



**Shire of Ngaanyatjaraku**  
ON A JOURNEY

**ORDINARY MEETING OF COUNCIL**

**MINUTES**

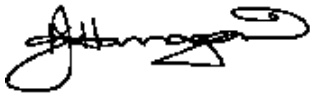
**31 March 2021**

**at**

**1.05 pm**

**SHIRE OF NGAANYATJARRAKU**  
**ORDINARY MEETING OF COUNCIL**

The Chief Executive Officer recommends the endorsement of these minutes at the next Ordinary Meeting of Council.



**Chief Executive Officer**

Date: 1-4-2021

These minutes were confirmed by Council as a true and correct record of proceedings of the Meeting of Council held on the 31 March 2021.



**Presiding Member:** \_\_\_\_\_

\_\_\_\_\_ Date: 28 / 4 /2021

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## 1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at 1.05pm.

## 2. ANNOUNCEMENT OF VISITORS

The Presiding Member welcomed members of the public to the gallery.

## 3. ATTENDANCE

### 3.1 PRESENT

<b>Elected Members:</b>	President Deputy President Councillor Councillor Councillor Councillor	D McLean A Jones J Porter D Frazer J Frazer L West
<b>Staff:</b>	CEO DGC FAC	K Hannagan (via Zoom) C Green (via Zoom) G Handy
<b>Guests:</b>		
<b>Members of Public:</b>	There was one member of the public in attendance at the commencement of the meeting, Harriet Olney, Independent, NCAC	

### 3.2 APOLOGIES

Cr. A Bates

### 3.3 APPROVED LEAVE OF ABSENCE

## 4. PUBLIC QUESTION TIME

### 4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

### 4.2 PUBLIC QUESTION TIME

## 5. APPLICATIONS FOR LEAVE OF ABSENCE

<b>Council Resolution</b>
<b>Moved: Cr J Porter      Seconded: Cr D Frazer</b>
<b>That Council in accordance with Section 2.25 (1) of the Local Government Act 1995 grants leave of absence to Cr A Bates for the 28 April 2021 Ordinary Meeting of Council.</b>
<b>Carried: 6/0</b>

**Voting Requirement**  
Absolute Majority required

**Council Resolution**

**Moved: Cr L West                      Seconded: Cr J Porter**

**That Council approves Cr D McLean request to attend the next Ordinary Meeting of Council by telephone (if necessary), as he will be:**

- (a) in contact, by telephone, video conference or other electronic means, with each other person present at the meeting; and**
- (b) will be in a suitable place.**

**Carried: 6/0**

**6. DECLARATION BY MEMBERS**

**6.1 DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA**

Councillors are requested to give due consideration to all matters contained in the Agenda presently before the meeting.

**6.2 DECLARATIONS OF INTEREST**

**Councillors to Note**

A member who has an Impartiality, Proximity or Financial Interest in any matter to be discussed at a Council or Committee Meeting, that will be attended by the member, must disclose the nature of the interest:

- (a) In a written notice given to the Chief Executive Officer before the Meeting or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- (a) Preside at the part of the Meeting, relating to the matter or;
- (b) Participate in or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under *Section 5.68 or Section 5.69 of the Local Government Act 1995*.

**NOTES ON DECLARING INTERESTS (FOR YOUR GUIDANCE)**

The following notes are a basic guide for Councillors when they are considering whether they have an interest in a matter.

These notes are included in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor, or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the *Local Government Act 1995*, but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc), and the

Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.

3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
  - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under *s.5.68(1)(b)(ii) or the Local Government Act*; or
  - 6.2 Where the Minister allows the Councillor to participate under *s.5.69(3) of the Local Government Act*, with or without conditions.

Declarations of Interest provided:

Item Number/ Name	Type of Interest	Nature/Extent of Interest

**7. ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION**

**8. PETITIONS, DEPUTATIONS, PRESENTATIONS**

**8.1 PETITIONS**

**8.2 DEPUTATIONS**

**8.3 PRESENTATIONS**

**9. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**9.1 MINUTES OF ORDINARY MEETING OF COUNCIL**

**Voting Requirement**  
Simple Majority

**Officers Recommendation and Council Resolution**

**Moved: Cr D Frazer      Seconded: Cr J Frazer**

**That the Unconfirmed Minutes of the Ordinary Meeting of Council held on 24 February 2021 at the Council Chambers, Tjulyuru Cultural and Civic Centre, Warburton Community (as circulated and available on the Shires official website) be confirmed as a true and accurate record.**

**Carried: 6/0**

## 10. CEO REPORTS

### 10.1 PROGRESS ON THE IMPLEMENTATION OF COUNCIL RESOLUTIONS

<b>FILE REFERENCE:</b>	GV.05
<b>AUTHOR'S NAME AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	19 March 2021
<b>DISCLOSURE OF INTERESTS:</b>	The author has no financial, proximity or impartiality interest in the proposal.

#### Summary

The purpose of this agenda item is to report back to Council on the progress of the implementation of Council resolutions.

#### Background

The best practice in governance supports the regular review of Council decisions to ensure that they are actioned and implemented in a timely manner.

#### Comment

A resolution from the July 2020 meeting is still in progress, see Attachment 10.1 for details.

#### Statutory Environment

*Section 2.7 of the Local Government Act 1995* states:

*“Role of council*

*(1) The council —*

*(a) governs the local government's affairs; and*

*(b) is responsible for the performance of the local government's functions.*

*(2) Without limiting subsection (1), the council is to —*

*(a) oversee the allocation of the local government's finances and resources; and*

*(b) determine the local government's policies.”*

The above section of the Act notwithstanding, there is no specific legal requirement to present such a report to Council or for Council to receive or consider such a report. The decision to have the report in the Council's monthly agenda is entirely Council's prerogative. Staff acknowledge the critical and ongoing nature of the document, in that Council 'speaks by resolution'.

#### Financial Implications

There are no known financial implications for this matter.

#### Strategic Implications

Integrated Strategic Plan 2018 - 2028

Goal 3, Leadership

Outcome 3.2, Good Leadership

#### Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

#### Policy Implications

There are no known policy implications for this matter.



