



MINUTES

ORDINARY MEETING OF COUNCIL

Held at the Council Chamber, Home Island
Wednesday 23 January 2019 commencing at 4.00pm

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.

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1. OPENING/ANNOUNCEMENTS OF VISITORS

The Presiding member declared the meeting open at 4.00pm and welcome Councillors and staff to the meeting.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

| | |
|----------------------------------|---|
| President | Councillor Seriwati Iku |
| Councillors | Councillor Aindil Minkom Councillor Ayesha Young Councillor Tony Lacy Councillor Shane Charlston Councillor Woren Dedian Councillor Noor Anthony |
| Staff | Andrea Selvey, Chief Executive Officer Ian Evans, Manager Works and Services Ibrahim Macrae, Executive Support Officer |
| Public | 5 |
| Visitors | Nil |
| 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.

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 MEETINGS

COUNCIL RESOLUTION

MOVED COUNCILLOR YOUNG SECONDED COUNCILLOR CHARLSTON

THAT THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 5 DECEMBER 2018 BE CONFIRMED AS A TRUE AND CORRECT RECORD.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

FOR: IKU, ANTHONY, CHARLSTON, DEDIAN, LACY, MINKOM, YOUNG
AGAINST: NIL

OFFICER RECOMMENDATION

THAT THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 5 DECEMBER 2018 BE CONFIRMED AS A TRUE AND CORRECT RECORD.

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

Nil.

9. DECLARATION OF INTERESTS

| Name | Item No. | Interest | Nature |
|------------|----------|--------------|--|
| Cr Anthony | 10.3.1 | Financial | Board Director Cocos Island Coop/Wife employee of Cocos Coop |
| Cr Iku | 10.3.1 | Financial | Employee of Cocos Coop |
| Cr Lacy | 10.2.3 | Financial | Wife employee of Parks Australia |
| Cr Lacy | 10.3.1 | Impartiality | Wife employee of Parks Australia |

10. REPORT AND RECOMMENDATIONS OF COMMITTEE

Nil

10.1 FINANCE

10.1.1 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDING 30 NOVEMBER 2018

Report Information

Date: 16 January 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.1.1 Statement of Financial Activity with accompanying notes

Authority / Discretion

Definitions

| | | |
|-------------------------------------|----------------|--|
| <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> |

COUNCIL RESOLUTION – ITEM 10.1.1

MOVED COUNCILLOR ANTHONY SECONDED COUNCILLOR DEDIAN

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO REGULATION 34(1) OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2018 TO 30 NOVEMBER 2018.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

FOR: IKU, ANTHONY, CHARLSTON, DEDIAN, LACY, MINKOM, YOUNG
AGAINST: NIL

OFFICER RECOMMENDATION - ITEM 10.1.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO REGULATION 34(1) OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2018 TO 30 NOVEMBER 2018.

***NB:** Cr Charlston queried a line in the Financial Statements on Note 2 regarding an additional entry for restricted cash.*

The CEO took the question on notice.

Report Purpose

To inform Council of the financial position of the Shire at 30 November 2018 in compliance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Monthly Financial Statements for the period 1 July 2018 to 30 November 2018 are presented for consideration.

Comment

The Monthly Financial Report is prepared in accordance with the requirements of the Local Government Act 1995 and Local Government (Financial Management) Regulations.

A statement of Financial Activity with accompanying notes is attached for the period 1 July 2018 to 30 November 2018.

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 in question.

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

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

Financial Implications

Nil

Strategic Implications

Nil

Conclusion

That the financial statements for the period 1 July 2018 to 30 November 2018 be received.

10.1.2 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDING 31 DECEMBER 2018

Report Information

Date: 16 January 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.1.2 Statement of Financial Activity with accompanying notes

Authority / Discretion

Definitions

| | | |
|-------------------------------------|----------------|--|
| <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> |

COUNCIL RESOLUTION – ITEM 10.1.2

MOVED COUNCILLOR ANTHONY SECONDED COUNCILLOR LACY

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO REGULATION 34(1) OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2018 TO 31 DECEMBER 2018.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

FOR: IKU, ANTHONY, CHARLSTON, DEDIAN, LACY, MINKOM, YOUNG
AGAINST: NIL

OFFICER RECOMMENDATION - ITEM 10.1.2

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO REGULATION 34(1) OF THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2018 TO 31 DECEMBER 2018.

Report Purpose

To inform Council of the financial position of the Shire at 31 December 2018 in compliance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Monthly Financial Statements for the period 1 July 2018 to 31 December 2018 are presented for consideration.

Comment

The Monthly Financial Report is prepared in accordance with the requirements of the Local Government Act 1995 and Local Government (Financial Management) Regulations.

A statement of Financial Activity with accompanying notes is attached for the period 1 July 2018 to 31 December 2018.

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 in question.

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

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

Financial Implications

Nil

Strategic Implications

Nil

Conclusion

That the financial statements for the period 1 July 2018 to 31 December 2018 be received.

10.1.3 SCHEDULE OF ACCOUNTS PAID FOR PERIOD 1 NOVEMBER 2018 TO 30 NOVEMBER 2018

Report Information

Date: 16 January 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Senior Finance Officer
 Island: Shire Wide
 Attachments: 10.1.3 Schedule of accounts paid for November 2018
 10.1.3 Master Card Statements

AUTHORITY / DISCRETION

Definitions

| | | |
|-------------------------------------|----------------|--|
| <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> |

COUNCIL RESOLUTION – ITEM 10.1.3

MOVED COUNCILLOR DEDIAN SECONDED COUNCILLOR LACY

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO CREDITOR PAYMENTS FROM THE MUNICIPAL FUND FOR THE PERIOD 01 NOVEMBER 2018 TO 30

NOVEMBER 2018 INCLUSIVE OF MUNICIPAL CHEQUE NUMBERS 11531 & 11533, EFT 6220 TO EFT 6251, MASTER CARD & DIRECT DEBIT SUPERANNUATION TOTALLING \$275,663.70.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

FOR: IKU, ANTHONY, CHARLSTON, DEDIAN, LACY, MINKOM, YOUNG
AGAINST: NIL

OFFICER RECOMMENDATION – ITEM 10.1.3

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO CREDITOR PAYMENTS FROM THE MUNICIPAL FUND FOR THE PERIOD 01 NOVEMBER 2018 TO 30 NOVEMBER 2018 INCLUSIVE OF MUNICIPAL CHEQUE NUMBERS 11531 & 11533, EFT 6220 TO EFT 6251, MASTER CARD & DIRECT DEBIT SUPERANNUATION TOTALLING \$275,663.70.

Report Purpose

To inform Council of funds disbursed for the period 1 November 2018 – 30 November 2018.

Relevant Documents

Available for viewing at the meeting
Nil

Background

A list of accounts paid between 1 November 2018 – 30 November 2018 is attached.

Comment

The schedule of accounts paid is submitted in accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996.

Policy and Legislative Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Conclusion

That Council receives the list of all accounts paid in November 2018.

10.1.4 SCHEDULE OF ACCOUNTS PAID FOR PERIOD 1 DECEMBER 2018 TO 31 DECEMBER 2018

Report Information

Date: 16 January 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Senior Finance Officer
 Island: Shire Wide
 Attachments: 10.1.4 Schedule of accounts paid December 2018

AUTHORITY / DISCRETION

Definitions

| | | |
|-------------------------------------|----------------|--|
| <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> |

COUNCIL RESOLUTION – ITEM 10.1.4

MOVED COUNCILLOR YOUNG SECONDED COUNCILLOR DEDIAN

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996 RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO CREDITOR PAYMENTS FROM THE MUNICIPAL FUND FOR THE PERIOD 01 DECEMBER 2018 TO 31 DECEMBER 2018 INCLUSIVE OF MUNICIPAL CHEQUE NUMBERS 11534 & 11535, EFT 6252 TO EFT 6326 & DIRECT DEBIT SUPERANNUATION TOTALLING \$302,580.32

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

FOR: IKU, ANTHONY, CHARLSTON, DEDIAN, LACY, MINKOM, YOUNG
AGAINST: NIL

OFFICER RECOMMENDATION – ITEM 10.1.4

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996* RECEIVES THE REPORT FROM THE CHIEF EXECUTIVE OFFICER ON THE EXERCISE OF DELEGATED AUTHORITY IN RELATION TO CREDITOR PAYMENTS FROM THE MUNICIPAL FUND FOR THE PERIOD 01 DECEMBER 2018 TO 31 DECEMBER 2018 INCLUSIVE OF MUNICIPAL CHEQUE NUMBERS 11534 & 11535, EFT 6252 TO EFT 6326 & DIRECT DEBIT SUPERANNUATION TOTALLING \$302,580.32

Report Purpose

To inform Council of funds disbursed for the period 1st December 2018 – 31st December 2018.

Relevant Documents

Available for viewing at the meeting

Nil

Background

A list of accounts paid between 1 and 31 December 2018 is attached.

Comment

The schedule of accounts paid is submitted in accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996.

Policy and Legislative Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Conclusion

That Council receives the list of all accounts paid in December 2018.

