

Shire of Cocos (Keeling) Islands

Shire of Cocos (Keeling) Islands

Minutes

Special Meeting of Council

Wednesday 1 May 2024, 4:00pm

Council Chambers, Shire Administration Building

Lot 256 Jalan Bunga Melati, Home Island

Disclaimer

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

OUR VALUES

Service

Provide the best service we can.

We serve the community and each other.

Accountability

We take responsibility for our own actions.

We do what we say we will do.

Mistakes are an opportunity to learn.

Support

We support our team and our community.

Look for opportunities to help each other.

Respect

We respect and value others.

Our interactions are always respectful towards others.

Integrity

We will be honest and transparent with all our dealings.

Maintain confidentiality.

Trust each other.

Achievement

Being proactive and enabling the outcomes.

Be creative and think outside the square.

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1. OPENING/ANNOUNCEMENTS OF VISITORS

The Presiding Member declared the meeting open at 4:07pm and welcomed Councillors and Officers.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

President: Cr A Minkom

Councillors: Cr Badlu
Cr Knight
Cr Sloan
Cr Young

Officers: Frank Mills, Chief Executive Officer
Vikki Lauritsen, Manager Finance and Corporate Services (via Teams)
Ibrahim Macrae, Manager Governance Risk and Planning
Amallia Alim, Governance Administration Officer
Suzie Bulka, Leasing and Policy Development Officer

Guests: Nil

Public: Nil

Visitors: Nil

Apologies: Cr I Minkom
Cr Lacy
Martin Faulkner, Manager Infrastructure

Approved Leave of Absence: Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

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

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

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

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

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

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

Nil

5. LEAVE OF ABSENCE

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

5.1 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Councillor	Date of Leave	Approved by Council
NIL		

5.2 APPLICATION FOR LEAVE OF ABSENCE

Nil

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)

Nil

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

Nil

9. DECLARATION OF INTERESTS

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

Name	Item No.	Interest	Nature
Cr Young	15.2.1	Financial	Current tenant of House 61 Home Island

10. REPORT FROM COMMITTEES AND OFFICERS

10.1 CHIEF EXECUTIVE OFFICER

Nil

10.2 MANAGER FINANCE AND CORPORATE SERVICES

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 DOOR

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 was required.

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

Cr Young have declared financial interest regarding Item No 14.1 and left the meeting chambers at 4:09pm. Cr Young is the current tenant of house 61 Home Island.

PROCEDURAL MOTION

MOVED CR BADLU

SECONDED CR SLOAN

THAT COUNCIL BY SIMPLE MAJORITY, RESOLVES TO MOVE BEHIND CLOSED DOORS AT 4:09PM IN ACCORDANCE WITH SECTION 5.23(2) OF THE LOCAL GOVERNMENT ACT 1995 AND SECTION 5.2(1) OF THE SHIRE OF COCOS (KEELING) ISLANDS 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 (4/0)

FOR: BADLU, KNIGHT, MINKOM, SLOAN

AGAINST: NIL

COUNCIL RESOLUTION

MOVED CR BADLU

SECONDED CR SLOAN

THAT COUNCIL SUSPEND STANDING ORDERS, THE TIME BEING 4:10 PM.

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

FOR: BADLU, KNIGHT, MINKOM, SLOAN

AGAINST: NIL

COUNCIL RESOLUTION

MOVED CR SLAON

SECONDED CR BADLU

THAT COUNCIL RESUME STANDING ORDERS, THE TIME BEING 4:55 PM.

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

FOR: BADLU, KNIGHT, MINKOM, SLOAN

AGAINST: NIL

PROCEDURAL MOTION

MOVED CR SLOAN

SECONDED CR KNIGHT

**THAT COUNCIL, BY SIMPLE MAJORITY, RESOLVES TO MOVE FROM BEHIND CLOSED DOORS
THE TIME BEING AT 4:55PM**

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

FOR: BADLU, KNIGHT, MINKOM, SLOAN

AGAINST: NIL

14.1 CIVIC LEGAL – HOUSE 61 JALAN BUNGA KANGKONG HOME ISLAND AND ASSIGNMENT OF LEASES

Report Information

Date: 13 April 2024
 Location: Cocos (Keeling) Islands
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref: Nil
 Disclosure of Interest:
 Reporting Officer: Chief Executive Officer
 Island: Shire wide
 Attachments: CONFIDENTIAL Circulated under separate cover

Authority / Discretion

Definition

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

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

- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following–*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
- (e) *a matter that if disclosed, would reveal –*
- (i) *a trade secret; or*

(ii) information that has a commercial value to a person; or

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

OFFICER RECOMMENDATION – ITEM NO 14.1

AS PER THE CONFIDENTIAL ITEM.