## **Attachments**

Attachment 10.1 - Council Resolutions - Status Report

## **Voting Requirement**

Simple Majority

### **Officers Recommendation and Council Resolution**

**Moved: Cr J Frazer      Seconded: Cr D Frazer**

**That Council notes the attached Council Resolutions – Status table as at February OCM 2021, (Attachment 10.1) and this report.**

**Carried: 6/0**

### **Council Resolution**

**Moved: Cr J Frazer      Seconded: Cr D Frazer**

**That Council:**

- 1. Supports the naming of the newly constructed Jameson West Bypass as Nynga Road.**
- 2. Write to Ngaanyatjarraku Council Aboriginal Corporation (NCAC) seeking their support and endorsement of the proposed road name; and**
- 3. Following further Council resolution of written endorsement from NCAC, advise Landgate accordingly so the road name can be actioned and finalized to be compliant with Landgate's Policies and Standards for Geographical Naming in Western Australia 2017.**

**Carried: 6/0**

## 10.2 2020/21 MID YEAR BUDGET REVIEW AS AT 1 MARCH 2021

<b>FILE REFERENCE:</b>	FM.10
<b>AUTHOR'S NAME AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	17 March 2020
<b>DISCLOSURE OF INTERESTS:</b>	The author has no financial, proximity or impartiality interests in the proposal.

### **Summary**

For Council to consider and adopt the proposed amendments to the 2020/21 Budget as a result of the Mid-Year Budget Review process.

### **Background**

The Department of Local Government and Communities has issued Circular No. 06/2006 to provide local governments with information about the budget review process. The following paragraphs are key points from the circular:

*A budget review is a detailed comparison of the year to date actual results with the adopted budget. It establishes whether a local government continues meeting its budget commitments in receipt of income and incurs expenditure in accordance with the adopted budget.*

Shire Officers have completed a review of the Shire's 2020/21 budget as at 1 March 2021. This review is now presented to Council and the outcome of that review is to be considered for adoption by Council. As part of the process Officers have examined the operations of the Shire for the 2020/21 financial year to date identifying the reasons for significant variances and the action required to address them.

The attached review compares the year to date (YTD) Budget with YTD Actual, and commentary is provided on variances to the adopted budget (see Note 5). Officers have ensured that Council resolutions presented during the 2020/21 financial year have been incorporated in this Mid-Year Budget Review. Changes to the Adopted Budget are proposed by Officers where they believe that circumstances have occurred that impact permanently on the budget position for the financial year under review.

### **Comment**

The 'net result' of the recommended changes is to have a balanced budget.

2020/21 Operational savings and projects that will not be completed are to be transferred to the Asset Replacement / Acquisition and Cultural Centre Reserves for use in next years budget or future years asset renewals.

Additionally, the Shire's financial surplus for 2019/20 was \$471,366 lower than budget and has been accounted for in the review.

The Shire has been successful in gaining additional grants from MRWA that have enabled road work improvements to be undertaken without using budgeted Own Source Funding, e.g. Wingelina Access Road. This has largely contributed to the savings.

### **Statutory Implications**

Local Government Act 1995

6.8. *Expenditure from municipal fund not included in annual budget*

- 1) *A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*
  - a) *is incurred in a financial year before the adoption of the annual budget by the local government; or*
  - b) *is authorised in advance by resolution\*;*
  - c) *is authorised in advance by the mayor or president in an emergency.*

*\* Absolute majority required.*

*(1a) In subsection (1) — additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget.*

- 2) *Where expenditure has been incurred by a local government —*
  - a) *pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; an*
  - b) *pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council*
  - c) *[Section 6.8 amended by No. 1 of 1998 s. 19.]*

Local Government (Financial Management) Regulations 1996

32. *Amounts which may be excluded when calculating budget deficiency (Act s. 6.2(3))*

*A local government may exclude from the calculation of the budget deficiency —*

- a) *money borrowed or to be borrowed, to the extent that it is proposed in the annual budget to remain unspent at the end of the financial year; and*
- b) *reserves, to the extent that they are proposed in the annual budget to remain unspent at the end of the financial year; and*
- c) *in relation to a land transaction or trading undertaking, assets and liabilities, to the extent to which they are proposed in the annual budget to remain restricted to the purposes of the land transaction or trading undertaking at the end of the financial year; and*
- d) *any proposed amounts of depreciation of non-current assets; and*
- e) *assets from grants or gifts or non-cash revenue or expenditure; and*
- f) *current liabilities which, by their nature, are restricted, to the extent that they are proposed in the annual budget to remain uncleared at the end of the financial year; and*
- g) *any other current assets which, by their nature, are restricted, to the extent that they are proposed in the annual budget to remain unused at the end of the financial year.*

33A. *Review of Budget - Local Government (Financial Management) Regulations 1996*

- (1) *Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.*
- (2A) *The review of an annual budget for a financial year must —*
  - (a) *consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and*
  - (b) *consider the local government's financial position as at the date of the review; and*
  - (c) *review the outcomes for the end of that financial year that are forecast in the budget.*

- (2) *Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.*
- (3) *A council is to consider a review submitted to it and is to determine\* whether or not to adopt the review, any parts of the review or any recommendations made in the review.*

*\*Absolute majority required.*

- (4) *Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.*

### **Financial Implications**

After taking into account all adjustments considered to be permanent changes to the budget position for the 2020/21 financial year detailed in the mid-year Budget Review Report, the overall position of the Shire is forecast to have a balanced budget at year-end. There have been savings made and projects that will not be completed this year. It is proposed to transfer these into Asset Replacement / Acquisition, Strategic and Cultural Centre Reserves for future years asset renewals and project requirements.

Officers have ensured that Council resolutions presented during the financial year have been considered in the mid-year Budget Review Report. A summary of the financial implications is included in the attached report.

### **Strategic Implications**

Integrated Strategic Plan 2018 - 2028

Goal 3, Leadership

Outcome 3.2, Good Leadership

### **Risk Management**

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is "Low" risk and can be managed by routine procedures and is unlikely to need specific application of resources.

