

EXPLANATORY STATEMENT

Issued by the authority of the Administrator of the Cocos (Keeling) Islands

Cocos (Keeling) Islands Act 1955

Cocos (Keeling) Islands Utilities and Services Ordinance 2016

Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services) Amendment (2017 Measures No. 1) Determination 2017

Authority

Section 6 of the *Cocos (Keeling) Islands Utilities and Services Ordinance 2016* (the Ordinance) authorises the Administrator of Cocos (Keeling) Islands to make provision for the supply and use of utilities and services about, amongst other things, water and sewerage on Cocos (Keeling) Islands. Section 7 of the Ordinance provides that the Administrator may impose a fee for the provision of such utilities and services.

Purpose and Operation

The *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services) Amendment (2017 Measures No. 1) Determination 2017* (Determination) amends the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016* (the Principal Determination).

The Determination updates fees payable for the supply of water, sewerage and building application services on the Cocos (Keeling) Islands. Other minor and administrative in nature amendments to the Principal Determination allow fees to be charged every financial year, and allows the Administrator to enter into agreements with owners or occupiers of land for fixed fees. The Administrator is also able to determine a nil fee if required.

Impact and Effect

This Determination will not create any additional regulatory impact on consumers of these utilities and services.

The increases in fees outlined in this Determination will have a financial impact on consumers in the form of increased costs for utilities and services.

Fixed fees and quantity fees for the supply of water and sewerage services have increased by 6% while fees for residential building applications and other fees have increased by 0.5%.

Basis for Determining Fees

It is Australian Government policy that, wherever possible, there should be parity in the cost of provision of state-type services on the Cocos (Keeling) Islands to those applied in a similar remote Australian mainland location.

The Water Corporation is owned by the Western Australian Government and is the contracted service provider for the Cocos (Keeling) Islands. This relationship is managed via a Service Delivery Arrangement (SDA) with the Australian Government. As part of this SDA, Water Corporation provide expert advice in relation to establishing the cost of providing water, sewerage and building services.

Water Corporation calculates its operating expenses for the Cocos (Keeling) Islands on those of similar remote, high cost, low population locations in Western Australia. This activity is guided by the *Water Services (Water Corporations Charges) Regulations 2014* (WA) and is further outlined at each Schedule below.

The Australian Government aims for full cost recovery across its range of operations, however it is acknowledged that for some locations this may not be achievable. The Cocos (Keeling) Islands is an area where recouped fees are currently less than the cost of supply.

Regulatory Impact Statement

The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required.

Conditions to be Satisfied

The Ordinance does not specify conditions that need to be satisfied before the power to make the Determination may be exercised.

Consultation

No consultation was undertaken with residents of the Cocos (Keeling) Islands as the Determination is administrative in nature and reflects the ongoing changes to the cost of operating this service.

Water Corporation provides the fees that are charged, and they are scrutinised via the Western Australian administrative system.

This process includes the consideration of the cost of service delivery ahead of approval through the Western Australian parliamentary process. Following approval by the Western Australian Parliament, the approved fee structure is advised to consumers during the Western Australian Treasurer's budget address.

As the fees are determined based on similar remote Western Australian locations, it is considered that the expertise applied by the Water Corporation and the independent scrutiny of the Western Australian Government is the most thorough process to adopt.

Detailed Description of this Determination

Part 1 – Preliminary

Section 1 – Name

This section provides that the name of this Determination is the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services) Amendment (2017 Measures No. 1) Determination 2017*.

Section 2 – Commencement

This section provides that this Determination is to commence on 1 July 2017.

Section 3 – Authority

This section provides that this Determination is made under paragraph 7(2)(a) of the *Cocos (Keeling) Islands Utilities and Services Ordinance 2016*.

Section 4 – Schedules

This section contains the detail of any amendments to fees for the range of water related services in table format.

Details of the proposed Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services) Amendment (2017 Measures No. 1)

This Attachment sets out further details of the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services) Amendment (2017 Measures No. 1) Determination 2017*.

Clause 1

Clause 1 amends subsection 6(1) of the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016* to remove the financial year element of the Determination. Future fee changes will be made through amending the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016* fee schedule.

Clause 2

New section 6(3A) provides that notwithstanding paragraph 6(3)(a) if, in relation to particular land, the Administrator agrees, in writing, with the owner or occupier of the land on an amount of fixed fees that is lower than the amount of fixed fees for the land as set out in Schedule 1 below, the amount of fixed fees for the land is determined to be the amount agreed.

