implications

Cost of air travel and accommodation for functions such as this is budgeted for on an annual basis.





**COUNCIL RESOLUTION – ITEM NO 10.1.4**

**MOVED CR YOUNG**

**SECONDED CR IKU**

**THAT COUNCIL, BY SIMPLY MAJORITY:**

- 1. NOT APPROVE THE CHIEF EXECUTIVE OFFICER AND HIS WIFE TO ATTEND THE GOVERNOR’S CHAPLAINCY AWARDS 2023, TO BE HELD ON MONDAY, 3 JULY 2023 AT OPTUS STADIUM.**
- 2. NOT APPROVE THE USE OF COUNCIL FUNDS FOR AIR TRAVEL, ACCOMMODATION AND MEALS AND INCIDENTALS FOR THE CHIEF EXECUTIVE OFFICER AND HIS WIFE TO ATTEND THIS FUNCTION.**

**REASON FOR VARIATION TO THE OFFICER RECOMMENDATION:**

Council felt that the function was not of such significance that the Chief Executive Officer needed to attend and would be of more value on Cocos (Keeling) Islands.

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

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

**AGAINST: NIL**

## 10.2 MANAGER FINANCE AND CORPORATE SERVICES

### 10.2.1 MONTHLY FINANCIAL REPORT – APRIL 2023

#### Report Information

Date: 05 May 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 - Monthly Financial Report – April 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 provided 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 April 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 April 2023. The current closing municipal surplus for this period is \$1,944,163 compared to a budget position of \$1,356,192.

Income for the period year to date is \$7,336,840 which is made up \$6,518,627 in operating revenues and \$818,213 in non-operating grants, contributions, and subsidies. The budget estimated \$7,737,474 would be received for the same period. The variance to budget is (\$400,634).

Expenditure for the period year to date is \$7,340,816. This is made up of \$5,259,423 in operating expenditure and \$2,081,393 in capital expenditure. The budget estimated \$8,427,447 would be spent for the same period. The variance to budget is \$1,086,631.

Details of all significant variances against the current budget are provided in the notes to the Monthly Financial Report contained within Attachment 10.2.1.

## Policy and Legislative Implications

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

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

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

## Strategic Implications

Nil

## Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	That budget allocations are significantly exceeded.	Moderate (6)	Variances are monitored and highlighted to Council on a monthly basis for corrective action.

Reputation	The monthly financial statements are open to public scrutiny.	Low (3)	Procedures in place to ensure all expenditure is justifiable.
Compliance	The report is to be presented to Council within two months in order to comply with relevant legislation.	Low (3)	There are processes in place to ensure compliance with legislation.
Fraud	That the report is manipulated.	Low (3)	Interim and end of year audits.

### Risk Matrix

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

### Conclusion

That the Monthly Financial Report for the period ending 30 April 2023, including explanations of material variances, be received.

### OFFICER RECOMMENDATION – ITEM NO 10.2.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996*

1. RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDING 30 APRIL 2023, AS CONTAINED IN ATTACHMENT 10.2.1.1 AND
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 30 APRIL 2023, AS CONTAINED IN ATTACHMENT 10.2.1.1

### COUNCIL RESOLUTION – ITEM NO 10.2.1

MOVED CR LACY                      SECONDED CR YOUNG

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996*

1. RECEIVES THE MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDING 30 APRIL 2023, AS CONTAINED IN ATTACHMENT 10.2.1.1 AND
2. ACCEPTS THE EXPLANATIONS FOR MATERIAL VARIANCES FOR THE PERIOD ENDING 30 APRIL 2023, AS CONTAINED IN ATTACHMENT 10.2.1.1

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

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

## 10.2.2 SCHEDULE OF ACCOUNTS PAID FOR THE PERIOD APRIL 2023

### Report Information

Date: 15 May 2023  
 Location: Not Applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Senior Finance Officer  
 Island: Shire Wide  
 Attachments: 10.2.2.1 – List of Accounts Paid April 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 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 April 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 10.2.2.1.

<b>Payment Type</b>	<b>Amount (\$)</b>
EFT Payments #9713 to #9765	\$197,668.82
Direct Debit Payment	\$58,939.03
Cheque Payment 11703 to 11706	\$3,058.50
<b>Total Payments</b>	<b>\$259,666.35</b>

Contained within Attachment 10.2.2.1 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**

<b>Risk Category</b>	<b>Description</b>	<b>Rating (consequence x likelihood)</b>	<b>Mitigation Action</b>
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.

### Risk Matrix

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

### Conclusion

It is recommended that Council receives the reports provided for the period April 2023.

### OFFICER RECOMMENDATION – ITEM NO 10.2.2

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO REGULATION 13(1) OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996*

1. 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 APRIL 2023 TOTALLING \$259,666.35 AS CONTAINED IN ATTACHMENT 10.2.2.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD APRIL 2023, AS CONTAINED IN ATTACHMENT 10.2.2.1.

### COUNCIL RESOLUTION – ITEM NO 10.2.2

MOVED CR IKU

SECONDED CR YOUNG

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO REGULATION 13(1) OF THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996*

1. 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 APRIL 2023 TOTALLING \$259,666.35 AS CONTAINED IN ATTACHMENT 10.2.2.1.
2. RECEIVES THE DETAILED TRANSACTION LISTING OF CREDIT CARD EXPENDITURE FOR THE PERIOD APRIL 2023, AS CONTAINED IN ATTACHMENT 10.2.2.1.

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

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



### 10.2.3 DIFFERENTIAL RATING 2023/2024 FINANCIAL YEAR

#### Report Information

Date: 22 May 2023  
 Location: Not Applicable  
 Applicant: Shire of Cocos (Keeling) Islands  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Manager Finance & Corporate Services  
 Island: Shire Wide  
 Attachments: 10.2.3.1 - Statement of Object and Reasons 2023/24

#### Authority / Discretion

#### Definition

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

#### Report Purpose

This report is provided for Council to consider the Statement of Objects and Reasons and the proposed differential rates and minimum payments for the 2023/2024 financial year for the purpose of advertising and seeking public submissions as required by the *Local Government Act 1995 (WA)(CKI)*.