### **Policy Implications**

No policy implications apply in the preparation of the report.

### **Attachments**

Attachment 10.2 – 2020 / 21 Mid-Year Budget Review Report

### **Voting Requirement**

Absolute Majority Required.

#### **Officers Recommendation and Council Resolution**

**Moved: Cr J Frazer**

**Seconded: Cr D Frazer**

#### **That Council:**

- 1. Receives the Mid-Year Budget Review Report for the period ended 1 March 2021;**
- 2. Adopts the 2020/21 revised budget position and associated budget amendments as per Attachment 10.2; and,**
- 3. Requests the Chief Executive Officer to, within 30 days of this determination, provide a copy of the review and determination to the Department of Local Government Sport and Community Industries.**

**Carried: 6/0**

## 10.3 ADDITIONAL MRWA ABORIGINAL ACCESS ROAD GRANTS

<b>FILE REFERENCE:</b>	RD.00
<b>AUTHOR'S NAME AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	17 March 2021
<b>DISCLOSURE OF INTERESTS:</b>	The author has no financial, proximity or impartiality interest in the proposal.

### Summary

For Council to be updated on significant once off grants accessed by the Shire.

### Background

The Shire currently receives Aboriginal Access Road funding from the Federal and State Governments to contribute towards maintenance of the gravel access roads.

Over the last 12 months both agencies have advised that Shires who do not spend their funding within a reasonable timeframe will lose that funding and it will be reallocated to other Shires.

### Comment

The Shires CEO recently revised advice from MRWA that \$600,000 unspent was available to the Shires of Laverton and Ngaanyatjarraku on a competitive basis. MRWA advised of criteria that would be used in determining what level of funding would be provided e.g., preferably spent in current FYE, community benefits, type of work to be undertaken. Usually if there are competing interests for the funding it is shared equally.

The Shire of NG proposed two projects each for \$300,000.

The Shire has now received advice from MRWA that the Shire of NG's submissions highly satisfied all criteria and as such both projects would be funded plus an additional \$74,957. Work has already commenced on the two below projects:

- \$300,000 - Gravel sheeting 5kms of the Wingelina Community Access Road into the community, this will now give the community better access for the full length of the road; and
- \$374,957 – Reconstruction, widen, lift and gravel sheeting of the Irrunytju Road (former Giles Mulga Park Road), prior to the Papulankutja Road (former Warburton Blackstone Road) turnoff giving better access between the two communities and heavy vehicle use.

### Statutory Environment

*Section 2.7 of the Local Government Act 1995 states:*

*"Role of council*

*(15) The council —*

*(a) governs the local government's affairs; and*

*(b) is responsible for the performance of the local government's functions.*

*(16) Without limiting subsection (1), the council is to —*

*(a) oversee the allocation of the local government's finances and resources; and*

*(b) determine the local government's policies."*

### Financial Implications

As mentioned in the previous report, this additional external funding has greatly reduced the need for the Shire to use its own source funds for these community roads contributing to a positive financial result. As these projects are additional to that planned, other projects have been deferred to the next financial year.

### Strategic Implications

Integrated Strategic Plan 2018 – 2028

Goal 1, Our Land

Outcome 1.2, Travel the Land  
Strategy: 1.2.1, Good Roads

**Risk Management**

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Strategy, Risk Assessment Matrix. The perceived consequence level of risk is minor and will be managed by normal management practices.

**Policy Implications**

Not Applicable.

**Attachments**

Not Applicable.

**Voting Requirement**

Simple Majority

**Officers Recommendation and Council Resolution**

**Moved: Cr L West            Seconded: Cr D Frazer**

**That Council notes this report.**

**Carried: 6/0**

## 10.4 ORGANISATION STRUCTURE

<b>FILE REFERENCE:</b>	PL.00
<b>AUTHOR'S NAME AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	18 March 2021
<b>DISCLOSURE OF INTERESTS:</b>	The author has an interest shared in common as the position of CEO is in the organisation structure.

### Summary

For Council to consider an Organisation Structure for the administration of the Shire.

### Background

The Local Government Act 1995 requires Council to ensure there is an appropriate organisation structure for administration of the local government.

It is generally accepted that an organisation structure should contain all positions contained in the Shires Annual Budget.

The structure is reviewed each year to ensure that the organisation is structured to achieve its Corporate objectives in accordance with the adopted Strategic Community Plan and Corporate Business Plan.

### Comment

The Shire is currently undertaking a full review of its Integrated Planning & Reporting Framework with all plans being reviewed. The revised suite of plans will be presented to council before adoption of the 2021/22 Annual Budget.

The revised Workforce Plan takes into account changes to staffing levels regarding new positions that may be created in relation to the Lands Services Review currently being undertaken with multi-agency State & Federal representation. At the last Council meeting a comprehensive report on progress was given.

Normally a review of the Organisation structure would be considered with the review of IPRF suite of plans. However, the issue of waste management is urgent as it is affecting the public health of the lands communities and requires urgent attention. As such the Organisation Structure is being brought to Council earlier to enable the organisation to respond to any changes in waste services to enable them to be implement as soon as possible.

The major change is related to Infrastructure Directorate that is also undertaken as part of the current CEO role. The CEO has signaled his intention to vacate the position of CEO in the near future and his desire to remain with the Shire in a part-time capacity if possible. This matter will be the subject of a separate report in the future. The increase in workload as a result of any new Shire wide Waste Program and other services such as Fire & Emergency Services & Rangers will mean the CEO will no longer be able to perform this dual role. As such the Infrastructure Directorate will now be split off from the CEO role into a new position of Director Infrastructure. Additionally, the functions of Human Resources, Information Technology will also be split from the CEO and transferred to the Deputy CEO who will also have the Corporate Service function added to that role. The management of the Warburton Sport & Recreation program will be transferred from the DCEO to the Director Governance / Strategic as he has a background in S&R and will also be in a better position to respond to any change in service level for other lands communities emanating from the Lands Service Review. There are also some minor transfers of responsibilities across directorates to better reflect a contemporary local government structure.