Clause 3

Clause 3 inserts new subsections 6(3A) and 6(4) which provides that the Administrator may charge a nil amount for fixed fees under Schedule 1 or quantity fees under Schedule 3.

The Administrator may arrange for an agreement mentioned in subsection 6(3A) or 6(4) to be published on the Department's website.

Clause 4

Clause 4 repeals the table shown at Subclause 1(2) of Schedule 1 of the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016* and replaces it with a table listing the revised fees for the supply of water services.

Fixed fees for water are calculated based on the category of land to which that service is provided and, in the case of non-residential land, the size of the meter servicing that land. Section 5 of the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Amendment Determination 2016* defines these land categories.

Item 1 - Residential land

A fixed fee is imposed for the provision of water services and this fee increases by 6.0% from \$236.22 to \$250.39.

Item 2 – Commercial or industrial land (other than land mentioned in item 5), commercial/residential land, mining land or government land, or shipping (supply of water services to land for the purpose of water being taken on board a ship in a port).

This item lists the fixed fee imposed for the provision of water services for the following categories of land. The amount of that fee is in relation to the size of the pipe servicing that land. This fee increases by 6.0% across the range of meter sizes as follows:

- no meter or 15mm or 20mm increases from \$236.22 to \$250.39;
- 25mm increases from \$369.11 to \$391.26;
- 35, 38 or 40mm meter increases from \$531.49 to \$563.38;
- 40mm increases from \$944.93 to \$1,001.63;
- 50mm increases from \$1,476.44 to \$1,565.03;
- 70, 75 or 80mm increases from \$3,779.68 to \$4,006.46;
- 100mm increases from \$5,905.75 to \$6,260.10; and
- 140 or 150mm increases from \$13,287.95 to \$14,085.23.

Item 3 - Institutional/public land, charitable purposes land or local government land

The fixed fee for water services to this land remains at Nil.

Item 4 – Vacant land

The fixed fee for this land increases by 6.0% from \$236.22 to \$250.39.

Item 5 – Strata-titled commercial or industrial land, if sharing a water service

The fixed fee for this land increases by 6.0% from \$236.22 to \$250.39.

Item 6 – Any land, for the supply of a fire service

Fire services may be required for some developments under the Building Code of Australia. Local shires are also responsible for ensuring that the appropriate fire protection design requirements are included in a building.

The fixed fee for a fire service increases by 6.0% from \$236.22 to \$250.39.

Clause 5

Clause 5 repeals the table shown at Clause 1 of Schedule 2 of the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016* and replaces it with a table reflecting the revised fixed fees for the supply of sewerage services.

This schedule provides for the fixed fees for the supply of sewerage services to a range of land types.

Item 1 – Residential Land

A fixed fee is applied to residential land based on the Gross Rental Value (GRV). The GRV is established by the WA Valuer-General, Valuation Services, Landgate under the *Valuation of Land Act 1978* (WA)(CKI). GRV is defined at Section 4(1) of the *Valuation of Land Act 1978* (WA)(CKI).

The fixed fee for sewerage is calculated by multiplying the GRV by a 'rate in the dollar' and is subject to a minimum and maximum fee.

The 'rate in the dollar' is calculated by estimating the cost to operate the scheme and includes such things as estimated operating costs, depreciation on assets and return on assets. The 'rate in the dollar' increases by 6.0% from 0.1254 cents in the dollar to 0.1329 cents in the dollar of the GRV.

Item 1 lists the rate in the dollar and outlines the minimum fixed charge and the maximum fixed charge that will apply to sewerage services. The 6.0% increase in the rate in the dollar equates to a 6.0% increase in this fee. The minimum fee will increase from \$381.26 to \$404.14 and the maximum fee will increase from \$1,040.89 to \$1,103.34. All charges in between these figures will also reflect a 6.0% increase.

Item 2 – Commercial or industrial land (other than land mentioned in Item 6) or mining land
The fixed fee for these categories of land is based on the number of fixtures or a minimum annual fixed fee. This fee also increases by 6.0% as follows:

- First major fixture increases from \$886.68 to \$939.88;
- Second major fixture increases from \$379.55 to \$402.32;
- Third major fixture increases from \$506.88 to \$537.29;
- Each subsequent major fixture increases from \$551.20 to \$584.27; and
- Minimum annual fee increases from \$886.68 to \$939.88.

Item 3 - Vacant land

The same GRV 'rate in the dollar' calculation also applies to vacant land. A minimum fee and a maximum fee also apply and are listed. A 6.0% increase applies to these fees. The minimum fee will increase from \$250.88 to \$265.93 and the maximum fee will increase from \$1,040.89 to \$1,103.34. All charges in between these figures will also reflect a 6.0% increase.