#### Relevant Documents

Available for viewing at the meeting.

Nil

## Background

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

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

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

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

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

## Comment

Every six years the Office of the Valuer General undertakes a revaluation of all properties on Cocos (Keeling) Islands. The last valuation was completed in August 2018 and took effect 1 July 2019. Without a change in valuations, an increase to rate revenue is only achieved by increasing the rate in the dollar. An increase in Rate revenue is required to assist in maintaining the current level of services as well as meeting compliance requirements in an environment of ever-increasing costs.

The Economic Briefing issued by WALGA for March 2023 forecasts CPI to increase 3.25% over 2023/24 and the Wage Price Index to increase 3.75%. CPI increased 6.1% in 2021/22 and is currently around 5.25% for 2022/23.

With the exception of 2020/21, rates have been increased 3% year on year between 2014/15 – 2019/20. Due to the COVID-19 Pandemic Council rates were frozen for 2020/21 as well as reducing the rate in the dollar for Holiday Accommodation in response to the travel ban that was in place. The travel ban was lifted in August 2020 and the tourism industry has seen high levels of visitation since. The reduction in Holiday Accommodation was reversed in 2021/22, and rates on all categories were again increased by 3%. Rates were increased by 3.5% for 2022/23.

The application of differential rates aims to provide an equitable solution for the rates charged according to the use of the property. The proposed Objects and Reasons for Differential Rates have been reviewed and are outlined in Attachment 10.2.3.1

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

### 2.5% Increase to RiD and Minimum Payments:

RATING CATEGORY	Number of Properties	Rateable value	Rate in \$ 2023/24	Total Rate Revenue 2023/24	Average Rates \$ 2023/24	Average Increase \$	Max Increase \$	# Properties increase over \$100
GRV General Developed	159	\$ 2,717,780	\$ 0.1190	\$ 323,416	\$ 2,034.06	\$ 49.57	\$ 67.86	-
GRV Vacant Land	10	\$ 44,400	\$ 0.2376	\$ 10,549	\$ 1,054.94	\$ 25.75	\$ 46.98	-
GRV Business	42	\$ 1,135,855	\$ 0.1256	\$ 142,663	\$ 3,396.75	\$ 83.84	\$ 552.93	8
	<b>211</b>	<b>\$ 3,898,035</b>		<b>\$ 476,629</b>				
<b>Minimum</b>			<i>Minimum Value</i>					
GRV General Developed	4	\$ 3,540	\$ 770	\$ 3,080	\$ 770.00	\$ 19.00		
GRV Vacant Land	5	\$ 16,120	\$ 870	\$ 4,350	\$ 870.00	\$ 16.00		
GRV Business	21	\$ 77,544	\$ 770	\$ 16,170	\$ 770.00	\$ 19.00		
	<b>30</b>	<b>\$ 97,204</b>		<b>\$ 23,600</b>				
	241			<b>\$ 500,229</b>				
			<b>Increase</b>	<b>\$ 66,165</b>				
			1979 Land Trust Rates	\$ 54,454				
			Other Prop	\$ 11,711				

A 2.5% increase results in an overall increase of \$66,165 to Rate Revenue, the highest expected increase being \$552.93 for the year for a GRV Business rated property (average increase \$83.84). For GRV General Developed the highest expected increase would be \$67.86 (average increase \$49.57). Of the \$66,165 increase to revenue, \$54,454 relates to rates charged on Kampong rentals that are paid by the Shire under the 1979 Land Trust.

### 3.5% Increase to RiD and Minimum Payments:

RATING CATEGORY	Number of Properties	Rateable value	Rate in \$ 2023/24	Total Rate Revenue 2023/24	Average Rates \$ 2023/24	Average Increase \$	Max Increase \$	# Properties increase over \$100
GRV General Developed	159	\$ 2,717,780	\$ 0.1202	\$ 326,677	\$ 2,054.57	\$ 70.08	\$ 95.94	-
GRV Vacant Land	10	\$ 44,400	\$ 0.2399	\$ 10,652	\$ 1,065.16	\$ 35.97	\$ 65.61	-
GRV Business	42	\$ 1,135,855	\$ 0.1268	\$ 144,026	\$ 3,429.20	\$ 116.29	\$ 766.97	9
	<b>211</b>	<b>\$ 3,898,035</b>		<b>\$ 481,355</b>				
<b>Minimum</b>			<i>Minimum Value</i>					
GRV General Developed	4	\$ 3,540	\$ 780	\$ 3,120	\$ 780.00	\$ 29.00		
GRV Vacant Land	5	\$ 16,120	\$ 880	\$ 4,400	\$ 880.00	\$ 26.00		
GRV Business	21	\$ 77,544	\$ 780	\$ 16,380	\$ 780.00	\$ 29.00		
	<b>30</b>	<b>\$ 97,204</b>		<b>\$ 23,900</b>				
	241			<b>\$ 505,255</b>				
			<b>Increase</b>	<b>\$ 71,191</b>				
			1979 Land Trust Rates	\$ 55,004				
			Other Prop	\$ 16,188				

A 3.5% increase results in an overall increase of \$71,191 to Rate Revenue, the highest expected increase being \$766.97 for the year for a GRV Business rated property and for GRV General Developed the highest expected increase being \$95.94.