10.2 LEASES

10.2.1 REQUEST TO LEASE PORTION OF LOT 103 FOR A RENEWABLE ENERGY FACILITY – PUBLIC SUBMISSIONS AND CONSULTATION ON INTENT TO LEASE

Report Information

Date: 16 January 2019
 Applicant: Island Power Co Pty Ltd
 File Ref:
 Location: Portion of Lot 103
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Home Island
 Attachments: 10.2.1 Stakeholder and Community Consultation Plan
 10.2.1 Indicative Map of the area (showing Phase One and Phase Two)

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> |

COUNCIL RESOLUTION – ITEM 10.2.1

MOVED COUNCILLOR LACY SECONDED COUNCILLOR MINKOM

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.58 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO:

- 1. GIVE LOCAL PUBLIC NOTICE OF THE INTENT TO DISPOSE (BY LEASE) OF A PORTION OF LOT 103 IN TWO PARTS (PART ONE: 7,500SQM AND PART TWO: 12,500SQM GIVING A TOTAL LEASE AREA OF 2.00 HECTARES) TO ISLAND POWER CO PTY LTD FOR THE PURPOSE OF DEVELOPING A RENEWABLE ENERGY FACILITY AS PER THE FOLLOWING LEASE CONDITIONS:**

- **LEASE VALUE OF \$4,200 (\$0.21PSQM) PER ANNUM AS DETERMINED BY THE INDEPENDENT PROFESSIONAL VALUATION BY OPTEON AND SUBJECT TO ANNUAL CPI REVIEW;**
- **LEASE TERM OF 15 YEARS PLUS 15 YEARS;**
- **THE LEASE APPLICATION IS MADE BY ISLAND POWER CO PTY LTD ON BEHALF OF PROJECT COMPANY ISLAND POWER CO HI PTY LTD WHICH WILL BE USED TO DELIVER THE PROJECT (HEREAFTER THEY ARE REFERRED TO TOGETHER AS THE “LESSEE”).**
- **DEVELOPMENT WILL BE CARRIED OUT IN TWO STAGES WITH TIMEFRAMES AS FOLLOWS:**

PHASE ONE:

- A. LODGE DEVELOPMENT APPLICATION: WITHIN 24 MONTHS FROM THE COMMENCEMENT DATE.**
- B. COMPLETE THE NEGOTIATIONS ON THE DEVELOPMENT APPLICATION TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS IN ITS CAPACITY AS CONSENT AUTHORITY TO THE DEVELOPMENT APPLICATION: WITHIN 6 MONTHS FROM THE DATE OF LODGEMENT OF THE DEVELOPMENT APPLICATION OR AS EXTENDED BY THE LESSOR IN ITS ABSOLUTE DISCRETION.**
- C. LODGE BUILDING PERMIT APPLICATION: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A DEVELOPMENT APPROVAL.**
- D. COMMENCE LESSEE’S WORKS: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A BUILDING PERMIT.**
- E. PRACTICAL COMPLETION OF LESSEE’S WORKS: WITHIN 24 MONTHS FROM THE DATE OF ISSUE OF COMMENCING LESSEE’S WORKS.**

PHASE TWO:

- A. LODGE DEVELOPMENT APPLICATION: WITHIN 5 YEARS AFTER THE COMMENCEMENT DATE.**
- B. COMPLETE THE NEGOTIATIONS ON THE DEVELOPMENT APPLICATION TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS IN ITS CAPACITY AS CONSENT AUTHORITY TO THE DEVELOPMENT APPLICATION: WITHIN 6 MONTHS**

- FROM THE DATE OF LODGEMENT OF THE DEVELOPMENT APPLICATION OR AS EXTENDED BY THE LESSOR IN ITS ABSOLUTE DISCRETION.
- C. LODGE BUILDING PERMIT APPLICATION: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A DEVELOPMENT APPROVAL.
 - D. COMMENCE LESSEE'S WORKS: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A BUILDING PERMIT.
 - E. PRACTICAL COMPLETION OF LESSEE'S WORKS: WITHIN 24 MONTHS FROM THE DATE OF ISSUE OF COMMENCING LESSEE'S WORKS.
2. CONCURRENTLY WITH THE STATUTORY REQUIREMENT OF GIVING LOCAL PUBLIC NOTICE, IMPLEMENT THE STAKEHOLDER AND COMMUNITY ENGAGEMENT AS OUTLINED IN ATTACHMENT 10.2.1 AS A VALUE-ADDED PROCESS THAT, IN RECOGNITION OF THE COMPLEXITY AND IMPORTANCE OF THIS PROPOSAL, EXCEEDS STATUTORY REQUIREMENTS.
3. CONSIDER THE REPORT ON THE RESULTS OF THE STAKEHOLDER AND COMMUNITY CONSULTATION AND ALL PUBLIC SUBMISSIONS AT AN ORDINARY MEETING OF COUNCIL AS SOON AS POSSIBLE TO DETERMINE WHETHER TO EXECUTE A LEASE WITH ISLAND POWER CO PTY LTD.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

FOR: IKU, ANTHONY, CHARLSTON, DEDIAN, LACY, MINKOM, YOUNG
AGAINST: NIL

OFFICER RECOMMENDATION – ITEM 10.2.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.58 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO:

2. GIVE LOCAL PUBLIC NOTICE OF THE INTENT TO DISPOSE (BY LEASE) OF A PORTION OF LOT 103 IN TWO PARTS (PART ONE: 7,500SQM AND PART TWO: 12,500SQM GIVING A TOTAL LEASE AREA OF 2.00 HECTARES) TO ISLAND POWER CO PTY LTD FOR THE PURPOSE OF DEVELOPING A RENEWABLE ENERGY FACILITY AS PER THE FOLLOWING LEASE CONDITIONS:
 - LEASE VALUE OF \$4,200 (\$0.21PSQM) PER ANNUM AS DETERMINED BY THE INDEPENDENT PROFESSIONAL VALUATION BY OPTeon AND SUBJECT TO ANNUAL CPI REVIEW;
 - LEASE TERM OF 15 YEARS PLUS 15 YEARS;
 - THE LEASE APPLICATION IS MADE BY ISLAND POWER CO PTY LTD ON BEHALF OF PROJECT COMPANY ISLAND POWER CO HI PTY LTD WHICH WILL BE USED TO DELIVER THE PROJECT (HEREAFTER THEY ARE REFERRED TO TOGETHER AS THE "LESSEE").

- DEVELOPMENT WILL BE CARRIED OUT IN TWO STAGES WITH TIMEFRAMES AS FOLLOWS:

PHASE ONE:

- F. LODGE DEVELOPMENT APPLICATION: WITHIN 24 MONTHS FROM THE COMMENCEMENT DATE.
- G. COMPLETE THE NEGOTIATIONS ON THE DEVELOPMENT APPLICATION TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS IN ITS CAPACITY AS CONSENT AUTHORITY TO THE DEVELOPMENT APPLICATION: WITHIN 6 MONTHS FROM THE DATE OF LODGEMENT OF THE DEVELOPMENT APPLICATION OR AS EXTENDED BY THE LESSOR IN ITS ABSOLUTE DISCRETION.
- H. LODGE BUILDING PERMIT APPLICATION: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A DEVELOPMENT APPROVAL.
- I. COMMENCE LESSEE'S WORKS: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A BUILDING PERMIT.
- J. PRACTICAL COMPLETION OF LESSEE'S WORKS: WITHIN 24 MONTHS FROM THE DATE OF ISSUE OF COMMENCING LESSEE'S WORKS.

PHASE TWO:

- F. LODGE DEVELOPMENT APPLICATION: WITHIN 5 YEARS AFTER THE COMMENCEMENT DATE.
- G. COMPLETE THE NEGOTIATIONS ON THE DEVELOPMENT APPLICATION TO THE SATISFACTION OF THE SHIRE OF COCOS (KEELING) ISLANDS IN ITS CAPACITY AS CONSENT AUTHORITY TO THE DEVELOPMENT APPLICATION: WITHIN 6 MONTHS FROM THE DATE OF LODGEMENT OF THE DEVELOPMENT APPLICATION OR AS EXTENDED BY THE LESSOR IN ITS ABSOLUTE DISCRETION.
- H. LODGE BUILDING PERMIT APPLICATION: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A DEVELOPMENT APPROVAL.
- I. COMMENCE LESSEE'S WORKS: WITHIN 12 MONTHS FROM THE DATE OF ISSUE OF A BUILDING PERMIT.
- J. PRACTICAL COMPLETION OF LESSEE'S WORKS: WITHIN 24 MONTHS FROM THE DATE OF ISSUE OF COMMENCING LESSEE'S WORKS.

2. CONCURRENTLY WITH THE STATUTORY REQUIREMENT OF GIVING LOCAL PUBLIC NOTICE, IMPLEMENT THE STAKEHOLDER AND COMMUNITY ENGAGEMENT AS OUTLINED IN ATTACHMENT 10.2.1 AS A VALUE-ADDED PROCESS THAT, IN RECOGNITION OF THE COMPLEXITY AND IMPORTANCE OF THIS PROPOSAL, EXCEEDS STATUTORY REQUIREMENTS.
3. CONSIDER THE REPORT ON THE RESULTS OF THE STAKEHOLDER AND COMMUNITY CONSULTATION AND ALL PUBLIC SUBMISSIONS AT AN ORDINARY MEETING OF COUNCIL AS SOON AS POSSIBLE TO DETERMINE WHETHER TO EXECUTE A LEASE WITH ISLAND POWER CO PTY LTD.

Executive Summary

This report formally brings a request from Island Power Co Pty Ltd for the lease of Part of Lot 103 to develop a renewable energy facility. This process outlined below will meet all statutory requirements for disposal of property as per the Local Government Act 1995 (WA) (CKI). It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the Land Trusts as the Land (Lot 103) is held in Trust; however the process as outlined in this report applies all requirements of the *Local Government Act 1995 (WA) (CKI)* to provide transparency and as a best practice process. Council, in making any decision in relation to the Trusts, must give due consideration of the purpose of the Trusts that is *“the benefit, advancement and wellbeing of the community formed by Kampong residents; and the wellbeing of Cocos Islanders”* and ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to dispose of Land held in Trust to the Lessee.

Relevant Documents

Nil

Available for viewing at the meeting or prior to the meeting by request

Opteon Valuation Report

Background

The Lessee has submitted a proposal for a renewable energy facility at Home Island and wishes to lease land for the project. The lease application is made by Island Power Co Pty Ltd on behalf of project company Island Power Co HI Pty Ltd which will be used to deliver the project (hereafter referred to together as the “Lessee”).

The Home Island site that is most suitable for the project is on Trust land. The Lessee is therefore formally requesting the lease of Trust land at Home Island for the development of the renewable energy facility.

The proposed development is a renewable energy facility on a portion of Lot 103 at Home Island being the unused land directly behind and adjacent to the power station, fuel depot area, and water utilities area. The proposed area for the sites is shown on the attached map.

The exact boundaries of the lease are yet to be determined by the Shire, but the attached map shows the indicative proposed areas for Phase One and phase Two. More detailed maps will be made available as part of the Community Consultation process.

The development will be staged across two sites in the area as separate projects starting at different times but are proposed to be managed under a single lease with different target dates and milestones for Phase One and Phase Two.