Item 4 – Institutional/public land, charitable purposes land or local government land
A fixed, per fixture fee applies to land in this category. This fee increases by 6.0%. The first major fixture fee increases from \$238.23 to \$252.52 while the fee for each subsequent fixture will increase from \$104.81 to \$111.10.

Item 5 – Government land

A fixed, per fixture fee applies to land in this category. This fee increases by 6.0% as follows:

- First major fixture increases from \$886.68 to \$939.88;
- Second major fixture increases from \$379.55 to \$402.32;
- Third major fixture increases from \$506.88 to \$537.29; and
- Each subsequent major fixture from \$551.20 to \$584.27.

Item 6 – Strata-titled commercial or industrial land, if sharing a major fixture

A fixed fee applies to land in this category. This fee increases by 6.0% from \$551.20 to \$584.27.

Clause 6

Clause 6 repeals the table shown at Clause 1 of Schedule 3 of the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016* and replaces it with a table reflecting the revised quantity fees for the supply of water and sewerage services.

Customers are encouraged to save water and the quantity fee will continue to be adjusted to reflect the real cost of providing water. To encourage the careful use of water, the fees are structured so that the price per kilolitre increases as more water is used.

Item 1 – Residential land or vacant land that has been zoned for residential purposes
Water consumption is calculated from meter readings and then multiplied by an amount per kilolitre according to the water use fee 'Class' for a town or area. The 'Class' (1 to 5) is established according to cost of provision of services to that location.

Cocos (Keeling) Islands residential properties remain at Class 5 - Water use price north of the 26th parallel as it appears in Schedule 3 of the *Water Services (Water Corporations Charges) Regulations 2014* (WA).

The quantity fee per kilolitre for residential land increases by 6.0% as per the following usage ranges:

- 0kL - 350kL increases from \$1.586 to \$1.681;
- 351kL – 500kL increases from \$2.114 to \$2.241;
- 501kL – 750kL increases from \$4.324 to \$4.583; and
- Over 750kL increases from \$7.434 to \$7.880.

Item 2 – Vacant land not mentioned in item 1

Schemes in every location are classified according to the cost of operation of that scheme. Water consumption is charged according to Step 1-15 Non-residential water consumption rates as outlined in Schedule 3 of the *Water Services (Water Corporations Charges) Regulations 2014* (WA).

Due to the cost of operation of the scheme, Cocos (Keeling) Islands non-residential properties have been classified at Step 15. The 6.0% increase applied to Step 15 means this fee rises from \$7.434 to \$7.880.

Item 3 - Institutional/public land used for non-government schools, churches or community facilities, charitable purposes land or local government land

The quantity fee for the supply of water to this land type increases by 6.0% from \$2.256 to \$2.391.

Item 4 – Commercial land, Government land or Industrial land

Commercial land, Government land or Industrial land is subject to the same 6.0% increase as outlined at Item 2. As a result, the quantity fee for this land increases from \$7.434 to \$7.880.

Item 5 – Commercial, government land or industrial land - discharge to sewer

The quantity fee for sewer discharge volume applies and encourages customers to explore ways of minimising discharge to sewer (e.g. water efficient appliances, dual flush toilets, low flow shower roses and taps).

No fee is applied to sewer discharge volumes below 200 kilolitres.

The quantity fee for sewer discharge volumes above 200 kilolitres has increased 6.0% from \$3.258 to \$3.453. The method of calculation for this fee is explained in clause 2 of Schedule 3 of the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016*.

Clause 7

Clause 7 repeals the table shown at subclause 1 of Schedule 4 of the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016* and replaces it with a table reflecting the revised fees for the supply of other water and sewerage services.

Item 1 – Relocation of service

Due to the large number of variables involved in the placement of a service, it is not possible to apply a standard figure to this fee. These variables include the nature of the ground and the distance from the main. Quotes from contractors would be assessed and a fee provided.

Item 2 – Disconnection or reconnection of water services

Due to the large number of variables involved in the placement of a service, it is not possible to apply a standard figure to this fee. Quotes from contractors would be assessed and a fee provided.

Item 3 – Special meter readings for change of owner / occupier

The fee for meter readings conducted within 7 days of receipt of request increases by 0.5% from \$16.78 to \$16.86.

In cases where an urgent meter reading is required the fee for meter readings within 2 days of receipt of request increases by 0.5% from \$56.37 to \$56.65.