#### 4.5% Increase to RiD and Minimum Payments:

RATING CATEGORY	Number of Properties	Rateable value	Rate in \$ 2023/24	Total Rate Revenue 2023/24	Average Rates \$ 2023/24	Average Increase \$	Max Increase \$	# Properties increase over \$100
GRV General Developed	159	\$ 2,717,780	\$ 0.1213	\$ 329,667	\$ 2,073.38	\$ 88.88	\$ 121.68	22
GRV Vacant Land	10	\$ 44,400	\$ 0.2422	\$ 10,754	\$ 1,075.37	\$ 46.18	\$ 84.24	-
GRV Business	42	\$ 1,135,855	\$ 0.1280	\$ 145,389	\$ 3,461.65	\$ 148.74	\$ 981.00	14
	<b>211</b>	<b>\$ 3,898,035</b>		<b>\$ 485,810</b>				
<b>Minimum</b>		<i>Minimum Value</i>						
GRV General Developed	4	\$ 3,540	\$ 780	\$ 3,120	\$ 780.00	\$ 29.00		
GRV Vacant Land	5	\$ 16,120	\$ 890	\$ 4,450	\$ 890.00	\$ 36.00		
GRV Business	21	\$ 77,544	\$ 780	\$ 16,380	\$ 780.00	\$ 29.00		
	<b>30</b>	<b>\$ 97,204</b>		<b>\$ 23,950</b>				
	241			<b>\$ 509,760</b>				
			<b>Increase</b>	<b>\$ 75,696</b>				
		1979 Land Trust Rates		\$ 55,507				
		Other Prop		\$ 20,189				

A 4.5% increase results in an overall increase of \$75,696 to Rate Revenue, the highest expected increase being \$981.00 for the year for a GRV Business rated property and for GRV General Developed the highest expected increase being \$121.68.

As CPI has increased significantly over the last 2 years and continuing into the next financial year, an increase to Rate revenue is recommended. However, it is also recognised that Rates are a very small portion of the Shire's total revenue (<7%) and the increase required to effectively mitigate the expected cost increases would be too large for residents and local businesses to absorb. With this in mind, it is recommended that the Rates increase is capped at 3.5% for 2023/24.

Before the Shire of Cocos (Keeling) Islands can impose differential rates, Council must advertise the proposed differential rates for a minimum of 21 days, not commencing prior to 1<sup>st</sup> May (2 months before adoption of the budget). This period of advertising allows ratepayers the ability to inspect the proposed Objects and Reasons and make a public submission in respect to the proposed differential rates and minimum payments prior to Council's adoption of the rates as part of the 2023/2024 Budget. Council can however, adopt a different rate in the dollar and minimum payment at the time Council adopts the 2023/2024 Budget.

#### Policy and Legislative Implications

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

#### Financial Implications

The differential rates model as endorsed by Council will influence Council's ability to fund expenditure requirements proposed to be included in the 2023/2024 Budget. Expenses will be incurred in relation to advertising, which are accommodated within the current budget.

If imposed, the above rates would yield an estimated revenue of \$505,255 compared to the 2022/2023 Adopted Budget Rates of \$434,064. This includes the addition of 28 Kampong rentals being rated against the 1979 Land Trust (\$55,004).

### Strategic Implications

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

### Risk Implications

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

### Risk Matrix

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

### Conclusion

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

RATING CATEGORY	2022/23	2022/23	Proposed	Proposed	
	RID	Minimum	23/24 RID	23/24	Increase
GRV General Developed	\$0.1161	\$ 751	\$ 0.1202	\$ 780	3.5%
GRV Vacant Land	\$0.2318	\$ 854	\$ 0.2399	\$ 880	3.5%
GRV Business	\$0.1225	\$ 751	\$ 0.1268	\$ 780	3.5%

**OFFICER RECOMMENDATION – ITEM NO 10.2.3**

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

1. ENDORSE THE ADVERTISING OF THE DIFFERENTIAL RATES AND MINIMUM PAYMENTS THAT ARE BEING PROPOSED FOR THE 2023/24 FINANCIAL YEAR AS FOLLOWS:

<b>RATING CATEGORY</b>	<b>Proposed 23/24 RID</b>	<b>Proposed 23/24 Minimum</b>
GRV General Developed	\$ 0.1202	\$ 780
GRV Vacant Land	\$ 0.2399	\$ 880
GRV Business	\$ 0.1268	\$ 780

2. ADOPT THE SHIRE OF COCOS (KEELING) ISLAND STATEMENT OF OBJECTS AND REASONS AS CONTAINED IN ATTACHMENT 10.2.3.1 AND
3. COMMENCE THE PUBLIC SUBMISSION PERIOD, INCLUDING THE PUBLISHING OF NOTICE FROM 1 JUNE 2023.

**COUNCIL RESOLUTION – ITEM NO 10.2.3**

**MOVED CR IKU**

**SECONDED CR YOUNG**

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

1. ENDORSE THE ADVERTISING OF THE DIFFERENTIAL RATES AND MINIMUM PAYMENTS THAT ARE BEING PROPOSED FOR THE 2023/24 FINANCIAL YEAR AS FOLLOWS:

<b>RATING CATEGORY</b>	<b>Proposed 23/24 RID</b>	<b>Proposed 23/24 Minimum</b>
GRV General Developed	\$ 0.1202	\$ 780
GRV Vacant Land	\$ 0.2399	\$ 880
GRV Business	\$ 0.1268	\$ 780

2. ADOPT THE SHIRE OF COCOS (KEELING) ISLAND STATEMENT OF OBJECTS AND REASONS AS CONTAINED IN ATTACHMENT 10.2.3.1 AND
3. COMMENCE THE PUBLIC SUBMISSION PERIOD, INCLUDING THE PUBLISHING OF NOTICE FROM 1 JUNE 2023.

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

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

**AGAINST:** NIL

### **10.3 MANAGER INFRASTRUCTURE**

Nil

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

Nil

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

Nil

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

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 YOUNG**

**SECONDED IKU**

**THAT COUNCIL BY SIMPLE MAJORITY RESOLVES TO MOVE BEHIND CLOSED DOORS AT 4:51PM 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 A MATTER AFFECTING AN EMPLOYEE OR EMPLOYEES**

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

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

**AGAINST: NIL**

## 14.1 CEO PERFORMANCE REVIEW

### Report Information

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

### 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 provided 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 1996 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 –*

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

### OFFICER RECOMMENDATION – ITEM NO 14.1

As per the Confidential item.