Phase One consists of a renewable energy facility including solar and battery storage. (See map at Attachment 10.2.1)

Timeframes for Phase One are as follows:

Phase One:

- a) Lodge Development Application: 24 months from the Commencement Date.
- b) Complete the negotiations on the Development Application to the satisfaction of the Shire of Cocos (Keeling) Islands in its capacity as consent authority to the Development Application: 6 months from the date of lodgement of the Development Application or as extended by the Lessor in its absolute discretion.
- c) Lodge Building Permit Application: 12 months from the date of issue of a Development Approval.
- d) Commence Lessee's Works: 12 months from the date of issue of a Building Permit.
- e) Practical Completion of Lessee's Works: 24 months from the date of commencing Lessee's Works.

Phase Two allows the renewable energy facility to be developed at a larger scale with additional solar and battery storage located across the two site areas. (See map at Attachment 10.2.1)

Timeframes for Phase Two are as follows:

- a) Lodge Development Application: 5 years after the Commencement Date.
- b) Complete the negotiations on the Development Application to the satisfaction of the Shire of Cocos (Keeling) Islands in its capacity as consent authority to the Development Application: 6 months from the date of lodgement of the Development Application or as extended by the Lessor in its absolute discretion.
- c) Lodge Building Permit Application: 12 months from the date of issue of a Development Approval.
- d) Commence Lessee's Works: 12 months from the date of issue of a Building Permit.
- e) Practical Completion of Lessee's Works: 24 months from the date of commencing Lessee's Works.

The independent valuation by Opteon provides a valuation of \$0.21psqm: The areas requested by the proponent are as follows:

| | |
|--------------|---------------------------|
| Area 1: | 7,500 sqm for Phase One |
| Area 2: | 12,500 sqm for Phase Two |
| Area Total: | 20,000 sqm (2.0 hectares) |
| Total Price: | \$4,200 |

The proponent has agreed to pay the full lease fee for both area one and area two from the commencement of the lease and has agreed to pay for the total maximum area, regardless of if the final useable area is less than the maximum area.

NB: Should Phase Two not commence within the timeframes as stated above, Council can, at its discretion, re-negotiate new timeframes or cancel the portion of the lease that deals with the area set aside for Phase Two without impacting on the lease for the area used by Phase One.

The lease terms requested are as follows:

The lease is for 15 years with an option for a further 15 years (i.e. 15 + 15). This lease period provides the minimum required operational lifetime for the project, plus additional time for pre-development work, government approval processes, and island logistics.

Land valuation is to be determined by an independent valuer and lease fees will be paid at the exact valuation provided by the valuer (no reduced fees). Lease fees will be subject to CPI or market value, as finalised in the lease drafting process.

Comment

The proposed project offers significant benefit to the Community and progresses environment, social and economic goals of the Strategic Community Plan whilst putting land that has little, community, commercial or recreational value to good use. As noted above, in determining this matter, Council is acting in its capacity as the Trustee of the Land Trusts as the Land (Lot 103) is Land held in Trust; therefore Council, is required to have due consideration of the purpose of the Trust, that is *“the benefit, advancement and wellbeing of the community formed by Kampong residents; and the wellbeing of Cocos Islanders”* and ensure their decision-making is guided by this objective. The officer’s recommendation is based on the proposal’s alignment with community goals as articulated in the Strategic Community Plan as this provides a framework for Council (as Trustees) to be confident that the proposed lease is consistent with the purposes of the Trusts, that is, the advancement and well-being of the relevant community via the following:

Benefits to the community include: a cleaner, greener, more sustainable future for the island; specialised training and employment for local workers; lower diesel fuel usage; costs savings to government; and the payment of lease fees to the Shire.

Freshwater Lens

The presence of the Freshwater Lens adjacent to, or in the proposed lease area for Phase Two is noted. Preliminary discussions have already been held with Water Corp about the location and types of water resources and Water Corp assets in the area, and the possible boundaries of the proposed solar site. Should Council resolve to progress with Stakeholder and

Community Engagement this matter will be discussed in further detail with Water Corp and their feedback will be provided to Council in the follow up report to Council to assist with Council's final determinations. The preliminary view is that the solar project is unlikely to cause water related issues in the area.

Financial Implications

The proposed lease fee of \$4,200 per annum would provide an additional revenue stream for the Trusts.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2013 – 2023 – Outcome 3.1.1. Increase the environmental credentials of the Islands.

Conclusion

The officer's recommendation supports progressing to give local public notice of the intent to lease a portion of Lot 103 to the Lessee and to commence stakeholder and community engagement as outlined in attachment 10.2.1. The recommendation has been made on the basis that the project offers significant social, environmental and economic benefits, progresses the objectives of the Trusts for the community and provides a financial return on otherwise under-utilised land.

10.2.2 REQUEST FOR LEASE – DIRECTION ISLAND RESORT DEVELOPMENT - PUBLIC SUBMISSIONS AND CONSULTATION

Report Information

Date: 16 January 2019
Applicant: Cocos Boronia Resort Pty Ltd
File Ref:
Location: Lot 102
Disclosure of Interest: Nil
Reporting Officer: Chief Executive Officer
Island: Direction Island
Attachments: 10.2.2 Letter from Mr Blakeman dated 10 January 2019 REF: *Proposed Tourist Resort – Direction Island*;
10.2.2 Concept Plan/Designs including indicative location map;
10.2.2 Letter from Mr Cree Haig dated 15 February 2018;
10.2.2 Letter from Grounds Kent Architects dated 2 November 2018;
10.2.2 Letter from Benchmark Projects dated 7 January 2019;
10.2.2 Letter from Jo Buckee dated 8 January 2019; and
10.2.2 Letter from South Pacific Management dated 20 April 2018;
10.2.2 Cardno Capability Statement dated 11 January 2018;
10.2.2 CONFIDENTIAL Financials – Projected Income and Expense 2019 – 2029;
10.2.2 CONFIDENTIAL – Letter from MyHotel dated 1 November 2018;
10.2.2 Direction Island – Suggested Process and Timelines
10.2.2 Community and Stakeholder Engagement Strategy.

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> |

COUNCIL RESOLUTION – ITEM 10.2.2

MOVED COUNCILLOR CHARLSTON SECONDED COUNCILLOR DEDIAN

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.18 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO:

- 1. IMPLEMENT THE COMMUNITY AND STAKEHOLDER ENGAGEMENT STRATEGY AS PER ATTACHMENT 10.2.2 TO SEEK COMMUNITY AND STAKEHOLDER VIEWS ON THE REQUEST FROM CHRIS BLAKEMAN OF COCOS BORONIA RESORT PTY LTD THAT COUNCIL COMMITS TO NEGOTIATING EXCLUSIVELY WITH COCOS BORONIA RESORT PTY LTD IN GOOD FAITH, SUBJECT TO STATUTORY PROCESSES, FOR LEASING LAND ON DIRECTION ISLAND TO DEVELOP A RESORT;**
- 2. CONSIDER THE RECOMMENDATIONS FROM THE COMMUNITY AND STAKEHOLDER ENGAGEMENT AND ANY PUBLIC SUBMISSIONS AT AN ORDINARY MEETING OF COUNCIL IN MAKING A DETERMINATION ON THE REQUEST FROM COCOS BORONIA RESORT PTY LTD; AND**
- 3. ADVISE THE PROPONENT THAT ANY DECISION TO PROGRESS WITH A LEASE WOULD NEED TO ADHERE TO THE STATUTORY PROCESSES AS REQUIRED BY SECTION 3.58 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* AND ASSOCIATED REGULATIONS.**

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

**FOR: IKU, ANTHONY, CHARLSTON, DEDIAN, LACY, MINKOM, YOUNG
AGAINST: NIL**

OFFICER RECOMMENDATION – ITEM 10.2.2

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.18 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO:

1. IMPLEMENT THE COMMUNITY AND STAKEHOLDER ENGAGEMENT STRATEGY AS PER ATTACHMENT 10.2.2 TO SEEK COMMUNITY AND STAKEHOLDER VIEWS ON THE REQUEST FROM CHRIS BLAKEMAN OF COCOS BORONIA RESORT PTY LTD THAT COUNCIL COMMITS TO NEGOTIATING EXCLUSIVELY WITH COCOS BORONIA RESORT PTY LTD IN GOOD FAITH, SUBJECT TO STATUTORY PROCESSES, FOR LEASING LAND ON DIRECTION ISLAND TO DEVELOP A RESORT;
2. CONSIDER THE RECOMMENDATIONS FROM THE COMMUNITY AND STAKEHOLDER ENGAGEMENT AND ANY PUBLIC SUBMISSIONS AT AN ORDINARY MEETING OF COUNCIL IN MAKING A DETERMINATION ON THE REQUEST FROM COCOS BORONIA RESORT PTY LTD; AND
3. ADVISE THE PROPONENT THAT ANY DECISION TO PROGRESS WITH A LEASE WOULD NEED TO ADHERE TO THE STATUTORY PROCESSES AS REQUIRED BY SECTION 3.58 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* AND ASSOCIATED REGULATIONS.

Executive Summary

This items brings an unsolicited proposal from Chris Blakeman of Cocos Boronia Resort Pty Ltd to Council for consideration. The proposal is seeking Council to consider leasing land on Direction Island to Cocos Boronia Resort Pty Ltd for the purpose of developing a resort. This items provides background information and due diligence documents from Cocos Boronia Resort Pty Ltd for Council to determine whether to go to community consultation on this proposal. It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the Land Trusts as the Land (Lot 103) is held in Trust. Council as the Trustee, in making any decision in relation to the Trusts, must give due consideration of the purpose of the Trusts, that is, *the benefit, advancement and wellbeing of the community formed by Kampong residents; and the wellbeing of Cocos Islanders*, and ensure their decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to dispose of Land held in Trust to the Lessee.

Relevant Documents

Available for viewing at the meeting or prior to the meeting by request

Nil

Background

Since January 2018 Mr Blakeman, Director of Cocos Boronia Resort Pty Ltd has been in informal discussions with Shire representatives, the Administrator and Home Island

community members about a proposal for a resort on Direction Island. Mr Blakeman approached the Shire in November to advise that he has received favourable responses from groups and individuals he had consulted to-date but to make any further progress he would need to make a significant financial investment. In order to invest further in the proposal, Mr Blakeman requires a level of assurance from Council that they would be willing to consider leasing land on Direction Island to Cocos Boronia Resort Pty Ltd for the purpose of developing a resort. The specific request from Mr Blakeman is that Council will deal exclusively with Cocos Boronia Resort Pty Ltd as a proponent for the potential to lease a parcel of land on Direction Island.

