

## EXPLANATORY STATEMENT

Issued by the authority of the Administrator of the Territory of 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 Fees) Amendment (2020 Measures No. 1) Determination 2020***

#### *Authority*

Section 6 of the *Cocos (Keeling) Islands Utilities and Services Ordinance 2016* (the Ordinance) authorises the Administrator of the Territory of Cocos (Keeling) Islands to make provision for the supply and use of utilities and services about, amongst other things, water and sewerage on the 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 Fees) Amendment (2020 Measures No. 1) Determination 2020* (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. The Determination includes a new commercial/residential quantity fees for the supply of water and sewerage services, and definition.

#### *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 have a minor financial impact on consumers in the form of no increase for residential and builder's fees, a 2.5% increase for utilities and 2% increase for some services.

#### *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) for water and wastewater services with the Australian Government. As part of the SDA, the Water Corporation provides advice in relation to the cost of providing water, sewerage and building services.

Water Corporation calculates the operating expenses for the Cocos (Keeling) Islands and compares this amount to 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 considers the proposal is likely to have no more than minor regulatory impacts on business, community organisations or individuals. In addition, it understands that the matter will not be considered by Cabinet, and so the preparation of a Regulation 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*

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

Water Corporation provides advice to the WA Government Minister, WA State Cabinet, and the WA Department of Water and Environmental Regulation about the fees that are charged, and these fees are reviewed 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.

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 Fees) Amendment (2020 Measures No. 1) Determination 2020*.

##### Section 2 – Commencement

This section provides that this Determination is to commence on 1 November 2020.

##### 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.

## Schedule 1 - Amendments

### ***Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Amendment (2020 Measures No. 1) Determination 2020***

This schedule sets out further details of the Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Amendment (2020 Measures No.1) Determination 2020.

Section 4 is amended by including a reference to commercial/residential land.

Clause 5 is amended to include a new definition for commercial/residential land after subsection 5(2).

(2A) Land is ***commercial/residential land*** if:

- (a) the land is used, but not wholly or primarily, for the purpose mentioned in paragraph (2)(a); and
- (b) the land is used for one or more of the following purposes:
  - (i) a shop;
  - (ii) a workshop;
  - (iii) an office;
  - (iv) a bakery;
  - (v) a surgery;
  - (vi) any other business purpose.

### Part 2- Fees

Amends subsection 6(2) of the Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016 by deleting “1 July 2019” and substituting “1 November 2020”.

### Schedule 1

Items 2, 5 and 6 of 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 are repealed and are substituted with new items 2, 5 and 6 that list 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 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 2.5% across the range of meter sizes as follows:

- (a) no meter or 15 mm or 20 mm increases \$272.05 to \$278.85
- (b) 25 mm increases from \$425.11 to \$435.74
- (c) 30 mm increases from \$612.11 to \$627.41
- (d) 35 mm, 38 mm or 40 mm \$1,088.27 to \$1,115.48
- (e) 50 mm increases from \$1,700.40 to \$1,742.91
- (f) 70 mm, 75 mm or 80 mm increases from \$4,353.02 to \$4,461.85
- (g) 100 mm increases from \$6,801.60 to \$6,971.64
- (h) 140 mm or 150 mm increases from \$15,303.60 to \$15,686.19

Item 5 – Strata-titled commercial land or industrial land, if sharing a water service  
This fixed fee increases 2.5% from \$272.05 to \$278.85.

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 2.5% from \$272.05 to \$278.85.

## Schedule 2

Items 2, 4, 5 and 6 in 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 are repealed and are substituted with new items 2, 4, 5 and 6 that reflects 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 2 – Commercial or industrial land (other than land mentioned in Item 6) or mining land  
This fixed fee is subject to a minimum fee or the number of fixtures. These fees increase 2.5% as follows:

- (a) first major fixture increases from \$1,021.18 to \$1,046.71
- (b) second major fixture increases from \$437.12 to \$448.05
- (c) third major fixture increases from \$583.77 to \$598.36
- (d) each subsequent major fixture increases from \$634.81 to \$650.68
- (e) minimum annual fee increases from \$1,021.18 to \$1,046.71

Item 4 – Institutional/public land, charitable purposes land or local government land  
A fixed, per fixture fee applies to land in this category. Fees increase 2.5% and the fee for the first major fixture increases from \$274.36 to \$281.22. The fee for each subsequent major fixture increases from \$120.71 to \$123.73 per fixture.