**COUNCIL RESOLUTION – ITEM NO 14.1**

**MOVED CR LACY**

**SECONDED CR KNIGHT**

1. THAT COUNCIL ENGAGE JOHN PHILLIPS OF JOHN PHILLIPS CONSULTING TO CHAIR A PANEL TO CONDUCT THE CEO'S PERFORMANCE REVIEW AS SOON AS POSSIBLE.
2. THAT COUNCIL APPOINT COUNCILLORS LACEY, MINKOM AND YOUNG TO BE PART OF THE PERFORMANCE REVIEW PANEL.
3. THAT COUNCIL APPOINT COUNCILLOR LACEY AS THE PANEL CONTACT AND LIAISON PERSONFOR JOHN PHILLIPS.

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

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

**AGAINST: NIL**

## 14.2 CONFIDENTIAL DEBT COLLECTION – REFERRAL TO DEBT COLLECTION AGENCY

### Report Information

Date: 01 May 2023  
 Location: Not Applicable  
 Applicant: Not Applicable  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Manager Finance & Corporate Services  
 Island: Shire Wide  
 Attachments: 10.2.4.1 – CONFIDENTIAL Details of Outstanding Account REE101  
 10.2.4.2 – CONFIDENTIAL Termination of Lease  
 10.2.4.3 – CONFIDENTIAL Final Demand Letter  
 10.2.4.4 – CONFIDENTIAL Cloud Payment Group – Guide to Fees & Disbursements

### 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 provided 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 1996 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 –*

*(e) a matter that if disclosed, would reveal –*

*(iii) information about the business, professional, commercial, or financial affairs of a person,*

**OFFICER RECOMMENDATION – ITEM NO 10.2.4**

As per the Confidential item.

**COUNCIL RESOLUTION – ITEM NO 10.2.4**

**MOVED CR IKU**

**SECONDED CR MINKOM**

**THAT COUNCIL, BY SIMPLY MAJORITY:**

- 1. APPROVES THE REFERRAL OF DEBTOR REE101, BALANCE \$6,937.54 TO THE SHIRE'S EXTERNAL DEBT COLLECTION AGENCY FOR FURTHER ACTION.**

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

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

**AGAINST: NIL**

**PROCEDURAL MOTION**

**MOVED CR LACY**

**SECONDED CR IKU**

**THAT COUNCIL BY SIMPLE MAJORITY RESOLVES TO GET OUT OF CLOSED DOORS AT 5:06PM 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 A MATTER AFFECTING AN EMPLOYEE OR EMPLOYEES**

**ABOUT, A PERSON OTHER THAN THE LOCAL GOVERNMENT.**

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

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

**AGAINST: NIL**

**5. 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

### 15.1.1 COCOS (KEELING) ISLANDS TRUSTEE GUIDANCE (HOUSING POLICY)

#### Report Information

Date: 23 May 2023  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Nil  
 Reporting Officer: Chief Executive Officer  
 Island: Shire wide  
 Attachments: 15.1.1.1 – CONFIDENTIAL Land Trust DEED 1979  
 15.1.1.2 – CONFIDENTIAL 1984 Trust Deed  
 15.1.1.3 – CONFIDENTIAL Trustee Guidance Letter (Housing Policy)

#### Authority / Discretion

#### Definition

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

#### Report Purpose

The purpose of this report is to provide Council with an update of the investigations being carried out by Civic Legal regarding the Shire of Cocos (Keeling) Islands Housing Policy (CPC6) and the relationship and obligations of the 1979 and 1984 trust deeds.

## Relevant Documents

Available for viewing at the meeting

## Background

When dealing with matters relating to housing on Home Island, the Shire of Cocos (Keeling) Islands has in the past, been guided by the Home Island Housing Policy which was first approved by Council in 1997.

In 2022, it was identified that the policy was outdated and required a substantial review including legal opinion, to assist developing a new policy. Civic Legal were engaged on behalf of the Shire to carry out a review of the policy and associated land trusts.

This review is now part complete and owing to the highly complex nature of the review, especially how the Shire should exercise its discretion pursuant to its obligations as the trustee of the trust deeds of 1979 and 1984 respectively, under which the Commonwealth of Australia settled most of the land on the Cocos (Keeling) Islands Council on the Shire's predecessor, the Cocos (Keeling) Islands Council (**1979 Trust Deed and 1984 Trust Deed**). (See attached letter)

## Comment

Civic Legal have identified the matter of the relationship of the 1979 and 1984 Trust Deeds to a new Housing Policy for Home Islanders in the Shire of Cocos (Keeling) Islands as a highly complex matter. Additionally, that now, is too early to make final recommendations regarding the relationship of the Trust Deeds to the development of a new Housing Policy.

## Policy and Legislative Implications

Council will require an in depth understanding of the investigative work done to date and other work that is now required to best determine future courses of action regarding the development of an appropriate Housing Policy that takes into consideration the relationship of the 1979 and 1984 Trust Deeds.

## Financial Implications

Further financial commitment (yet to be determined) will need to be made by Council to fully understand and meet the implications of the development of a suitable Housing Policy for Home Island residents that takes into consideration the relationship of the 1979 and 1984 Trust Deeds.

## Strategic Implications

An in depth understanding of the work done to date by Civic Legal and the opinions put forward by them is required to determine future strategic implications of a new housing policy for the for the Shire and community that takes into consideration the relationship of the 1979 and 1984 Trust Deeds.

### Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Financial	That budget allocations are significantly exceeded.	Moderate (6)	Budgets are monitored and highlighted to Council monthly for corrective action.
Reputation	In depth knowledge and understanding of Civic Legal advice is required to enhance reputation of Council	Moderate (5)	Workshop and seeking further advice from Civic Legal
Compliance	In depth knowledge and understanding of advice from Civic Legal is required to support ongoing development of a new housing policy.	Moderate (5)	There are processes in place to ensure compliance with legislation.

### 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

#### OFFICER RECOMMENDATION – ITEM NO 15.1.1

THAT COUNCIL, BY SIMPLE MAJORITY:

1. COUNCIL NOTE AND RECEIVE THIS REPORT.
2. COUNCIL DELAY FURTHER DISCUSSION REGARDING THIS REPORT TO A COUNCIL WORKSHOP TO BE HELD ON 7 JUNE 2023, AT THE COUNCIL CHAMBERS ON HOME ISLAND STARTING AT 9.00 A.M.