The proposal is detailed in the attached letter dated 10 January 2019 from Mr Blakeman *REF: Proposed Tourist Resort – Direction Island*. The proposed site is Direction Island - north of the jetty. The proposal is for a 60 room resort to commence the project with 160 rooms as upper limit for the resort. The proposal includes 20 over-water bungalows. Other facilities include a Swimming pool, restaurant, bar, spa, independent arrival jetty and reception and four water taxis.

In support of his request Mr Blakeman has provided the attached due diligence reports and information to support the request to proceed with public consultation. These items, with the exception of commercial in-confidence financial information, will be made available to the community as it is likely the community would want to see this level of detail to be able to provide informed input.

The land on Direction Island is owned by the Shire freehold, subject to the Cocos Land Trust. The beach on Direction Island is Crown land up to the high water mark and the area within the lagoon is also the responsibility of the Commonwealth. At this stage the exact boundaries of the required lease has not been determined however an indicative area is shown in the concept plans attached. The land has not been valued but would be if Council resolves to proceed to the next stage.

As the proposal includes a development over the water (for which the Commonwealth has responsibility) Shire representatives have spoken with officers at the Department of Planning, as agents of the Commonwealth, to enquire about their process for considering this proposal. The intent is to ensure the Shire and the Commonwealth processes are aligned and complementary. The Department advised that Mr Blakeman has been in contact with them about this proposal and that they are prepared to be flexible and will strive to support the Shire in its preferred approach.

Given the likelihood of strong public interest in this proposal, officers recommend that a preliminary stakeholder and community engagement process is implemented to gauge public interest in the concept before Council is able to give consideration to entering into negotiations. The engagement strategy presented for Council consideration takes into

consideration the complexity of this concept. The strategy is also cognisant of the poor response rates when the Shire invites public submissions and therefore recommends an alternative mechanism to get informed input from a group that is demographically representative of the community. See attached proposed Stakeholder and Community Engagement Strategy.

This item seeks a Council resolution to proceed with Stakeholder and Community Engagement noting that this is a preliminary engagement and does not meet the statutory requirements for disposal of property (by lease) as required by Section 3.58 of the *Local Government Act 1995 (WA) (CKI)*. Should Council resolve to proceed with negotiations, the statutory process would need to be implemented prior to Council making a final decision regarding a lease.

Should Council agree to a lease, as the issuing authority, it is important to note that prior to the project being able to be progressed it is a legislative requirement that the proponent lodges a Development Application for Council to consider the specifics of the proposal. An extract from the Deemed Provisions for considering Development Applications is as follows:

67. Matters to be considered by local government

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application—

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the *Planning and Development (Local Planning Schemes) Regulations 2015* or any other proposed planning instrument that the local government is seriously considering adopting or approving;
- (c) any approved State planning policy;
- (d) any environmental protection policy approved under the *Environmental Protection Act 1986* section 31(d);
- (e) any policy of the Commission;
- (f) any policy of the State;
- (g) any local planning policy for the Scheme area;
- (h) any structure plan, activity centre plan or local development plan that relates to the development;
- (i) any report of the review of the local planning scheme that has been published under the
 - (i) *Planning and Development (Local Planning Schemes) Regulations 2015*;

- (ii) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;
- (j) the built heritage conservation of any place that is of cultural significance;
- (k) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (l) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- (m) the amenity of the locality including the following—
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
- (n) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
- (o) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (p) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;
- (q) the suitability of the land for the development taking into account the possible risk to human health or safety;
- (r) the adequacy of —
 - (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (u) the availability and adequacy for the development of the following—
 - (i) public transport services;
 - (ii) public utility services;
 - (iii) storage, management and collection of waste;
 - (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (v) access by older people and people with disability;

- (w) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;
- (x) the history of the site where the development is to be located;
- (y) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (z) any submissions received on the application;
 - (za) the comments or submissions received from any authority consulted under clause 66;
 - (zb) any other planning consideration the local government considers appropriate.

Financial Implications

The direct financial implication from the engagement activity is likely to be minimal, estimated at <\$1000, excluding staff time, and can be accommodated within current budget allocations. Future activity, should Council elect to progress to the next stage, will incur costs for items such as valuations and legal fees however these will be brought before Council in agenda items at the relevant stages.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2013 – 2023 – Objective – Civic Leadership – Lead in making things happen.

Conclusion

This is a complex and potentially very sensitive proposal and will need a considered approach. It is also acknowledged that the proponent will incur significant investment to progress with investigations and planning and understandably the proponent requires some level of assurance of the appetite of Council and the community before making further financial investment. The process outlined in this report and the officer's recommendation provides an avenue for Council and the community to have input and for the proponent to test the proposal without committing either party to a binding agreement at this preliminary stage.

10.2.3 NORTH KEELING (PULU KEELING) LEASE

Report Information

Date: 17 January 2019
 Applicant: Shire of Cocos (Keeling) Islands
 Location: Lot 105
 File Ref:
 Disclosure of Interest: Cr Lacy declared a financial interest
 Reporting Officer: Chief Executive Officer
 Island: North Keeling
 Attachments: 10.2.3 Confidential North Keeling Lease – Issues Paper;
 10.2.3 Confidential North Keeling Lease - Summary of issues and actions;
 10.2.3 Letter from the Shire (signed by former CEO, Aaron Bowman, dated 11 September 2017); and
 10.2.3 Response letter from Parks Australia (signed by Sally Barnes, Director of National Parks dated 6 October 2017.)

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> |

Councillor Lacy declared financial on Item 10.2.3 and left the meeting room at 4.18pm.

COUNCIL RESOLUTION – ITEM 10.2.3

MOVED COUNCILLOR MINKOM SECONDED COUNCILLOR CHARLSTON

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.18 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO:

- a. HONOUR LEASE BETWEEN THE COCOS (KEELING) ISLANDS SHIRE COUNCIL AND COMMONWEALTH OF AUSTRALIA (SUBSEQUENTLY CEDED TO THE DIRECTOR OF NATIONAL PARKS) AS EXECUTED IN JANUARY 1995 FOR NORTH KEELING ISLAND; AND**
- b. COMMENCE NEGOTIATIONS WITH PARKS AUSTRALIA FOR PROJECTS AND INITIATIVES THAT PROVIDE A DIRECT BENEFIT TO THE COCOS (KEELING) ISLANDS COMMUNITY.**

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

FOR: IKU, ANTHONY, CHARLSTON, DEDIAN, MINKOM, YOUNG

AGAINST: NIL

OFFICER RECOMMENDATION – ITEM 10.2.3

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.18 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO:

- a. HONOUR LEASE BETWEEN THE COCOS (KEELING) ISLANDS SHIRE COUNCIL AND COMMONWEALTH OF AUSTRALIA (SUBSEQUENTLY CEDED TO THE DIRECTOR OF NATIONAL PARKS) AS EXECUTED IN JANUARY 1995 FOR NORTH KEELING ISLAND; AND
- b. COMMENCE NEGOTIATIONS WITH PARKS AUSTRALIA FOR PROJECTS AND INITIATIVES THAT PROVIDE A DIRECT BENEFIT TO THE COCOS (KEELING) ISLANDS COMMUNITY.

Executive Summary

The validity of the lease of North Keeling which was granted to Commonwealth of Australia in January 1995 by the Cocos (Keeling) Islands Shire Council has been the subject of much debate and discussion. This report presents a summary of the issues and para-legal advice to Council over the past twenty years. The Officer's Recommendation is to seek a resolution to the dispute over the lack of return for the lease, via negotiation rather than any legal challenge of the lease.

It should be noted that Council, in this instance, is acting in its capacity as the Trustee of the Land Trusts as the Land (Lot 103) is held in Trust. Council as the Trustee, in making any decision in relation to the Trusts, must give due consideration of the purpose of the Trusts, that is, the advancement and well-being of the relevant community, and ensure their

decision-making is guided by this objective. Council, acting in its capacity as Trustee, has the authority to dispose of Land held in Trust to the Lessee.

Relevant Documents

Available for viewing at the meeting or prior to the meeting by request

The executed Lease between the Cocos (Keeling) Islands Shire Council and Commonwealth of Australia - signed in January 1995.

Background

Extracts from the Department of Environment and Energy website (<http://www.environment.gov.au/topics/national-parks/pulu-keeling-national-park/history>) state the following:

Pulu Keeling National Park is one of Australia's smallest national parks and yet a place of international significance. An isolated coral atoll, it is part of the Cocos (Keeling) Islands, Australia's most remote island territory lying almost 2000 kilometres northwest of Perth in the Indian Ocean.

Pulu Keeling National Park has a number of unique features, including an internationally significant seabird rookery and an historic ship wreck. North Keeling Island is significant to studies of island biogeography because of its evolution in isolation and it continues to be a site of scientific research.

North Keeling Island is comprise of one C-shaped island, a nearly closed atoll ring with a small opening into the lagoon. The lagoon opening is approximately 50 metres wide and located on the east side of the island. The lagoon itself is about half a square kilometres in size.

In 1984, the Commonwealth handed over most of the land of the Cocos (Keeling) Islands to the Cocos (Keeling) Islands Shire Council, to be held in trust for the people of the Islands. This trust deed stipulated that North Keeling Island was to be managed to conserve the unique flora and fauna of the Island. The conservation significance of North Keeling was clearly recognised when the Island was recommended to become a national park or nature reserve by two House of Representative committees in 1990 and 1991 and when the island was listed on the Register of the National Estate in 1990.

In mid-1993, the Cocos (Keeling) Islands Shire Council decided in principle to lease North Keeling Island to the Commonwealth for the creation of a national park. This lease was signed by the Commonwealth and the Cocos (Keeling) Islands Shire Council in January 1995 and stipulated that North Keeling Island must be developed as a national park of world standard.

Upon the proclamation of Pulu Keeling National Park on the 12th December 1995, the Commonwealth's interest as lessee passed to the Director of National Parks as provided for by section 7(7) of the National Parks and Wildlife Conservation Act 1975. The lease is now between the Council and the Director.

Pulu Keeling National Park was proclaimed on 12 December 1995. The park is a Commonwealth reserve under the EPBC Act and is managed by the Director of National Parks in accordance with the Act, the regulations made under it, and this management plan.

This will help ensure the long-term conservation of the unique biodiversity of Pulu Keeling National Park and safeguard the island's natural and historical attributes for the benefit of both the Cocos-Malay community and the wider local, national and international communities.