It is now appropriate for Council to consider an organisation structure as a result of these changes

to be implemented in 2021 and to also be reflected where appropriate in the 2020/21 Mid-Year Budget Review.

**Statutory Environment**

*Local Government Act 1995*

*5.2. Administration of local governments*

*The council of a local government is to ensure that there is an appropriate structure for administering the local government.*

**Financial Implications**

Most changes will be dependent on grant funding and will impact the 2021/22 Annual Budget with minor changes included in the Mid Year Budget Review.

**Strategic Implications**

Integrated Strategic Plan 2018 - 2028

Goal 3, Leadership

Outcome 3.2, Good Leadership

**Risk Management**

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

**Policy Implications**

There are no known Policy implications for this matter.

**Attachments**

10.4 – Proposed Organisation Structure, 1 April 2021

**Voting Requirement**

Simple Majority Required.

**Officers Recommendation and Council Resolution**

**Moved: Cr A Jones      Seconded: Cr J Frazer**

**That Council approves the attached Proposed Organisation Structure, 1 April 2021 as an appropriate structure for administering the local government.**

**Carried: 6/0**



## 10.5 REVIEW OF COUNCIL POLICY 3.1 SENIOR EMPLOYEES

**FILE REFERENCE:** CM.14

**AUTHOR'S NAME AND POSITION:** Kevin Hannagan  
Chief Executive Officer

**DATE REPORT WRITTEN:** 18 March 2021

**DISCLOSURE OF INTERESTS:** The author has an interest shared in common as the position of CEO is in the organisation structure.

### **Summary**

For Council to consider a review of policy brought about by the change to the Organisation Structure as per preceding Report 10.4.

### **Background**

A new position of Director Infrastructure is to be included in the Organisation chart effective 1 April 2021.

### **Comment**

The new role requires change to the following Council Policy:

#### Policy 3.1 - Senior Employees

The current adopted policy advises that:

*The Council designates the following positions as senior employees of the Shire:*

- *Chief Executive Officer*
- *Deputy Chief Executive Officer*
- *Director Governance & Strategic*

It is proposed to add the Director of Infrastructure.

### **Statutory Environment**

Section 2.7(2)(b) of the Local Government Act 1995 sets out the role of council that includes determining Council policies.

### **Financial Implications**

There are no known financial implications for this matter.

### **Strategic Implications**

Integrated Strategic Plan 2018 - 2028

Goal 3, Leadership

Outcome 3.2, Good Leadership

### **Risk Management**

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Strategy, Risk Assessment Matrix. The perceived level of risk is high prior to treatment, the adoption of reviewed policies will reduce the risk to low.

### **Policy Implications**

Updated policies are intended to provide the Shire with clearer direction to guide the CEO/administration in the execution of decisions of Council, achieve the strategic direction of the Shire of Ngaanyatjarraku and maintain legislative compliance.

### **Attachments**

Attachment 10.5 – Amended Policy 3.1 - Senior Employees

## **Voting Requirement**

Absolute Majority

### **Council Resolution**

**Moved: Cr D Fazer**

**Seconded: Cr J Porter**

#### **That Council:**

- 1. Amends Attachment 10.4 to remove the position of CEO as a Senior Employee (on advice from Shire lawyers McLeod Legal) that the CEO should not be designated as a senior employee. Under the Local Government Act 1995, as the CEO is not a senior employee in that context. This is evident, for example, from the provisions of section 5.37(2) and section 5.39(1), each of which clearly distinguish between the CEO and a senior employee.**
- 2. Adopts by absolute majority Council Policy 3.1 – Senior Employees as per amended Attachment 10.4 to this report; and**
- 3. Updates the policy manual on the Shire’s official website.**

**Carried: 6/0**

Note: The Officers Recommendation Item 1 was amended on advice from Shire Lawyers

## 10.6 REPRESENTATION BY COUNCILLORS AND STAFF TO COMMITTEES - MINUTES OF MEETINGS

**FILE REFERENCE:** RD.00

**AUTHOR'S NAME AND POSITION:** Kevin Hannagan  
Chief Executive Officer

**DATE REPORT WRITTEN:** 22 March 2021

**DISCLOSURE OF INTERESTS:** The author has an impartiality interest shared in common as the position of CEO is appointed to some committees.

### Summary

For Council to be kept updated on activities of any external Committees or Working Groups that it has appointed delegates / representatives.

### Background

The Shires President, Chief Executive Officer and Director Governance / Strategic have been appointed as delegates / representatives attending meetings and advocating for issues affecting the Shire of Ngaanyatjarraku. Minutes of any meetings are made available to Councillors for information. The below briefly outlines meetings attended since the last reporting month.

### Comment

Listed below are meetings attended and main issues of interest for the Shire.

#### MRWA Outback Way Governance Group – Feb 2021

- sealing of the Great Central Road
- construction of the Warburton Bypass
- engineering assessment of the Mantamuru Road by Oz Minerals and associated road upgrades
- road maintenance agreement for the Mantamuru Road and Great Central Highway to the Laverton Boundary

#### Outback Highway Development Council – Feb 2021

- Funding for sealing of the Great Central Road

#### Outback Highway Development Council – Canberra lobby trip, March 2021

- Sealing progress of the Outback Way- Completing 729km with \$400M
- Request for \$100M every year, from 2022/23- 2026/27 to complete the 900km seal.
- The Outback Way's progress- Infrastructure Australia- priority list 2021.
- The economic value the 7 local Councils along the Outback Way region provide to the nation- \$5.5billion
- QUBE & Oz Minerals- added to the pitch with the commercial imperative.
- the alignment of the Outback Way sealing project with the national development policies -post COVID.
- Vocational Training Organisations – Indigenous training alliance WA- training the additional workforce required to increase sealing capacity on the Outback Way
- Northern Australia Development- Qld section waiting to be finished.
- the installation of the BBRF Outdoor Art Gallery- Plenty Highway- Tourism

#### MRWA Regional Road Group – Mar 2021

- MRWA have emphasised that Shires must complete their road projects within a two-year timeframe or future funding will be directed to another Shire. The Shire of NG has been the recipient of such funding as per Report 10.3
- Road Asset Preservation Model (APM) – this model is used as part of the formulae for determination of the Local Government Grants Commission (LGGC) Financial Assistance Grants (roads) and is being reviewed. The Shire of Ng has made a submission voicing its

concerns regarding criteria for funding that may adversely affect the Shires future grant allocations, e.g. funding for townships and definition of the word township needs to be expanded ( the Shire does not have gazetted townships), heavy vehicle & tourist traffic counts (these have fallen over the last 12 months due to Covid19).