**COUNCIL RESOLUTION – ITEM NO 15.1.1**

**MOVED CR IKU**

**SECONDED CR KNIGHT**

**THAT COUNCIL, BY SIMPLE MAJORITY:**

- 1. COUNCIL NOTE AND RECEIVE THIS REPORT.**
- 2. COUNCIL DELAY FURTHER DISCUSSION REGARDING THIS REPORT TO A COUNCIL WORKSHOP TO BE HELD ON 7 JUNE 2023, AT THE COUNCIL CHAMBERS ON HOME ISLAND STARTING AT 9.00 A.M.**

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

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

**AGAINST: NIL**



## 15.1.2 COCOS (KEELING) ISLANDS HOUSING POLICY

### Report Information

Date: 21 May 2023  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Nil  
 Reporting Officer: Chief Executive Officer  
 Island: Shire wide  
 Attachments: 15.1.2.1 – CONFIDENTIAL Review of Cocos (Keeling) Islands Housing Policy

### Authority / Discretion

### Definition

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

### Report Purpose

The purpose of this report is to provide Council with an update of the investigations being carried out by Civic Legal regarding the Shire of Cocos (Keeling) Islands Housing Policy (CPC6).

### Relevant Documents

Available for viewing at the meeting

## **Background**

When dealing with matters relating to housing on Home Island, the Shire of Cocos (Keeling) Islands has in the past, been guided by the Home Island Housing Policy which was first approved by Council in 1997.

In 2022, it was identified that the policy was outdated and required a substantial review including legal opinion, to assist developing a new policy. Civic Legal were engaged on behalf of the Shire to carry out a review of the policy and associated land trusts.

This review is now part complete and owing to the highly complex nature of the review, some issues have been identified that must be resolved prior to progressing the project of reforming the Home Island Housing Policy. (See attached letter)

## **Comment**

Civic Legal have identified the matter of a Housing Policy for Home Islanders in the Shire of Cocos (Keeling) Islands is a highly complex matter and that it is too early in review to complete or make final recommendations regarding a new policy.

## **Policy and Legislative Implications**

Council will require an in depth understanding of the investigative work done to date and other work that is now required to best determine future courses of action regarding the development of an appropriate Housing Policy for Home Islanders.

## **Financial Implications**

Further financial commitment (yet to be determined) will need to be made by Council to fully understand and meet the implications of the development of a suitable Housing Policy for Home Island residents.

## **Strategic Implications**

An in depth understanding of the work done to date by Civic Legal and the opinions put forward by them is required to determine future strategic implications of a new housing policy for the for the Shire and community.

**Risk Implications**

<b>Risk Category</b>	<b>Description</b>	<b>Rating (consequence x likelihood)</b>	<b>Mitigation Action</b>
Financial	That budget allocations are significantly exceeded.	Moderate (6)	Budget monitored and Council approval sought for any variation.
Reputation	In depth knowledge and understanding of Civic Legal advice is required to enhance reputation of Council	Moderate (5)	Workshop and seeking further advice from Civic Legal
Compliance	In depth knowledge and understanding of advice from Civic Legal is required to support on going development of a new housing policy	Moderate (5)	There are processes in place to ensure compliance with legislation.

**Risk Matrix**

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

**Voting Requirements**

Simple

**OFFICER RECOMMENDATION – ITEM NO 15.1.2**

THAT COUNCIL, BY SIMPLE MAJORITY:

1. COUNCIL NOTE AND RECEIVE THIS REPORT.
2. COUNCIL DELAY FURTHER DISCUSSION REGARDING THIS REPORT TO A COUNCIL WORKSHOP TO BE HELD ON 7 JUNE 2023, AT THE COUNCIL CHAMBERS ON HOME ISLAND STARTING AT 9.00 A.M.

**COUNCIL RESOLUTION – ITEM NO 15.1.2**

**MOVED CR IKU**

**SECONDED CR YOUNG**

**THAT COUNCIL, BY SIMPLE MAJORITY:**

- 1. COUNCIL NOTE AND RECEIVE THIS REPORT.**
- 2. COUNCIL DELAY FURTHER DISCUSSION REGARDING THIS REPORT TO A COUNCIL WORKSHOP TO BE HELD ON 7 JUNE 2023, AT THE COUNCIL CHAMBERS ON HOME ISLAND STARTING AT 9.00 A.M.**

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

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

**AGAINST: NIL**

### 15.1.3 1991 MEMORANDUM OF UNDERSTANDING

#### Report Information

Date: 22 May 2023  
 Location: Cocos (Keeling) Islands  
 Applicant: Chief Executive Officer  
 File Ref: Nil  
 Disclosure of Interest: Nil  
 Reporting Officer: Chief Executive Officer  
 Island: Shire wide  
 Attachments: 15.1.3.1 – CONFIDENTIAL Clarification of 1991 MOU

#### Authority / Discretion

#### Definition

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

#### Report Purpose

The purpose of this report is to provide Council with the opinion of Civic Legal regarding the contents of the “1991 Memorandum of Understanding relating to the achievement of mainland equivalent living standards and levels of services on the Cocos (Keeling) Islands”.

#### Relevant Documents

Available for viewing at the meeting

## Background

In 1991, then Prime Minister of Australia, Hon Bob Hawke along with two representatives of the Cocos (Keeling) Islands signed a document titled “Memorandum of Understanding (MOU) relating to the achievement of mainland equivalent living standards and levels of services on the Cocos (Keeling) Islands” (see attached).

It is purported that at the time of signing, the MOU outlined the intentions of the Commonwealth Government to support the Cocos Malay people of the Cocos (Keeling) Islands to achieve the same living standards as those of people in mainland Western Australia.

Anecdotally, the validity, intellectual and contractual value of the MOU has been discussed many times since signing. At time, including the present, there is an overt reluctance from the Commonwealth, especially by the staff of the Department of Infrastructure, Transport, Regional Development, Communications, and the Arts to recognise or support the MOU as a valid document.