Since the lease was signed on 19 January 1995, there have been various efforts by successive Councils and CEOs to query/establish the validity of the lease. A Development Application received from Parks Australia in September 2018 for a structure on North Keeling has prompted questions regarding the status of investigations into the lease. This matter needs to be considered by Council to determine what, if any, future actions are required.

To assist Councillors gain a better understanding of the background and current status, please find attached the following documents:

- i. Confidential North Keeling Lease – Issues Paper;
- ii. Confidential North Keeling Lease - Summary of issues and actions;
- iii. Letter from the Shire (signed by former CEO, Aaron Bowman, dated 11 September 2017; and
- iv. Response letter from Parks Australia (signed by Sally Barnes, Director of National Parks dated 6 October 2017.)

There have been no further actions or developments since the letter from Parks Australia was received on 6 October 2017.

Advice from a para-legal and from other independent experts has been consistent in suggesting that any legal challenge to the lease would incur significant legal costs and be highly unlikely to succeed. Furthermore, the matter of harvesting of red-footed booby birds (*Sula sula*) which appears to be the central issue would not be resolved via a challenge to the lease as the birds would remain protected by legislation (Environment Protection and Biodiversity Conservation Act 1999, known in short as the EPBC Act.) The other issue is the lack of any obvious benefit from the (peppercorn) lease for the Cocos Community.

Considering the various issues, benefits and risks, the Officer's Recommendation suggests that any legal dispute over the lease is ceased and that Council and Parks Australia work collaboratively and negotiate a list of projects that would result in some tangible returns to the community for the lease. A potential list of projects and initiatives could include the following:

1. Parks Australia presenting regularly on their activities on CKI (including North Keeling) so that Council is better informed about their activities and the outcomes they are achieving.
2. Provide regular updated on what is being done to develop North Keeling into a world class park facility as required under the lease and what plans are in place to continue that work.
3. Provide opportunities for people to access to the Park similar to any national park.
4. Provide clarity on the role of Parks in the Southern atoll.
5. Provide clarity on harvesting of birds, noting that the Department's website stages notes the existence of "a moratorium for seabird hunting on North Keeling Island and the institution of a quota system of hunting on Horsburgh Island."

Opportunities for partnership between the Shire and Parks Australia. (* these activities have been previously carried out by Parks Australia):

1. Update Community Committee Terms of Reference to give the Shire a permanent position on the Committee;
2. Audit Parks owned signage and upgrade / replace as needed;
3. Review requirements for fishing at North Keeling. Preference is for there to be no permits required;
4. Host 'Open Days' on North Keeling for the community – perhaps 2 per annum;
5. Assist with pest eradication programs – e.g. rats, paper wasps;
6. *Host an annual community event – e.g. revegetation tree planting;
7. *Replanting projects in conjunction with the school;
8. *Installation and maintenance of dive moorings;
9. *Management of the Rip marine area;
10. *Turtle monitoring, (hasn't been done for some years);
11. *School educational and information sessions;
12. *Cultivate and provide trees to the local community for planting;
13. *Replanting of Iron wood trees on other islands in the Southern atoll where they have been removed.

In addition, it is recommended that the following items are listed for further discussion between Council and Parks Australia.

1. Access to the reef below the high water mark for reef fishing;

2. Remove the requirement for permits for fishing;
3. Parks Australia to re-assume responsibility for the marine area of the Rip as per information on the Department's website.

It is therefore recommended that Council commences negotiations with Parks Australia to partner in an annual program to deliver the projects and initiatives that deliver direct benefits to the community in recognition of the lease of North Keeling Island.

Financial Implications

There are no direct financial implications. Any projects or initiatives that require a co-contribution would be presented for Council consideration as part of the annual budget process.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016 -2026 Outcome 3.21 Maintain and develop infrastructure in-line with community needs and the Islands environment.

Conclusion

The twenty year history of challenges and disputes over North Keeling Island has not provided any resolution or result for the community. Therefore, the Officer's Recommendation focuses on progressing in a more collaborative and co-operative manner with an aim of negotiating outcomes that can offer the community and future generations a tangible return for the lease.

Councillor Lacy returned at 4.23pm.

10.3 PLANNING/BUILDING

10.3.1 DEVELOPMENT APPROVAL APPLICATION-COCOS ISLAND CO-OPERATIVE SOCIETY PTY LTD FIELD SHELTER NORTH KEELING ISLAND

Report Information

Date: 16 January 2019
 Applicant: Cocos Islands Co-operative Society Pty Ltd
 Location: Lot 105 North Keeling Island
 File Ref:
 Disclosure of Interest: Cr Lacy declared an impartiality interest
 Cr Iku and Cr Anthony declared a financial interest
 Reporting Officer: Chief Executive Officer
 Island: North Keeling
 Attachments: 10.3.1 Application Development Approval – Cocos Island Co-operative Society Pty Ltd Field Shelter North Keeling Island

Authority / Discretion

Definitions

| | | |
|-------------------------------------|----------------|--|
| <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> |

The Shire President and Councillor Anthony had declared financial interest on item 10.3.1 and left the meeting room at 4.23pm.

The Deputy President assumed the chair as presiding member.

COUNCIL RESOLUTION – ITEM 10.3.1

MOVED COUNCILLOR DEDIAN SECONDED COUNCILLOR YOUNG

THAT THE COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO 1, RESOLVES TO APPROVE THE DEVELOPMENT APPROVAL APPLICATION SUBJECT TO THE APPLICANT OBTAINING APPROVAL IN WRITING FOR THE PROPOSED DEVELOPMENT FROM PARKS AUSTRALIA.

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

FOR: CHARLSTON, DEDIAN, LACY, MINKOM, YOUNG

AGAINST: NIL

OFFICER RECOMMENDATION – ITEM 10.3.1

THAT THE COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO 1, RESOLVES TO APPROVE THE DEVELOPMENT APPROVAL APPLICATION SUBJECT TO THE APPLICANT OBTAINING APPROVAL IN WRITING FOR THE PROPOSED DEVELOPMENT FROM PARKS AUSTRALIA.

ADVICE NOTES

The applicant is advised of the need to comply with the Building Code of Australia and any other standards relating to ‘storm proofing’ the structure.

Report Purpose

For Council to consider the application for Development Approval by Cocos Island Co-operative Society Pty Ltd for a field shelter on the North West part of North Keeling Island.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Cocos Island Cooperative Society Ltd has applied for Development Approval (DA) for a field shelter on the North West part of North Keeling Island.

The North Keeling Island is located about 25 kilometres north of Direction Island and remains uninhabited.

Comment

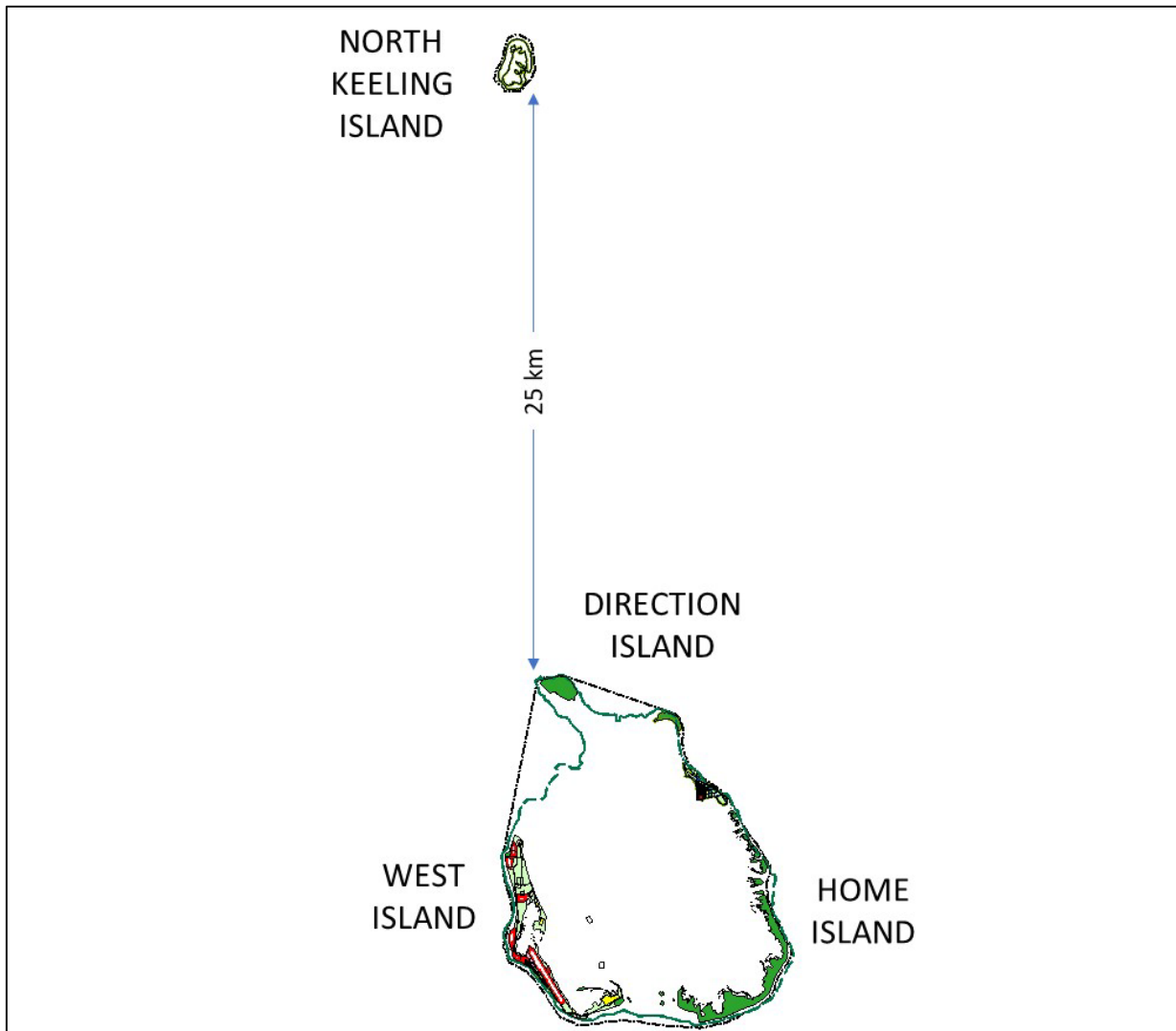
DESCRIPTION OF LAND

LOCATION

The subject land is located on Lot 105 which constitutes the whole island measuring about 126.5 hectares. The island forms part of the Pulu Keeling National Park.