COUNCIL RESOLUTION – ITEM NO 14.1

MOVED CR SLOAN

SECONDED CR KNIGHT

1. THAT COUNCIL, BY SIMPLE MAJORITY, ENDORSE THE APPOINTMENT OF A SUITABLY QUALIFIED STRUCTURAL ENGINEERING FIRM TO CARRY OUT INSPECTIONS AND VALUATIONS OF ALL KAMPONG HOUSES TO PROVIDE:
 - A. VALUATIONS OF ORIGINAL KAMPONG HOUSES,
 - B. VALUATIONS OF ALL EXTENSIONS AND IMPROVEMENTS TO EACH KAMPONG HOUSE,
 - C. A CONDITION REPORT OF THE STRUCTURAL STATUS OF EACH KAMPONG HOUSE.
2. THAT COUNCIL ONLY APPROVE DEVELOPMENT APPROVALS FOR IMPROVEMENT WORKS IN A WAY THAT ADDRESSES THE QUESTION OF HOW TO ACCOUNT FOR THEIR VALUE AND WHETHER THEY ARE TO BE TREATED AS CONTRIBUTIONS BY THE LESSEE TO THE VALUE OF THE HOUSE TO BE ACCOUNTED FOR UNDER A CONSTRUCTIVE TRUST.
3. THAT COUNCIL CONTINUE TO ENGAGE WITH CIVIC LEGAL TO PROGRESS THE DEVELOPMENT OF A SUITABLE KAMPONG HOUSING POLICY AND LEASE TEMPLATE THAT MITIGATES RISK TO THE SHIRE AND AS FAR AS POSSIBLE PROGRESSES THE DESIRES OF THE COMMUNITY.

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

FOR: BADLU, KNIGHT, MINKOM, SLOAN

AGAINST: NIL

Cr Young returned to the meeting chambers at 4:55pm.

14.2 SENIOR MANAGEMENT CONTRACTS

Report Information

Date: 29 April 2024
 Location: Cocos (Keeling) Islands
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref: Nil
 Disclosure of Interest:
 Reporting Officer: Chief Executive Officer
 Island: Shire wide
 Attachments: CONFIDENTIAL Circulated under separate cover

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

(a) *a matter affecting an employee or employees; and*

(b) *the personal affairs of any person; and*

(c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*

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

OFFICER RECOMMENDATION – ITEM NO 14.2

AS PER THE CONFIDENTIAL ITEM.

COUNCIL RESOLUTION – ITEM NO 14.2

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

FOR: BADLU, KNIGHT, MINKOM, SLOAN, YOUNG

AGAINST: NIL

This item remains confidential as it contains information relating to a matter that if disclosed would reveal information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government.

14.3 COMMONWEALTH NON-PAYMENT OF RATES AND WASTE FEES AND CHARGES

Report Information

Date: 30 April 2024
 Location: Cocos (Keeling) Islands
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest:
 Reporting Officer: Chief Executive Officer
 Island: Shire wide
 Attachments: CONFIDENTIAL Circulated under separate cover

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>
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- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
- (e) *a matter that if disclosed, would reveal –*
- (i) *a trade secret; or*

(ii) information that has a commercial value to a person; or

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

OFFICER RECOMMENDATION – ITEM NO 14.3

AS PER THE CONFIDENTIAL ITEM.

COUNCIL RESOLUTION – ITEM NO 14.3

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

FOR: BADLU, KNIGHT, MINKOM, SLOAN, YOUNG

AGAINST: NIL

This item remains confidential as it contains information relating to a matter that if disclosed would reveal information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government.

15 MATTERS RELATING TO THE LAND TRUSTS



MATTERS RELATING TO THE LAND TRUST 1979 AND LAND TRUST 1984

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

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

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