Considering the ramifications that the contents of the MOU could have for the Cocos Malay population of the Cocos (Keeling) Islands, Council resolved at the Ordinary Meeting of Council on 23 November 2022:

- That Council note and receive the contents of the attached “Memorandum of Understanding (MOU) relating to the achievement of mainland equivalent living standards and levels of services on the Cocos (Keeling) Islands”.
- That Council delegate to the Chief Executive Officer of the Shire of Cocos (Keeling) Islands the authority to engage Civic Legal of Suite 2, Ground Floor, 1 Havelock Street, West Perth WA 6005, Australia to provide legal opinion/s as the need is identified for clarification of the contents of the “Memorandum of Understanding (MOU) relating to the achievement of mainland equivalent living standards and levels of services on the Cocos (Keeling) Islands”.

## Comment

Advice has now been received from Civic Legal as per letter dated 17 May 2023, to clarify the contents of the MOU as requested (see attached).

Civic Legal acknowledge there are complexities with, and the contractual validity of the MOU is unclear at best.

## Policy and Legislative Implications

Council will require an in depth understanding of the opinion of Civic Legal regarding the MOU to best determine future courses of action regarding the document contents.

## Financial Implications

Further financial commitment (yet to be determined) will need to be made by Council to fully understand and meet the implications of the MOU.

**Strategic Implications**

An in depth understanding of the contents of the MOU and Civic Legal opinion is required to determine future strategic implications for the Shire and community.

**Risk Implications**

<b>Risk Category</b>	<b>Description</b>	<b>Rating (consequence x likelihood)</b>	<b>Mitigation Action</b>
Financial	That budget allocations are significantly exceeded.	Moderate (6)	Budget monitored and Council approval sought for any variations.
Reputation	In depth knowledge and understanding of MOU is required to enhance reputation of Council	Moderate (5)	Workshop and seeking further advice from Civic Legal
Compliance	In depth knowledge and understanding of MOU is required to support compliance of MOU contents	Moderate (5)	There are processes in place to ensure compliance with legislation.

**Risk Matrix**

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

**Voting Requirements**

Simple majority.

**OFFICER RECOMMENDATION – ITEM NO 15.1.3**

THAT COUNCIL, BY SIMPLE MAJORITY:

1. COUNCIL NOTE AND RECEIVE THIS REPORT.
2. COUNCIL DELAY FURTHER DISCUSSION REGARDING THIS REPORT TO A COUNCIL WORKSHOP TO BE HELD ON 7 JUNE 2023, AT THE COUNCIL CHAMBERS ON HOME ISLAND STARTING AT 9.00 A.M.

**COUNCIL RESOLUTION – ITEM NO 15.1.3**

**MOVED CR YOUNG**

**SECONDED CR LACY**

**THAT COUNCIL, BY SIMPLE MAJORITY:**

- 1. COUNCIL NOTE AND RECEIVE THIS REPORT.**
- 2. COUNCIL DELAY FURTHER DISCUSSION REGARDING THIS REPORT TO A COUNCIL WORKSHOP TO BE HELD ON 7 JUNE 2023, AT THE COUNCIL CHAMBERS ON HOME ISLAND STARTING AT 9.00 A.M.**

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

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

**AGAINST: NIL**



## 15.2 TRUSTS LEASES

### 15.2.1 APPLICATION FOR NEW LEASE PART LOT 246 HOME ISLAND JALAN REL – AMPLITEL PTY LTD

#### Report Information

Date: 19 June 2023  
 Location: Part Lot 18 Home Island Jalan Rel  
 Applicant: Amplitel Pty Ltd  
 File Ref:  
 Disclosure of Interest:  
 Reporting Officer: Leasing & Policy Development Officer  
 Island: Home Island  
 Attachments: 15.2.1.1 - Amplitel Pty Ltd Lease Proposal Lot 246 Home Island

#### Authority / Discretion

#### Definition

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

#### Report Purpose

To present the request and supporting documentation from Jones Lang LaSalle acting on behalf of Amplitel Pty Ltd to enter into a new lease at Lot 246 Home Island Jalan Rel known as Amplitel Tower (previously known as Telstra's) to Council for consideration.

#### Relevant Documents

Available for viewing at the meeting.

**Background**

The lease at Lot 246 Home Island Jalan Rel known as the Telstra tower expired in 2014 and is in holding over. The proponents have subsequently submitted a request to enter into a new lease arrangement. See attachment 15.2.1.1

**Comment**

Amplitel have retained the lease on Lot 246 Home Island for over 20 years. The infrastructure on the lease provides for telecommunications/communications purposes. The service is vital to ensure businesses can continue to operate and the communication means for the community remains effective. Although this lease does not directly bring a positive economic outcome for the Community, residents, businesses, and stakeholder benefits from the service outcome.

The proponents have requested a 20 year lease with a break lease at the 10th year. Milestones have not been requested however the lease will stipulate that the lease purpose continues to be met.

Based on the recommendation from Civic Legal the Shire will use Amplitel's lease document while incorporating some provisions from the Shire's new standard commercial lease agreement.

**Policy and Legislative Implications**

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

**Financial Implications**

The proponents requested to continue the lease on a peppercorn fee however the Shire recommends an annual lease fee is charged. Based on the market desktop valuation the annual fee should be set as \$1,785.00. The proponents have been informed any legal costs involved to review the lease will be at their cost and is to be confirmed by Civic Legal.

**Strategic Implications**

Shire of Cocos (Keeling) Islands Strategic Community Plan 2022 – 2033. Economic E2: To Work alongside local businesses to facilitate employment, growth and development.

**Risk Implications**

<b>Risk Category</b>	<b>Description</b>	<b>Rating (consequence x likelihood)</b>	<b>Mitigation Action</b>
Reputation	Not progressing with the lease in a timely manner could result in uncertainty for a key stakeholder who provides a good community service.	Moderate (8)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Compliance	The process for leasing does not comply with legislation.	Low (3)	The process outlined in this report is consistent with legislative requirements.
Property	The property is being used other than what it has been intended for.	Low (3)	Property inspection to be conducted annually.