- Roads 2040: Development of Strategies for Regionally Significant Roads. The Shire currently has its 4 major roads classified in this strategy. The Shire has made a submission advocating that there be a 'no worse off' statement included so that its existing roads remain in the 2040 strategy.
- 2021/22 Local Road Program was presented showing there where more requests than funding available. The Shire has two road preservation submissions requesting funding of \$670,000. The Shire has advocated that, traditionally Preservation Projects have priority over Improvement Projects. Therefore, Improvement Projects are reduced or deferred if the Budget is insufficient to meet needs. This has been supported by MRWa and the Group.
- Condition Assessment of Roads of Regional Significance. Funds have been provided through the State Road Funds to Local Government Agreement to perform condition surveys of all the Roads of Regional Significance. Consultants will be engaged to survey roads in the Great Southern and Goldfields – Esperance Regions that is scheduled for the first half of 2021. The survey will include video of the unsealed significant roads and Aboriginal access roads. A RFQ has been issued through the WALGA preferred supplier panel. The chosen supplier will liaise with each LG before work commences. The Shire is also required to undertake a major review of its condition assessment of its whole road network, including town roads. The Shire has been advocating for the inclusion of aboriginal Access Roads as this project will provide significant savings in time, \$ and staff resources to undertake such a piece of work across the whole Shire. However, it is critical that this be undertaken as future compliance and grant funding is becoming more dependent on local governments having good data and management of their road networks.

### **Statutory Environment**

*Section 2.7 of the Local Government Act 1995 states:*

*“Role of council*

*(1) The council —*

*(a) governs the local government’s affairs; and*

*(b) is responsible for the performance of the local government’s functions.*

*(2) Without limiting subsection (1), the council is to —*

*(a) oversee the allocation of the local government’s finances and resources; and*

*(b) determine the local government’s policies.”*

### **Financial Implications**

The Shire continues to advocate for the Warburton Bypass to be included in the Federal / State funded GCR Project.

### **Strategic Implications**

Integrated Strategic Plan 2018 - 2028

Goal 1, Our Land

Outcome 1.2, Travel the Land

Strategy: 1.2.1, Good Roads

### **Risk Management**

This item has been evaluated against the Shire of Ngaanyatjaraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

### **Policy Implications**

Not applicable

**Attachments**

Attachment 10.6 - Outback Highway Development Council – Canberra lobby trip, March 2021

**Voting Requirement**

Simple Majority

**Officers Recommendation and Council Resolution**

**Moved: Cr L West                      Seconded: Cr D Frazer**

**That Council notes this report regarding meetings attended by its delegates / representatives advocating for issues affecting the Shire of Ngaanyatjarraku.**

**Carried: 6/0**

## 10.7 WASTE MANAGEMENT PLAN

<b>FILE REFERENCE:</b>	CM.14
<b>AUTHOR'S NAME AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	26 March 2021
<b>DISCLOSURE OF INTERESTS:</b>	The author has no financial, proximity or impartiality interest in the proposal.

### Summary

For Council to be updated on progress of the development of the Shires first Waste Management Plan.

### Background

At Councils February meeting an update on progress of the Lands Service Review was provided.

The Aboriginal Engagement (DPC) unit and the Goldfields Regional and Remote Service Delivery (DoC) unit have set up a joint working group made up of State representatives across various portfolios, the National Indigenous Australians Agency (NIAA) and the Ngaanyatjarra Council Aboriginal Corporation (NCAC) and the Shire of Ngaanyatjarraku (SoNG) form the members of the LSR..

The main issues raised by the Shire for urgent Stage 1 resolution by the working party are:

- Swimming pools to open in Warburton, Warakurna and Blackstone for the upcoming swim season (NCAC);
- Waste Management services;
- Recreation services;
- Youth Services;
- Early Years Child development;
- Environmental Health services; and
- Fire and Emergency Services

Waste Management – the Shire does not receive Fees for waste services unlike other local governments as the housing is social housing owned by the State who are exempt from paying rates and the land is leased by the State to NCAC's communities similar to Aboriginal Land Trust Land.

The Shires consultancy has undertaken visits to the lands communities and is finalised a Waste Management Plan (WMP) covering immediate and longer-term issues for consideration of funding by the State in future Budgets. The visit to the lands has identified two urgent issues;

- 1.1 Waste collection services were barely functioning at all the communities visited, resulting in residents burning household waste at the front of their homes. The combustion of waste materials results in dangerous toxic emissions that can include dioxins, sulphur dioxide, lead, and mercury. These emissions can cause immediate and long-term harm to the nervous system, lungs, liver and kidneys and result in reproductive and developmental disorders. As waste is being burnt so close to residential homes, members of the communities are almost certainly being exposed to harmful emissions. The Shire was requested to develop an urgent waste pickup plan for two years until the WMP could be considered in the States ongoing budgets. This has been presented to the committee but to date no funding (\$4.27m) is available to implement the urgent interim response.
- 1.2 Asbestos materials, and materials possibly containing asbestos, were identified at or near waste sites in Warburton, Warakurna, Mantamaru, Tjukurla, Tjirrkarli and Kanpa. In all instances it was apparent that these materials were at risk of being further fragmented and asbestos particles becoming airborne by vehicle movements, fire, or children playing. Whilst much of the asbestos identified may have been in-situ for decades, it poses an immediate

and severe risk to human health. The DoC are liaising with DPLH to consider an urgent asbestos clean-up. To date it is unclear when the clean-up will be. In the interim the State have funded signs to be posted at the affected landfills warning residents of the asbestos and toxic waste issues.