Figure 1 provides a location plan to demonstrate the relationship of the subject land to the other main islands

FIGURE 1 – LOCATION PLAN



Source: Department of Planning, Heritage and Lands, Shire, Planwest

Figure 2 shows an aerial photograph of the island showing the atoll, vegetation and beaches. The figure also shows the location of the proposed field shelter.

FIGURE 2 – AERIAL PHOTOGRAPH



Source: Google, Planwest

LAND DESCRIPTION

According to Landgate information, the subject land forms part of Lot 105 on Plan 018500. The land is within the Parks Australia's jurisdiction, and as such the DA form has been signed

by the CEO. This does not indicate an approval but simply allows the applicant to lodge the DA.

In 1984, the Commonwealth handed over most of the land of the Cocos (Keeling) Islands to the Cocos (Keeling) Islands Shire Council, to be held in trust for the people of the Islands. This trust deed stipulated that North Keeling Island was to be managed to conserve the unique flora and fauna of the Island. The conservation significance of North Keeling was clearly recognised when the Island was recommended to become a national park or nature reserve by two House of Representative committees in 1990 and 1991 and when the island was listed on the Register of the National Estate in 1990.

In mid-1993, the Cocos (Keeling) Islands Shire Council decided in principle to lease North Keeling Island to the Commonwealth for the creation of a national park. This lease was signed by the Commonwealth and the Cocos (Keeling) Islands Shire Council in January 1995 and stipulated that North Keeling Island must be developed as a national park of world standard.

Upon the proclamation of Pulu Keeling National Park on the 12th December 1995, the Commonwealth's interest as lessee passed to the Director of National Parks as provided for by section 7(7) of the National Parks and Wildlife Conservation Act 1975. The lease is now between the Council and the Director.

Pulu Keeling National Park was proclaimed on 12 December 1995. The park is a Commonwealth reserve under the EPBC Act and is managed by the Director of National Parks in accordance with the Act, the regulations made under it, and this management plan.

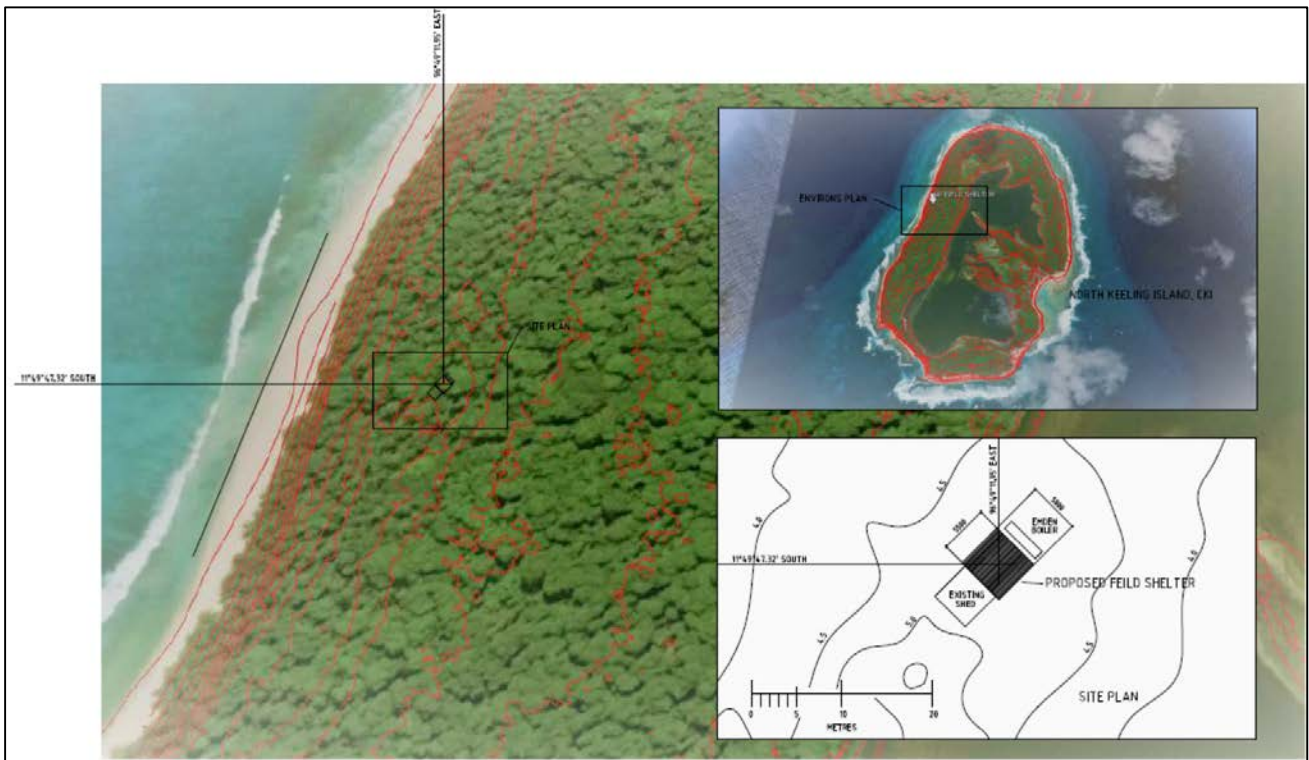
Extract from the Department of Environment and Energy website (<http://www.environment.gov.au/topics/national-parks/pulu-keeling-national-park/history>)

PROPOSAL

DEVELOPMENT AND USE

The proposed development consists of a field shelter that is to be added to an existing shed (according to the site plan submitted - see **Figure 3**). The site plan also shows the location of an 'Emden Boiler', presumably the remains from the German cruiser SMS Emden sunk in the area during WWI.

FIGURE 3 – EXTRACT FROM DA PLANS



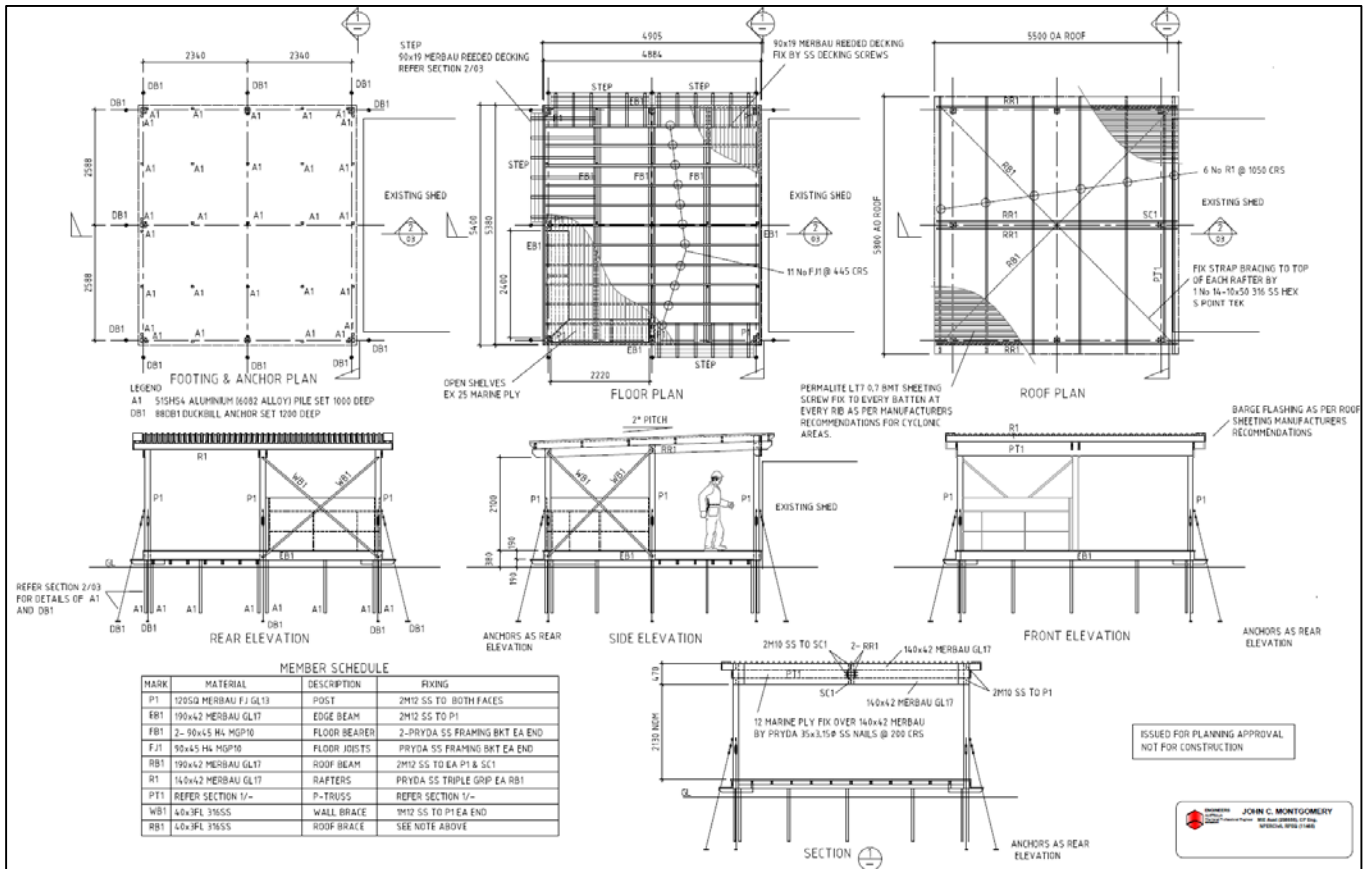
Source: DA Application

BUILT FORM

The proposed field shelter measures about 5.5 metres by 5.8 metres consisting of a Permalite roof sheeting and wooden frame. The decking is reeded merbau with 3mm gaps secured with stainless steel screws. The framework for the deck is shown as an aluminium pile set hammer driven 1 metre into the ground. The shelter is proposed to be secured with duckbill anchors.

The plans and elevations (see **Figure 4**) also show bracing, open shelves and duckbill anchor locations.

FIGURE 4 – EXTRACT FROM DA PLANS



Source: DA plans

ACCESS

Due to the isolation of the island it is unlikely that the development will be accessed without a permit.