**Voting Requirements**

Simple majority

**Conclusion**

It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the 1979 Land Trust as the Land (Part Lot 18) is held in Trust. Council, in making any decision in relation to the Trust, must give due consideration of the purpose of the Trust, that is “for the benefit, advancement and wellbeing of the community formed by the Kampong residents” and ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to consider matters relating to Land held in Trust.

The request for a new lease is presented to the Trust for consideration and the officer’s recommendation is that it is approved as it is the location of a vital piece infrastructure for the islands communication services.

**OFFICER RECOMMENDATION – ITEM NO 15.2.1**

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

1. TO GIVE LOCAL PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY WAY OF LEASE FOR LOT 246 HOME ISLAND JALAN REL TO AMPLITEL ON THE CONDITON THAT;-
  - a. THE LEASE FEE BE SET AS PER THE RECOMMENDED VALUATION BY AN INDEPENDENT VALUER. THE ANNUAL LEASE FEE IS SUBJECT TO AN ANNUAL CPI REVIEWS AND A ONE-OFF LEASE PREPARATION FEE OF \$257;

- b. THE LEASE TERM BEING FOR 20 (20) YEARS WITH A BREAK TERM AT THE TENTH (10<sup>TH</sup>) YEAR;
2. THE PURPOSE OF THE LEASE IS FOR THE LOCATION OF TELECOMMUNICATIONS / COMMUNICATIONS INFRASTRUCTURE;
3. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD; THE CHIEF EXECUTIVE OFFICER IS AUTHORISED TO ENTER INTO THE LEASE AS PER AMPLITEL'S LEASE DOCUMENT AND INCORPORATING PROVISIONS FROM THE SHIRE STANDARD LEASE AGREEMENT AND WITH THE CONDITIONS AS OUTLINED ABOVE;
4. THAT IF OBJECTIONS ARE RECEIVED, TO CONSIDER ALL PUBLIC SUBMISSIONS AT THE FIRST ORDINARY MEETING OF COUNCIL FOLLOWING THE CLOSE OF THE PUBLIC SUBMISSION PERIOD;
5. THE SHIRE PRESIDENT AND OR CHIEF EXECUTIVE OFFICER TO SIGN AND AFFIX THE SHIRE OF COCOS (KEELING) ISLAND COMMON SEAL TO THE LEASE AGREEMENT DOCUMENT.

**COUNCIL RESOLUTION – ITEM NO 15.2.1**

**MOVED CR LACY**

**SECONDED CR IKU**

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

1. **TO GIVE LOCAL PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY WAY OF LEASE FOR LOT 246 HOME ISLAND JALAN REL TO AMPLITEL ON THE CONDITON THAT;-**
  - a. **THE LEASE FEE BE SET AS PER THE RECOMMENDED VALUATION BY AN INDEPENDENT VALUER. THE ANNUAL LEASE FEE IS SUBJECT TO AN ANNUAL CPI REVIEWS AND A ONE-OFF LEASE PREPARATION FEE OF \$257;**
  - b. **THE LEASE TERM BEING FOR 20 (20) YEARS WITH A BREAK TERM AT THE TENTH (10<sup>TH</sup>) YEAR;**
2. **THE PURPOSE OF THE LEASE IS FOR THE LOCATION OF TELECOMMUNICATIONS / COMMUNICATIONS INFRASTRUCTURE;**
3. **THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD; THE CHIEF EXECUTIVE OFFICER IS AUTHORISED TO ENTER INTO THE LEASE AS PER AMPLITEL'S LEASE DOCUMENT AND INCORPORATING PROVISIONS FROM THE SHIRE STANDARD LEASE AGREEMENT AND WITH THE CONDITIONS AS OUTLINED ABOVE;**
4. **THAT IF OBJECTIONS ARE RECEIVED, TO CONSIDER ALL PUBLIC SUBMISSIONS AT THE FIRST ORDINARY MEETING OF COUNCIL FOLLOWING THE CLOSE OF THE PUBLIC SUBMISSION PERIOD;**
5. **THE SHIRE PRESIDENT AND OR CHIEF EXECUTIVE OFFICER TO SIGN AND AFFIX THE SHIRE OF COCOS (KEELING) ISLAND COMMON SEAL TO THE LEASE AGREEMENT DOCUMENT.**

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

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

**AGAINST:** NIL

### 15.3 TRUSTS FINANCE

Nil

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

*Cr Lacy declared an interest on Item No 16.1. He is the applicant and left the meeting room on 4:46pm.*

#### 16.1 APPLICATION FOR NEW LEASE PART LOT 225 & 227 HI CRC TENANCY 8 CAFE

##### Report Information

Date: 19 June 2023  
 Location: Part Lot 225 & 227 HI CRC Tenancy 8 Café  
 Applicant: Shire of Cocos (Keeling) Island  
 File Ref:  
 Disclosure of Interest: Councillor Lacy  
 Reporting Officer: Leasing & Policy Development 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

To seek approval for Council to enter into a new lease for Part Lot 225 & 227 Home Island CRC Tenancy 8.

## Relevant Documents

Available for viewing at the meeting.

## Background

The lease for Part Lot 225 & 227 HI CRC Tenancy 8 commonly known as the Café expired and the previous tenants delivered vacancy in March 2023. An expression of interest was advertised in the Atoll, Facebook and Shire's website. The Shire received many interests however only one (1) submitted an application.

## Comment

The submission received is from Mr Lacy for Cocos Artisans Collective. Mr Lacy is one of many business providers on Cocos (Keeling) Islands. He offers a range of employment opportunities to the local bringing a positive economic outcome for the community. The proponents have proven to be a successful small business and is also operating several Café on West Island. In accordance with the regulations of a retail lease offices supports the proponents request for a three (3) year lease with a two (2) year option.

This application has been assessed based on the Shire's current eligibility criteria. As there is only one submission, officer's were unable to compare the application.