These issues are presenting significant and ongoing risks to the health of the Shire's residents and staff. A copy of the consultant's letter was provided at the February meeting.

It is noted that Waste Management Services are provided by the State under their Remote Essential Municipal Services program for other aboriginal communities within the State. The Shire has been advised by the State that the NG Lands will not be included in REMS services to remote aboriginal communities.

It is further noted that in Kununurra the Department of Housing have engaged the local Shire Council to provide such a waste pickup service for local indigenous communities within their Shire boundary on a fee for service basis similar to its ratepayers. Whilst this model is supported by the State in the Kimberley, it is not supported for the NG Lands communities.

## **Comment**

Two versions of the Waste Management Plan have now been completed:

- Confidential version, containing all financial estimates.
- Public version, with budget ranges of \$ estimates.

The State are yet to decide if they will fund the Waste Management Plans implementation. However, to 'market' test the Shires estimated \$ are realistic, they may require a public tender process for service provision. As such the estimates have been kept Commercial in Confidence.

Copies of the plan have been made available to Councillors.

A copy of the 'public' version has also been provided to the inter-agency Lands Service Review Committee that includes a representative from DEWR.

## **Statutory Environment**

*Section 2.7 of the Local Government Act 1995 states:*

*"Role of council*

*(15) The council —*

*(a) governs the local government's affairs; and*

*(b) is responsible for the performance of the local government's functions.*

*(16) Without limiting subsection (1), the council is to —*

*(a) oversee the allocation of the local government's finances and resources; and*

*(b) determine the local government's policies."*

*Waste Avoidance & Resource Recovery Act 2007*

*40. Waste plans*

*(1) In this section —*

*plan for the future means a plan made under the Local Government Act 1995 section 5.56.*

*(2) A local government may include within its plan for the future a waste plan outlining how, in order to protect human health and the environment, waste services provided by the local government in the relevant district will be managed to achieve consistency with the waste strategy.*

## **Financial Implications**

The Shire has made in its Annual Budget 2020/21 a budget allocation for the production of the Waste Management Plan. Implementation of the Plan will require external funding as the Shire has no Ratepayers to charge for the service.

## **Strategic Implications**

Integrated Strategic Plan 2018 – 2028

Goal 1, Looking after our land

Outcome 1.4, Live on the Land

Strategy, 1.3.3 Appropriate services delivered to community

Action - Undertake Lands Service Review

Goal 2, Looking after our people

Outcome 2.2 Healthy People

Strategy, 2.2.1 No Rubbish

Action - Rubbish service across lands included in REMS Contract

Strategy, 2.2.2 Good health service

Action - Facilitate delivery of good health service access

Action - Provide environmental health services

Goal 3, Leadership

Outcome 3.2, Good Leadership

Strategy, 3.1.2 Financially sustainable local government

Action - Review all Shire Services

**Risk Management**

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Strategy, Risk Assessment Matrix. The perceived consequence level of risk is Major prior to the resolution of issues identified in this report and the Shire's Long Term Financial Sustainability is resolved.

**Policy Implications**

Not Applicable.

**Attachments**

Not Applicable

**Voting Requirement**

Simple Majority

**Officers Recommendation and Council Resolution**

**Moved: Cr J Porter**

**Seconded: Cr D Frazer**

**That Council:**

- 1. adopts the Public and Confidential versions of the Waste Management Plan;**
- 2. and publishes a copy of the Public version on its official website as an 'Informing Plan' to its Integrated Planning & Reporting Framework**

**Carried: 6/0**



# 11 DEPUTY CEO REPORTS

## 11.1 PAYMENTS LISTING, FEBRUARY 2021

<b>FILE REFERENCE:</b>	FM.07
<b>AUTHOR'S NAME AND POSITION:</b>	Kerry Fisher Deputy Chief Executive Officer
<b>AUTHORISING OFFICER AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	16 March 2021
<b>DISCLOSURE OF INTERESTS:</b>	Nil

### Summary

For Council to confirm the payment of accounts listed in the attached Accounts for Payment.

### Background

In accordance with the Local Government (Financial Management) Regulations 1996 the Chief Executive Officer is required to present a list of payments to the Council at the next ordinary meeting of the council after the list is prepared.

### Comment

The payments made are consistent with previous months.

### Statutory Environment

*Local Government (Financial Management) Regulations 1996*

*S13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.*

- (1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared—*
  - (a) *the payee's name; and*
  - (b) *the amount of the payment; and*
  - (c) *the date of the payment; and*
  - (d) *sufficient information to identify the transaction.*
- (2) *A list of accounts for approval to be paid is to be prepared each month showing—*
  - (a) *for each account which requires council authorisation in that month—*
    - (i) *the payee's name; and*
    - (ii) *the amount of the payment; and*
    - (iii) *sufficient information to identify the transaction;*  
*and*
    - (b) *the date of the meeting of the council to which the list is to be presented.*
- (3) *A list prepared under subregulation (1) or (2) is to be—*
  - (a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and*
  - (b) *recorded in the minutes of that meeting.*

### Financial Implications

The Shire makes annual budget allocations for payment of accounts.

**Strategic Implications**

Integrated Strategic Plan 2018 - 2028

Goal 3, Leadership

Outcome 3.2, Good Leadership

**Risk Management**

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

**Policy Implications**

There are no known policy implications for this matter

**Attachments**

Attachment 11.1 – Payment Listings

**Voting Requirement**

Simple Majority Required.

**Officers Recommendation and Council Resolution**

**Moved: Cr J Porter**

**Seconded: Cr A Jones**

**That Council receives the Payment Listing, February 2021 totaling payments of \$688,940.47 as per Attachment 11.1.**

**Carried: 6/0**

## 11.2 COUNCIL INVESTMENTS

<b>FILE REFERENCE:</b>	FM.04
<b>AUTHOR'S NAME AND POSITION:</b>	Kerry Fisher Deputy Chief Executive Officer
<b>AUTHORISING OFFICER AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	25 March 2021
<b>DISCLOSURE OF INTERESTS:</b>	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

### Summary

For Council to be advised of the Shires Municipal Account and Investments as attached.

