

## EXPLANATORY STATEMENT

Minute No. 03 of 2017 – Minister for Local Government and Territories

Subject - *Cocos (Keeling) Islands Act 1955*

*Cocos (Keeling) Islands Applied Laws Amendment (Residential Tenancies) Ordinance 2017*

The *Cocos (Keeling) Islands Act 1955* (the Act) provides for the government of the Cocos (Keeling) Islands.

Subsection 12(1) of the Act states that the Governor-General may make Ordinances for the peace, order and good government of the Territory.

Section 3 of *Applied Laws (General) Ordinance 1992* (CKI) provides that applied laws that are amended are specified in Schedule 1.

The *Applied Residential Tenancies Act 1987* (WA) (CKI) provides for the making of the above mentioned regulations, sets out the rights and responsibilities of tenants, property owners and agents in the Territory of the Cocos (Keeling) Islands.

The proposed Ordinance would ensure that the Shire of the Cocos (Keeling) Islands (the Shire) can continue to charge rates and municipal fees in respect of leased Cocos (Keeling) Islands Trust properties. The monies raised from rates will support the delivery of services.

The Ordinance implements agreed policy with the Office of Parliamentary Counsel that Applied Law Regulations should not be made directly under an Applied Western Australian law. However, the Governor General may amend Applied Law Regulations under Subsection 12(1) of the Act.

In developing this Ordinance, the Department of Infrastructure and Regional Development undertook consultation with the Shire of the Cocos (Keeling) Islands.

### *Statement of Compatibility with Human Rights*

The *Cocos (Keeling) Islands Applied Laws Amendment (Residential Tenancies) Ordinance 2017* is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The 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*.

The instrument does not engage any of the applicable rights or freedoms. It is compatible with human rights as it does not raise any human rights issues.

Details of the Ordinance are set out in the Attachment.

**Details of the Cocos (Keeling) Islands Applied Laws Amendment (Residential Tenancies) Ordinance 2017**

Section 1 – Name

This section provides that the title of the Ordinance is the *Cocos (Keeling) Islands Applied Laws Amendment (Residential Tenancies) Ordinance 2017*.

Section 2 - Commencement

This section provides that the Ordinance commences at the same time as the *Residential Tenancies Regulations 1989 (WA) (CKI) Amendment Regulations 2003 (No. 1)* (CKI) is repealed under Part 4 (Sunsetting) of Chapter 3 of the *Legislation Act 2003*.

Section 3 - Authority

This section provides that the Ordinance is made under the *Cocos (Keeling) Islands Act 1955*.

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to the Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Ordinance has effect according to its terms.

## **Schedule 1 – Amendments**

### ***Applied Laws (General) Ordinance 1992***

#### Item [1] – After Part 32 of Schedule 1

This Item inserts a new Part (Part 32A – *Residential Tenancies Regulations 1989* (WA) (CKI)) after Part 32 (*Residential Tenancies Act 1987* (WA) (CKI)) in Schedule 1 (Amendments of applied laws).

New Part 32A provides that the *Residential Tenancies Act 1987* (WA) (CKI) does not apply to a residential tenancy entered into by the Cocos (Keeling) Islands Shire Council that is in respect of premises on land held by the Shire Council in trust under a Deed of Trust entered into between the Commonwealth, and is for a term of 5 years or more.

#### Item [2] – Regulation 5D

This Item repeals regulation 5D of the *Residential Tenancies Regulations 1989* (WA) (CKI), to clarify that the residential tenancy arrangement in Item 1 above is exempted from the scope of the *Residential Tenancies Act 1987* (WA) (CKI).