## Policy and Legislative Implications

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

## Financial Implications

Progressing with the EOI to formal lease arrangements will result in revenue to the Shire. A valuation was sought from a registered independent valuer and have presented a valuation of \$2,300.00 per annum noting the fee would be subject to annual CPI review, market review at the commencement of option of any further term.

## Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2022 – 2033. Economic E2: To Work alongside local businesses to facilitate employment, growth, and development.

### Risk Implications

Risk Category	Description	Rating (consequence x likelihood)	Mitigation Action
Reputation	Not progressing with the lease in a timely manner could result in uncertainty for a key stakeholder who provides a good community service.	Moderate (8)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Service Interruption	Without a lease, a demand of this service for the community could be disrupted.	Moderate (6)	This item is being progressed as quickly as possible, while still observing legislative requirements.
Compliance	The process for leasing does not comply with legislation.	Low (3)	The process outlined in this report is consistent with legislative requirements.
Property	The property is being used other than what it has been intended for.	Low (3)	Property inspection to be conducted annually.

### Voting Requirements

Simple majority

### Conclusion

It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the 1979 Land Trust as the Land (Part Lot 225 & 227) is held in Trust. Council, in making any decision in relation to the Trust, must give due consideration of the purpose of the Trust, that is “for the benefit, advancement and wellbeing of the community formed by the Kampong residents” and ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to consider matters relating to Land held in Trust.

The request for a new lease is presented to the Trust for consideration and the officer’s recommendation the EOI is awarded to Mr Lacy being the sole application received.



**OFFICER RECOMMENDATION – ITEM NO 16.1**

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

1. TO GIVE LOCAL PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY WAY OF LEASE FOR PART LOT 225 & 227 HOME ISLAND CRC TENANCY 8 CAFÉ TO MR TONY LACY ON THE CONDITON THAT;-
  - a. THE LEASE FEE BE SET AS PER THE RECOMMENDED VALUATION BY AN INDEPENDENT VALUER IN THE AMOUNT OF \$2,300 PER ANNUM. THE ANNUAL LEASE FEE IS SUBJECT TO AN ANNUAL CPI REVIEWS AND A ONE-OFF LEASE PREPARATION FEE OF \$257;
  - b. THE LEASE TERM BEING THREE (3) YEARS WITH A TWO (2) YEARS OPTION;
  - c. THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL MAINTENANCE OF THE BUILDING PER THE LEASE CONDITIONS;
2. THE PURPOSE OF THE LEASE IS TO OPERATE A CAFÉ;
3. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD; THE CHIEF EXECUTIVE OFFICER IS AUTHORISED TO ENTER INTO THE LEASE AS PER THE SHIRE’S NEW RETAIL LEASE TEMPLATE AND WITH THE CONDITIONS AS OUTLINED ABOVE;
4. THAT IF OBJECTIONS ARE RECEIVED, TO CONSIDER ALL PUBLIC SUBMISSIONS AT THE FIRST ORDINARY MEETING OF COUNCIL FOLLOWING THE CLOSE OF THE PUBLIC SUBMISSION PERIOD;
5. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY BE UNDERTAKEN;
6. THE SHIRE PRESIDENT AND OR CHIEF EXECUTIVE OFFICER TO SIGN AND AFFIX THE SHIRE OF COCOS (KEELING) ISLAND COMMON SEAL TO THE LEASE AGREEMENT DOCUMENT.

**COUNCIL RESOLUTION – ITEM NO 16.1**

**MOVED CR YOUNG**

**SECONDED CR IKU**

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

- 1. TO GIVE LOCAL PUBLIC NOTICE OF THE INTENT (INCLUDING INVITING PUBLIC SUBMISSIONS) TO DISPOSE BY WAY OF LEASE FOR PART LOT 225 & 227 HOME ISLAND CRC TENANCY 8 CAFÉ TO MR TONY LACY ON THE CONDITON THAT;-**
  - a. THE LEASE FEE BE SET AS PER THE RECOMMENDED VALUATION BY AN INDEPENDENT VALUER IN THE AMOUNT OF \$2,300 PER ANNUM. THE ANNUAL LEASE FEE IS SUBJECT TO AN ANNUAL CPI REVIEWS AND A ONE-OFF LEASE PREPARATION FEE OF \$257;**
  - b. THE LEASE TERM BEING THREE (3) YEARS WITH A TWO (2) YEARS OPTION;**
  - c. THAT THE PROSPECTIVE LESSEE IS ADVISED THAT THEY WILL BE RESPONSIBLE FOR ALL MAINTENANCE OF THE BUILDING PER THE LEASE CONDITIONS;**
- 2. THE PURPOSE OF THE LEASE IS TO OPERATE A CAFÉ;**
- 3. THAT SHOULD NO OBJECTIONS BE RECEIVED DURING THE PUBLIC NOTICE PERIOD; THE CHIEF EXECUTIVE OFFICER IS AUTHORISED TO ENTER INTO THE LEASE AS PER THE SHIRE’S NEW RETAIL LEASE TEMPLATE AND WITH THE CONDITIONS AS OUTLINED ABOVE;**
- 4. THAT IF OBJECTIONS ARE RECEIVED, TO CONSIDER ALL PUBLIC SUBMISSIONS AT THE FIRST ORDINARY MEETING OF COUNCIL FOLLOWING THE CLOSE OF THE PUBLIC SUBMISSION PERIOD;**
- 5. THAT REGULAR INSPECTIONS OF COMMERCIAL TENANCY BE UNDERTAKEN;**
- 6. THE SHIRE PRESIDENT AND OR CHIEF EXECUTIVE OFFICER TO SIGN AND AFFIX THE SHIRE OF COCOS (KEELING) ISLAND COMMON SEAL TO THE LEASE AGREEMENT DOCUMENT.**

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

**FOR: IKU, KNIGHT, MINKOM, YOUNG**

**AGAINST: NIL**

*Cr Lacy returned to the meeting room on 4:49pm.*

**17. CLOSURE**

The Presiding member declared the meeting closed at 5:06pm.

These minutes were confirmed at a meeting on .....

SIGNED this                                        day of                                        2023

as a true record of proceedings.

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PRESIDING MEMBER