### Background

To invest the Shire of Ngaanyatjarraku surplus funds with consideration of risk and at the most favourable rate of interest available to it at the time, for that investment type, whilst ensuring that liquidity requirements are being met.

### Comment

Preservation of capital is to be the principal objective with consideration given to liquidity, cash flow requirements and return on investment.

Preservation of capital is the principal objective of the investment portfolio. Investments are to be performed in a manner that seeks to ensure security and safeguarding the investment portfolio. This includes managing credit and interest rate risk within identified thresholds and parameters.

The investment portfolio will ensure there is sufficient liquidity to meet all reasonably anticipated cash flow requirements, as and when they fall due, without incurring significant costs due to the unanticipated sale of an investment.

The investment is expected to achieve a predetermined market average rate of return that takes into account the Shire's risk tolerance. Any additional target set by the Shire will also consider the risk limitation and prudent investment principles.

The recent reduction of RBA interest rate to 0.10% has greatly reduced term deposit interest to 0.30% for a 12 month term. As such the Shire will not achieve its budgeted interest income for 2020/21 FYE.

### Statutory Environment

#### Local Government Act 1995

#### *Section 6.14 Power to Invest*

- (1) *Money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by the local government for any other purpose may be invested as trust funds may be invested under the Trustees Act 1962 Part III.*
- (2A) *A local government is to comply with the regulations when investing money referred to in subsection (1).*
- (2) *Regulations in relation to investments by local governments may —*
  - (a) *make provision in respect of the investment of money referred to in subsection (1);*
  - and*
  - [(b) deleted]*
  - (c) *prescribe circumstances in which a local government is required to invest money held by it; and*

- (d) provide for the application of investment earnings; and
- (e) generally, provide for the management of those investments.

#### Local Government (Financial Management) Regulations 1996

19. *Investments, control procedures for*  
(1) A local government is to establish and document internal control procedures to be followed by employees to ensure control over investments.  
(2) The control procedures are to enable the identification of —  
(a) the nature and location of all investments; and  
(b) the transactions related to each investment.
- 19C. *Investment of money, restrictions on (Act s. 6.14(2)(a))*  
(1) In this regulation —  
authorised institution means —  
(a) an authorised deposit taking institution as defined in the Banking Act 1959 (Commonwealth) section 5; or  
(b) the Western Australian Treasury Corporation established by the Western Australian Treasury Corporation Act 1986;  
foreign currency means a currency except the currency of Australia.  
(2) When investing money under section 6.14(1), a local government may not do any of the following —  
(a) deposit with an institution except an authorised institution;  
(b) deposit for a fixed term of more than 3 years;  
(c) invest in bonds that are not guaranteed by the Commonwealth Government, or a State or Territory government;  
(d) invest in bonds with a term to maturity of more than 3 years;  
(e) invest in a foreign currency.

#### **Financial Implications**

The Shires budgeted 2020/21 Interest Income will need to be reduced as part of the Mid-Year Budget Review process.

#### **Strategic Implications**

Integrated Strategic Plan 2018 - 2028  
Goal 3, Leadership  
Outcome 3.2, Good Leadership

#### **Risk Management**

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

#### **Policy Implications**

Corporate Policy Finance 2.12 Investment.

#### **Attachments**

Attachment 11.2 – Westpac screen prints of Municipal and Investment Accounts. (No monies are currently being held with any other institutions.)

#### **Voting Requirement**

Simple Majority Required.

#### **Officers Recommendation and Council Resolution**

Moved: Cr J Frazer                      Seconded: Cr D Frazer

**That the report on Council Investments as at 25 March 2021 be received.**

**Carried: 6/0**

## 11.3 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDED

<b>FILE REFERENCE:</b>	FM.10
<b>AUTHOR'S NAME AND POSITION:</b>	Kerry Fisher Deputy Chief Executive Officer
<b>AUTHORISING OFFICER AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	19 March 2021
<b>DISCLOSURE OF INTERESTS:</b>	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

### Summary

For Council to receive the monthly financial report for February 2021.

### Background

Council is to prepare monthly financial reports as required by the Local Government (Financial Management Regulations) 1996.

Council has resolved that details and explanations of the material variances reflected on the Statement of Financial Activity are provided as required by Local Government (Financial Management) Regulation 34(1) (d). The attached statements include details of variances between Year to Date (YTD) Budget and YTD Actual data as per the adopted materiality threshold of \$20,000 or 10.00% whichever is the greater (refer last page of statements). These materiality levels have been applied in the preparation of this report.

### Comment

Comments in relation to budget to actual variances are included as notes (last page) in the Financial Reports attached. Comments related to 'Timing' refer to an estimate of when costs would occur at the time the budget was formulated versus actual costs being incurred. 'Permanent' variances to note are:

- Rate income lower due to surrender of mining tenements
- Interest from investments lower as interest rates reduced

These may be offset by savings from operation costs across various programs.

Most of these variances have been allowed for in the Mid-Year Budget Review Report.

### Statutory Environment

#### Local Government Act 1995

#### 6.4. Financial report

- (1) A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.
- (2) The financial report is to —
  - (a) be prepared and presented in the manner and form prescribed; and
  - (b) contain the prescribed information.

#### Local Government (Financial Management) Regulations 1996.

#### 34. Financial activity statement required each month (Act s. 6.4)(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
  - (a) annual budget estimates, taking into account any expenditure

- incurred for an additional purpose under section 6.8(1)(b) or (c); and
  - (b) budget estimates to the end of the month to which the statement relates; and
  - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
  - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
  - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing
    - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
    - (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
    - (c) such other supporting information as is considered relevant by the local government.
  - (3) The information in a statement of financial activity may be shown —
    - (a) according to nature and type classification; or
    - (b) by program; or
    - (c) by business unit.
  - (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
    - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
    - (b) recorded in the minutes of the meeting at which it is presented.
  - (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

### **Financial Implications**

Monthly financial reporting is a primary financial management and control process. It provides the Council with the ability to oversee the Shire's financial performance against budgeted targets.