Item 4 – Advice of sale requests

Advice of sale requests both manual and electronic increase 0.5% as follows:

- Electronic advice – standard from \$44.55 to \$44.77;
- Electronic advice – urgent from \$84.04 to \$84.46;
- Manual advice – standard from \$76.44 to \$76.82; and
- Manual advice – urgent from \$115.61 to \$116.19.

Item 5 – Meter tests

The fee for the testing of 20mm to 25mm meters increases 0.5% from \$107.68 to \$108.22.

Due to the variation of work involved in the testing of larger meters, the fee for testing of meters over 25 millimetres is the cost involved in the disconnection and sending for testing. This fee would be advised by Water Corporation on an individual basis.

Item 6 – Restoration of service after restriction.

The fee for restoring a service following restriction between 7am and 4pm any day except Saturday, Sunday or public holidays increases by 0.5% from \$154.15 to \$154.92.

The fee for any other time is higher and has also increased by 0.5% from \$244.95 to \$246.17.

Item 7 – Sewer connection

Due to the large number of variables involved in the connection of a sewer service, it is not possible to apply a standard figure to this fee. Quotes from contractors would be assessed and a fee provided.

Item 8 – Installation of sewer junction

Due to the large number of variables involved in the connection of a sewer service, it is not possible to apply a standard figure to this fee. These variables include the nature of the ground and the distance from the sewer main. Quotes from contractors would be assessed and a fee provided.

Clause 8

Clause 8 repeals items 1 to 3 in the table shown at clause 1 of Schedule 5 of the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016* and replaces it with the following revised fees for the supply of building application services that relate to water and sewerage services.

Item 1 – A residential building

The fee for the service for dealing with this notice has increased by 0.5% from \$124.37 to \$124.99 per residential unit.

Item 2 – An outbuilding to a residential building, including pools, garages and pergolas (in sewerage areas only)

The fee for the service for dealing with this notice has increased by 0.5% from \$36.31 to \$36.49.

Item 3 – A multi-residential unit building

The fee for the service for dealing with this notice has increased by 0.5% from \$124.37 to \$124.99 per residential unit.

The remaining fees in this table have not incurred an increase.

Clause 9

Schedule 6 – Application provisions

Clause 1 – Application of amendments

This is an additional clause to those in the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016* and outlines an application date of 1 July 2017 for the amendments that appear in the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services) Amendment (2017 Measures No. 1) Determination 2017*.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Amendment (2017 Measures No. 1) Determination 2017

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Overview of the Determination

The *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Amendment (2017 Measures No. 1) Determination 2017* sets the annual fees for the provision of water and water related services to the Cocos (Keeling) Islands.

Human rights implications

Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) requires that Australia ensure the availability, adequacy and accessibility of food, water and housing for all people in Australia in providing an adequate standard of living.

The right to water also includes the protection against arbitrary and unlawful disconnection of water and access to a minimum amount of safe drinking water to sustain life and health.

The range and standard of services provided on the Cocos (Keeling) Islands are similar to those provided in remote Australian communities with similar characteristics, particularly demographic characteristics or service provision needs, recognising any special needs of the Indian Ocean Territories.

Under a Service Delivery Arrangement with the Australian Government, the Water Corporation of Western Australia provides water and sewerage services to the communities of the Cocos (Keeling) Islands. The Water Corporation operates under the applied *Water Services Act 2012* (WA)(CKI) and maintains similar standards and conditions that apply to regional WA.

The *Water Services Act 2012* (WA)(CKI), and the Water Services Code of Conduct (Customer Standards) 2013, protect the customer against the arbitrary and unlawful disconnection of water and provides customers with access to a minimum of 2.3 litres each minute of safe drinking water to sustain life and health.

Information about the *Water Services Act 2012* (WA)(CKI), and the Water Services Code of Conduct (Customer Standards) 2013 is publically available and provides for assistance to customers experiencing financial hardship and establishes procedures for dealing with complaints about water services.

The *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Amendment (2017 Measures No. 1) Determination 2017* sets the annual fees for the supply of water and sewerage services, and the supply of building application services that relate to water and sewerage services for the Cocos (Keeling) Islands.

As the *Water Services Act 2012* (WA)(CKI) and the Water Services Code of Conduct (Customer Standards) 2013 protect consumers, this Determination does not engage any applicable rights or freedoms and so is compatible with human rights as it does not raise any human rights issues.

Conclusion

The amendment regulation is compatible with human rights as it does not raise any human rights issues.

Barry Haase, Administrator of the Cocos (Keeling) Islands