Item 5 – Government land  
A fixed, per fixture fee applies to land in this category. This fee increases 2.5% as follows:

- (a) first major fixture increases from \$1,021.18 to \$1,046.71
- (b) second major fixture increases from \$437.12 to \$448.05
- (c) third major fixture increases from \$583.77 to \$598.36
- (d) each subsequent major fixture from \$634.81 to \$650.68

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 2.5% from \$634.81 to \$650.68.

### Schedule 3

Items 2, 3, 4, and 5 in 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* are repealed and are substituted with new items 1A, 2, 3, 4 and 5 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.

Schemes throughout WA are classified according to the cost of operating 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)*. The Cocos (Keeling) Islands scheme remains at Step 15.

New item 1A – Commercial/Residential land  
Water use quantities below 150 kilolitres is \$1.827 per kilolitre. Water usage quantities above 150 kilolitres is \$8.776 per kilolitre.

Item 2 – Vacant land not mentioned in item 1  
Schemes throughout WA are classified according to the cost to operate 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)*.

Cocos (Keeling) Islands scheme remains at Step 15 for non-residential properties and increases 2.5% from \$8.562 to \$8.776 per kilolitre.

Item 3 - Institutional/public land, charitable purposes land or local government land  
The quantity fee for the supply of water to this land type increases 2.5% from \$2.597 to \$2.662 per kilolitre.

Item 4 – Commercial land, government land, or industrial land  
The quantity fee for commercial land, government land or industrial land increases 2.5% from \$8.562 to \$8.776 per kilolitre.

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).

The quantity fee for sewer discharge volumes above 200 kilolitres increases 2.5% from \$3.752 to \$3.846 per kilolitre. 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*.

### Schedule 4

Items 3 to 6 the table shown at subclause 1(1) of Schedule 4 of the *Cocos (Keeling) Islands Utilities and Services (Water, Sewerage and Building Application Services Fees) Determination 2016* are repealed and are substituted with amending items 3 to 6. These reflect revised fees for the supply of other water and sewerage services.

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

The fee for meter readings conducted within 7 days of receipt of request increases 2% from \$17.33 to \$17.68.

In cases where an urgent meter reading is required, the fee for meter readings within 2 days of receipt of request increases 2% from \$58.24 to \$59.41.

#### Item 4 – Advice of sale requests

Advice of sale requests for both manual and electronic are deleted and replaced as follows:

- Advice – standard from \$46.03 to \$30.18, a decrease of 34.4%
- Advice – urgent from \$86.84 to \$41.95 a decrease of 51.7%

#### Item 5 – Meter tests

The fee for testing meters in (a) 20 mm to 25 mm meters increases 2% from \$111.27 to \$113.50.

Due to the variation of work involved in the testing of larger meters, the fee for testing of meters over 25 mm is the cost involved in the disconnection and sending for testing. Water Corporation will advise this fee on an individual basis.

#### Item 6 – Restoration of service after restriction

Following a service restriction the fee to restore a service between 7 am and 4 pm on any day except Saturday, Sunday or public holiday, increases 2% from \$176.07 to \$179.59.

The fee to restore a service at any other time increases 2% from \$279.78 to \$285.38.

## **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 (2020 Measures No. 1) Determination 2020***

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 (2020 Measures No. 1) Determination 2020* sets the annual fees for the provision of water and water related services to the Cocos (Keeling) Islands.

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 are an area where recouped fees are currently less than the cost of supply.

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 with those applied in a similar remote Australian mainland location. This Determination reflects no increase for residential and builders' fees, 2.5% fee increases across most services and 2% increases for some miscellaneous charges.

#### **Human rights implications**

The Declaration engages the right to an adequate standard of living.

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

The right to an adequate standard of living also requires Australia to ensure that there is sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. This 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 Cocos (Keeling) Islands.

Under a Service Delivery Arrangement with the Australian Government, the Water Corporation of Western Australia (WA) provides water and sewerage services to the communities of the Cocos (Keeling) Islands. The Water Corporation operates under the *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 Service Standards) 2018* (WA)(CKI), 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 Services Standards) 2018* (WA)(CKI) 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 (2020 Measures No. 1) Determination 2020* 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.

The annual fees are similar to fees in remote mainland communities. The increase in fees from last year are small in nature with no increase in residential charges and there are measures in place to protect consumers who are suffering financial hardship.

Accordingly, the Determination promotes the right to an adequate standard of living as it ensures that affordable water is provided in the Cocos (Keeling) Islands.

### **Conclusion**

The Declaration is compatible with human rights because it promotes the protection of human rights.

**Natasha Griggs, Administrator of the Territory of Cocos (Keeling) Islands**