Policy and Legislative Implications

SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING STRATEGY

The Council has not yet adopted a Local Planning Strategy.

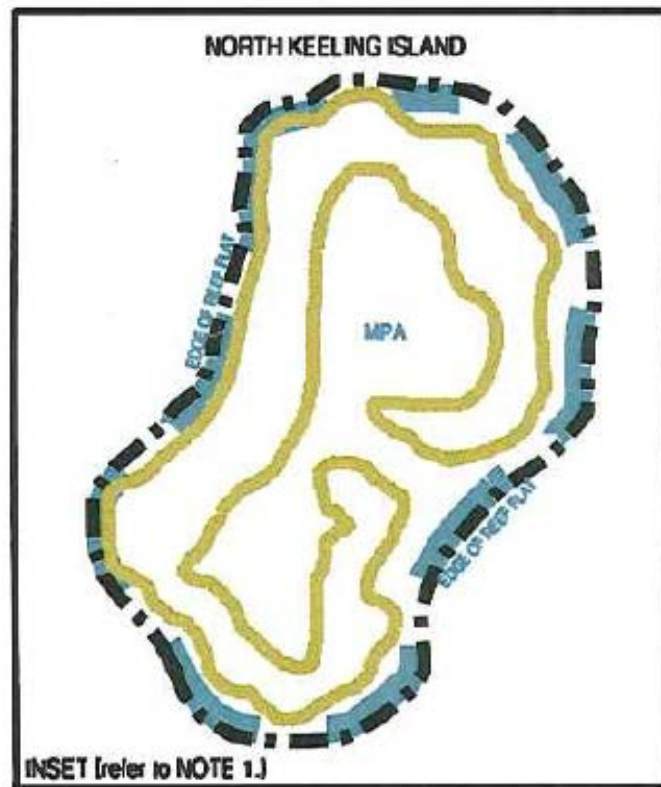
SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO 1

The Council has recently completed an omnibus amendment to the Scheme and is currently considering its options for reviewing the Scheme.

EXISTING SCHEME

Figure 5 shows an extract from the existing Scheme map showing that the island is completely within a Marine Protection Area (MPA) and Foreshore Protection and Nature Conservation.

FIGURE 5 – EXTRACT FROM SCHEME 1 MAP



Source: DPLH

OTHER SCHEME PROVISIONS

There are specific development requirements set out in the Scheme. An extract from Clause 2.1 – Local Reserves of the Scheme is shown below.

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

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

2.1.3 *In the case of land reserved for the purposes of a public authority, the local government is to consult with that authority before determining an application for development approval.*

Financial Implications

Nil

Strategic Implications

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

Conclusion

The DA form has been signed by Parks Australia however, its approval should be confirmed as a condition of approval of the DA. Due to the existing control of access to the island it is not considered necessary to advertise the proposed development.

The applicant needs to be advised of the need to comply with appropriate Building Code of Australia standards due to the exposed location and difficulty with access for maintenance.

The Shire President and Councillor Anthony returned at 4.25pm.

The Shire President resumed the chair at 4.25pm.

10.4 ADMINISTRATION

10.4.1 PRESENTATION OF THE 2017/2018 ANNUAL REPORT INCORPORATING THE 2017/2018 ANNUAL FINANCIAL STATEMENTS AND AUDITORS REPORT

Report Information

Date: 17 January 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.4.1 - 2017/2018 Shire of Cocos (Keeling) Islands Annual Report

Authority / Discretion

Definition

| | | |
|-------------------------------------|----------------|--|
| <input type="checkbox"/> | Advocacy | <i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i> |
| <input 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> |

COUNCIL RESOLUTION – ITEM 10.4.1

MOVED COUNCILLOR CHARLSTON SECONDED COUNCILLOR MINKOM

THAT COUNCIL BY ABSOLUTE MAJORITY, PURSUANT TO SETION 5.54 OF THE LOCAL GOVERNMENT ACT 1995, RESOLVES TO:

1. ACCEPT THE REPORT PROVIDED BY THE SHIRE AUDITOR MR GREG GODWIN OF MOORE STEPHENS;
2. ACCEPT THE SHIRE OF COCOS (KEELING) ISLANDS ANNUAL REPORT FOR THE 2017/2018 FINANCIAL YEAR; AND
3. SET THE DATE FOR THE ANNUAL ELECTORS GENERAL MEETING AS WEDNESDAY 27 FEBRUARY 2019 AT 3.45PM IN CRC CONFERENCE ROOM ON WEST ISLAND AND AUTHORISE THE CEO TO GIVE PUBLIC NOTICE OF THE MEETING AND THE AVAILABILITY OF THE ANNUAL REPORT FROM 24 JANUARY 2019.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

FOR: IKU, ANTHONY, CHARLSTON, DEDIAN, LACY, MINKOM, YOUNG
AGAINST: NIL

OFFICER RECOMMENDATION - ITEM 10.4.1

THAT COUNCIL BY ABSOLUTE MAJORITY, PURSUANT TO SETION 5.54 OF THE LOCAL GOVERNMENT ACT 1995, RESOLVES TO:

1. ACCEPT THE REPORT PROVIDED BY THE SHIRE AUDITOR MR GREG GODWIN OF MOORE STEPHENS;
2. ACCEPT THE SHIRE OF COCOS (KEELING) ISLANDS ANNUAL REPORT FOR THE 2017/2018 FINANCIAL YEAR; AND
3. SET THE DATE FOR THE ANNUAL ELECTORS GENERAL MEETING AS WEDNESDAY 27 FEBRUARY 2019 AT 3.30PM IN CRC CONFERENCE ROOM ON WEST ISLAND AND AUTHORISE THE CEO TO GIVE PUBLIC NOTICE OF THE MEETING AND THE AVAILABILITY OF THE ANNUAL REPORT FROM 24 JANUARY 2019.

Reason for variation: To accommodate for prayer times.

Report Purpose

To seek Council acceptance of the Annual Report and Annual Financial Statements for the 2017/2018 financial year and to receive the Audit Report on those Financial Statements.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The *Local Government Act 1995* requires Councils to prepare and accept an Annual Report for each financial year by 31 December following the financial year end or no later than two months after receiving the Audit Report.

Comment

The Annual Report, prepared in accordance with the requirements of the Local Government Act, is included with the Agenda for Councillors' perusal, consideration and acceptance.

Council's Auditors, Moore Stephens, have completed an audit of council's financial records for the financial year ending 30 June 2018. The Auditors Report was received on the 20 December 2018.

Once the Annual Report has been accepted Council is required to give local public notice of the availability of the annual report as soon as practicable.

Policy and Legislative Implications

Section 5.53(1) of the *Local Government Act 1995* requires a Local Government to prepare an annual report for each financial year. Section 5.53(2) (f) of the Local Government Act 1995 specifies that the annual report is to contain the financial report of the financial year and Section 5.53(2) (h) specifies that it must contain the auditor's report for the financial year.

In accordance with Section 5.54 of the *Local Government Act 1995* an annual report for the financial year is to be accepted by the Local Government by the 31 December after that financial year or no later than 2 months after the auditor's report becomes available.

Financial Implications

Nil

Strategic Implications

Nil

Conclusion

The process has been compliant with statutory processes and the Audit Report states that the audit has been based on proper accounts and records. Therefore the officer's recommendation is that Council accepts the 2017/2018 Annual Report of the Shire of Cocos (Keeling) Islands and authorises the CEO to give notice of the Annual Electors Meeting.

10.4.2 COMMUNICATIONS AND SOCIAL MEDIA POLICY (DRAFT)

Report Information

Date: 16 January 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.4.2 Shire of Cocos (Keeling) Islands Communications and Social Media Policy (Draft)

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> |

COUNCIL RESOLUTION – ITEM 10.4.2

MOVED COUNCILLOR CHARLSTON SECONDED COUNCILLOR ANTHONY

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 2.7 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) RESOLVES TO ADOPT THE SHIRE OF COCOS (KEELING) ISLANDS SOCIAL MEDIA POLICY.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

FOR: IKU, ANTHONY, CHARLSTON, DEDIAN, LACY, MINKOM, YOUNG
AGAINST: NIL

OFFICER RECOMMENDATION – ITEM 10.4.2

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 2.7 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO ADOPT THE SHIRE OF COCOS (KEELING) ISLANDS SOCIAL MEDIA POLICY.

Executive Summary

This item brings a draft Communications and Social Media Policy before Council and seeks a Council resolution to adopt the policy. (See Attachment 10.4.2)

Relevant Documents

Available for viewing at the meeting or prior to the meeting by request

Nil

Background

The Shire, like most local governments, uses social media as a valuable communication tool to ensure we can be proactive and responsive in our communication with our community. However a lack of policy position in this area could leave Council vulnerable in the event this tool is misused.

The purpose of this policy is to provide Shire employees and Councillors with standards of use as they engage in conversations or interactions using digital media. The intention of this policy is to ensure Council's use of social media platforms to communicate with various stakeholder groups is effective, informative and appropriate. A clear policy will also assist in providing Staff and Councillors with parameters for personal use of social media to avoid the risk of comments that could damage the reputation of the Shire or bring the organisation into disrepute.

Financial Implications

There are no direct financial implications.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2013 – 2023 – Outcome 4.1.2
Continue to improve organisational planning

Conclusion

In recognition that this is a new policy for this Council, it is presented with a recommended review period of 12 months to provide an opportunity for amendments to ensure it is meeting the needs of the organisation.

10.4.3 DRAFT MEETING PROCEDURES LOCAL LAW – APPROVAL TO ADVERTISE FOR PUBLIC COMMENT

Report Information

Date: 15 January 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Niel Mitchell, Consultant
 Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.4.3 Proposed Shire of Cocos (Keeling) Islands Meeting Procedures Local Law 2019

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> |

COUNCIL RESOLUTION – ITEM 10.4.3

MOVED COUNCILLOR ANTHONY SECONDED COUNCILLOR LACY

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.12(3) AND (3A) OF THE LOCAL GOVERNMENT ACT 1995(WA) (CKI), RESOLVES TO:

1. GIVE STATEWIDE AND LOCAL PUBLIC NOTICE THAT IT INTENDS TO MAKE THE FOLLOWING LOCAL LAW:

**SHIRE OF COCOS (KEELING) ISLANDS MEETING PROCEDURES LOCAL LAW 2019;
PURPOSE – FOR THE MANAGEMENT OF MEETINGS OF THE LOCAL GOVERNMENT;
EFFECT – TO REPEAL THE EXISTING STANDING ORDERS LOCAL LAW, AND PROVIDE
FOR THE CONDUCT OF COUNCIL, COMMITTEE AND ELECTORS MEETINGS.**

2. GIVE ADVICE OF THE PROPOSED LOCAL LAW TO THE COMMONWEALTH ASSISTANT MINISTER FOR REGIONAL DEVELOPMENT AND TERRITORIES AND THE WESTERN AUSTRALIAN DEPARTMENT OF LOCAL GOVERNMENT, SPORT AND CULTURAL INDUSTRIES.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

**FOR: IKU, ANTHONY, CHARLSTON, DEDIAN, LACY, MINKOM, YOUNG
AGAINST: NIL**

OFFICER OFFICER'S RECOMMENDATION –ITEM 10.4.3

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.12(3) AND (3A) OF THE *LOCAL GOVERNMENT ACT 1995(WA) (CKI)*, RESOLVES TO:

1. GIVE STATEWIDE AND LOCAL PUBLIC NOTICE THAT IT INTENDS TO MAKE THE FOLLOWING LOCAL LAW:

**SHIRE OF COCOS (KEELING) ISLANDS MEETING PROCEDURES LOCAL LAW 2019;
PURPOSE – FOR THE MANAGEMENT OF MEETINGS OF THE LOCAL GOVERNMENT;
EFFECT – TO REPEAL THE EXISTING STANDING ORDERS LOCAL LAW, AND PROVIDE FOR
THE CONDUCT OF COUNCIL, COMMITTEE AND ELECTORS MEETINGS.**

2. GIVE ADVICE OF THE PROPOSED LOCAL LAW TO THE COMMONWEALTH ASSISTANT MINISTER FOR REGIONAL DEVELOPMENT AND TERRITORIES AND THE WESTERN AUSTRALIAN DEPARTMENT OF LOCAL GOVERNMENT, SPORT AND CULTURAL INDUSTRIES.

Report Purpose

The purpose of this report is to give notice to the meeting of the intention to make the proposed Shire of Cocos (Keeling) Islands Meeting Procedures Local Law 2019 and:

- a) for Council to give notice of the purpose and effect of the proposed local law;
- b) for Council to resolve the intent to advertise the proposed local law;
- c) to allow for the advertising of the proposed local law for public comment.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The statutory review of local laws carried out in early 2017 identified the current Standing Orders as needing replacement. Accordingly, a new Meeting Procedures Local Law has been prepared for consideration.

Comment

The proposed local law, based on the WALGA Model Local Law, is set out in the attachment to this report. In making a new local law, Council must comply with the provisions of section 3.12 of the *Local Government Act 1995 (WA) (CKI)*.

The *Local Government (Functions and General) Regulations (Regulation 3)* states that for the purpose of Section 3.12(2) of the Act, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

Notices are to invite the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks.

The advertisement will be placed once Council has resolved its intent to make the local law.

As noted in the Council Policy "*Publishing of Delegated Legislation and Statewide Public Notices Policy*" the requirement for Statewide publication is met by publication in *The Atoll* newsletter, and this has been confirmed by a legal opinion. The requirement for local public notice is also satisfied.

Some modifications to the provisions of the model local law have been made, in part due to the Shire's unique requirements, but also to amend several requirements, for example –

- cl.4.2 Order of Business – rather than prescribe the matters and the order in which to be dealt with, the provisions stipulates the matters to be included in Council and Committee meetings. This permits change of order, either temporarily or permanently, or adding in matters as Council sees fit.
- cl.5.7 Other procedures for public question time – the Local Government Act and Administration Regulations provide little guidance for the management of public question time, essentially leaving it up to the presiding person to do so at their

discretion. The proposed local law provides additional guidance for the presiding person, Council and members of the public with questions.

- cl.7.8 Speaking twice – most local laws, including the model, prohibit speaking twice on a matter. However, often issues before Council need discussion, and while Meeting Procedures can always be suspended, it is a messy business to constantly suspend and resume formal processes. Removal of the prohibition means that it can be part of the usual debate. As a consequence of removal, the power of the presiding person to control the meeting is strengthened in clause 7.5 and is supported by the ability of those at a meeting to use various procedural motions outlined in clause 9.6.
- cl.9.18 – recognition of the practice of foreshadowing a motion which allows the meeting to be advised of an intended motion to be put forward, depending on the outcome of the discussion at that moment. Statement of a foreshadowed motion is not a motion, but is advisory only.

The *WA Local Government Act 1995* s.3.12(3), notice of intent is to be given to the WA Minister for Local Government. In accordance with the *Cocos (Keeling) Islands Act 1955* s.8G–

Vesting of powers in the Minister

(1) If a power is vested in:

(a) a Minister of Western Australia; or

(b) the Governor of Western Australia; or

(c) the Governor-in-Council of Western Australia;

by a Western Australian law in force in the Territory under section 8A, the power is, in relation to the Territory, vested in the Minister instead of the person or authority mentioned in paragraph (a), (b) or (c).

Accordingly, notice of the proposed local law is to be given to the Administrator on behalf of the Assistant Minister for Regional Development and Territories. Although previously submitted and comment received, it is suggested that notice also be provided to the WA Dept of Local Government, Sport and Cultural Industries for review of consistency with the *Local Government Act 1995* and other relevant WA Legislation, as required by the Act at this point.

After the submission period is closed, Council is to consider any submissions received. Minor amendments not affecting the intent of the provisions can be made, but if significant changes are needed, the proposal must be readvertised.

If finally adopted, the proposed local law with any amendments, is then published in the Federal Register of Legislation rather than the Western Australian *Government Gazette*, and comes into effect on the date specified. The Gazzetal copy and other documentation is then sent to the Commonwealth Assistant Minister for Regional Development and Territories.

Publication in the Federal Register of Legislation as a Notifiable Instrument is consistent with Commonwealth legislation and the Policy adopted by Council, and satisfies the requirement of the *Local Government Act* s.3.12(5).

In accordance with the Legislation Act (2003) (Commonwealth) s.11 –

(4) If an Act or an instrument requires an instrument (other than a legislative instrument), or the particulars of the instrument's making, to be published or notified in the Gazette or in any other way, then, unless the contrary intention appears, the requirement is taken to be satisfied if the instrument is registered as a notifiable instrument.

The processes for Parliamentary review as required by the *Local Government Act 1995* s.3.12(5) is satisfied by the submission of the adopted document to the Assistant Minister for Regional Development and Territories. It is not required to be submitted to the WA Minister for Local Government.

This action is consistent with the Community Bulletin put out by Dept of Industry and Regional Development in May 2017, and the adopted Policy of Council.

Policy and Legislative Implications

Legislation Act 2003 (Commonwealth) –

- *s.11 – Definition of notifiable instruments*

Cocos (Keeling) Islands Act 1995 (Commonwealth) –

- *s.8G(1) – where reference in WA Legislation to Governor, Minister etc the action is to be directed to the Minister for Territories.*

Local Government Act 1995 (WA)(CKI) –

- *s.3.12 – Procedure for making local laws*
 - (2) *Notice of purpose and effect of local law to be given by the person presiding*
 - (3) *Statewide public notice required, and copies to Minister/s immediately after notice given, minimum 6 weeks notice*
 - (3a) *Local public notice also required to be given*
 - (4) *After notice period, all submissions to be considered, and local law may then be made by absolute majority*
 - (5) *Publication in Government Gazette required*
 - (7) *Parliament to be advised within 10 working days of Gazettal*
- *s.3.13 – Significant changes require recommencement of proposal*
- *s.3.14 – Unless otherwise provided for, local laws come into effect 14 days after Gazettal*
- *s.3.15 – local public notice of the final adoption/making of a local law to be given*

Shire of Cocos (Keeling) Islands, Publishing of Delegated Legislation and Statewide Public Notices Policy

Financial Implications

Cost of Advertising the proposed local law will be under \$1000 and can be met within current budget allocations.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2013 – 2023 – Objective – Civic Leadership – Lead in making things happen.

Conclusion

In accordance with the Shire of Cocos (Keeling) Islands – Strategic Community Plan 2016 - 2026, the Shire aims to assist the community by providing information to assist them to work with the unique legislative arrangements of the Islands. This includes development of local laws that support the good governance and decision-making.

10.5 MINUTES TO BE RECEIVED

10.5.1 MINUTES FROM AUDIT COMMITTEE MEETING TO BE RECEIVED

Report Information

Date: 16 January 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.5.1 Audit Committee Meeting Minutes (Unconfirmed), 3 January 2019

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> |

COUNCIL RESOLUTION – ITEM 10.5.1

MOVED COUNCILLOR CHARLSTON SECONDED COUNCILLOR LACY

THAT COUNCIL BY SIMPLE MAJORITY PURSUANT TO SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995 RESOLVES TO:

1. RECEIVE THE MINUTES OF THE AUDIT COMMITTEE MEETING HELD ON 3 JANUARY 2019.

THE MOTION WAS PUT AND DECLARED CARRIED (7/0)

FOR: IKU, ANTHONY, CHARLSTON, DEDIAN, LACY, MINKOM, YOUNG

AGAINST: NIL

OFFICER RECOMMENDATION – ITEM 10.5.1

THAT COUNCIL BY SIMPLE MAJORITY PURSUANT TO SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995 RESOLVES TO:

1. RECEIVE THE MINUTES OF THE AUDIT COMMITTEE MEETING HELD ON 3 JANUARY 2019.

Summary

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

Background

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

Comment

The attached minutes are the unconfirmed minutes of the meeting of Audit Committee of Council held on the 3 January 2019.

Consultation

N/A

Financial Implications

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

Risk Implications

Nil

Policy Implications

Nil

Statutory Implications

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

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

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

Strategic Implications

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

Voting Requirements

Simple majority

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

Nil

12. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL

Nil.

13. MATTERS BEHIND CLOSED DOORS

Nil.

A report is confidential under Section 5.23 (2) of the Local Government Act 1995.

- | |
|---|
| <p>(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—</p> <ul style="list-style-type: none">(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; and(e) a matter that if disclosed, would reveal —<ul style="list-style-type: none">(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, |
|---|

Nil.