### **Strategic Implications**

Integrated Strategic Plan 2018 - 2028

Goal 3, Leadership

Outcome 3.2, Good Leadership

### **Risk Management**

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is "Low" risk and can be managed by routine procedures and is unlikely to need specific application of resources.

### **Policy Implications**

No policy implications apply in the preparation of the report.

### **Attachments**

Attachment 11.3 - Monthly Financial Report.

### **Voting Requirement**

Simple Majority Required.

**Officers Recommendation and Council Resolution**

**Moved: Cr L West                      Seconded: Cr D Frazer**

**That Council receives the monthly financial report for February 2021.**

**Carried: 6/0**

## 11.4 CHILD SAFETY OFFICERS

<b>FILE REFERENCE:</b>	CS.13
<b>AUTHOR'S NAME AND POSITION:</b>	Kerry Fisher Deputy Chief Executive Officer
<b>AUTHORISING OFFICER AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	22 March 2021
<b>DISCLOSURE OF INTERESTS:</b>	The author has no financial, proximity or impartiality interest in the proposal.

### Summary

For Council to be updated on the findings of the Royal Commission into Institutional Responses into Child Sexual Abuse (Royal Commission) and endorse the response to the Department of Communities.

### Background

The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) was established in response to allegations of child sexual abuse in institutional contexts that had been emerging in Australia for many years. The Royal Commission's Final Report made 409 recommendations, with 310 applicable to Australian State Governments.

The recommendations of the Royal Commission emphasised that organisations working with children must be able to provide safe environments where the rights, needs and interests of children are met. The Royal Commission recommended a range of mechanisms to support child safe organisations, including 10 Child Safe Standards (rec 6.5), which organisations the standards should apply to (rec 6.9) and the role of an independent oversight body to monitor and enforce the standards (rec 6.10 and 6.11) to promote child safety across organisations and the role of child safety officers in local government (rec 6.12).

The Royal Commission also envisioned that the National Office for Child Safety (rec 6.16 and 6.17) would have a key role in collaborating with the Commonwealth, State and Territory governments to support national consistency. It would do this by leading capacity building and continuous improvement of child safe initiatives through resources development, best practice material and evaluation. They also expected the National Office for Child Safety to promote participation and empowerment of children and young people.

### Comment

The purpose of this report is to inform Council and to endorse comment in response to the discussion paper from the Department of Communities. As part of Phase 2 of the consultation process the discussion paper has been developed to enable individual Local Governments to provide their feedback.

The roles and responsibilities of a Child Safety Officer are broad in nature and far reaching. Four key functions have been identified but the cost to the Shire of Ngaanyatjarraku is not clear. The Land Service Review will assist to identify opportunities to access funding to develop and implement the necessary resources for basic service provision to the lands communities.

While in principle the Shire of Ngaanyatjarraku can support the Child Safety Officer role as part of Local Governments community service care and welfare responsibility, this can only be made possible for the Shire through the provision of adequate funding from State and/or Federal sources.



## **Statutory Environment**

Section 2.7 of the Local Government Act 1995 states:

*“Role of council*

*(1) The council —*

*(a) governs the local government’s affairs; and*

*(b) is responsible for the performance of the local government’s functions.*

*(2) Without limiting subsection (1), the council is to —*

*(a) oversee the allocation of the local government’s finances and resources; and*

*(b) determine the local government’s policies.”*

## **Financial Implications**

The Shire has identified in its Long Term Financial Plan insufficient funds to increase service levels without adequate resourcing from State and Federal funding bodies.

## **Strategic Implications**

Integrated Strategic Plan 2018 – 2028

Goal 2, Looking after our people

Outcome 2.2 Healthy People

Goal 3, Leadership

Outcome 3.2, Good Leadership

Strategy, 3.1.2 Financially sustainable local government

## **Risk Management**

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Strategy, Risk Assessment Matrix. The perceived level of risk is high without the appropriate level of funding to support adequate resourcing for a dedicated Child Support Officer.

## **Policy Implications**

Not Applicable.

## **Attachments**

Attachment 11.4 - Discussion paper regarding implementation of Child Safety Officers and completed response questions at Section 6

## **Voting Requirement**

Simple Majority

### **Officers Recommendation and Council Resolution**

**Moved: Cr A Jones**

**Seconded: Cr L West**

**That Council endorse the discussion paper questions response as attached and direct the Chief Executive Officer to submit to Department of Communities prior to 2 April 2021.**

**Carried: 6/0**

## 12. DIRECTOR GOVERNANCE & CORPORATE REPORTS

### 12.1 AMENDMENTS TO LOCAL GOVERNMENT ACT AND REGULATIONS

<b>FILE REFERENCE:</b>	GV.00
<b>AUTHOR'S NAME AND POSITION:</b>	Cary Green Director Governance and Corporate
<b>AUTHORISING OFFICER AND POSITION</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	23 March 2021
<b>DISCLOSURE OF INTERESTS:</b>	The author has no financial, proximity or impartiality interest in the proposal.

#### Summary

To note the changes that took effect to the Code of Conduct for Council Members, Committee Members, and candidates for election from 4 February 2021 and for Council to determine some matters which arose, consequently.

#### Background

The commencement, in February 2021 of provisions of the Local Government (Model Code of Conduct) Regulations 2021, Local Government (Administration) Amendment Regulations 2021 and Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021 provide:

- for the introduction of a mandatory code of conduct for council members, committee members and candidates for election.
- a requirement to adhere to minimum standards covering the recruitment, selection, performance review and early termination of Chief Executive Officers.
- a requirement to prepare and adopt a code of conduct for employees as soon as is practicable

Although the changes had been foreshadowed by the State Government during 2019 and 2020, with consultation papers produced and extensive submissions were lodged by WALGA, LG Professionals and local governments highlighting concerns and issues, many of a practical nature, little notice seems to have been taken.

Nonetheless the short notice for coming into effect of some of the provisions seems entirely unwarranted and imposes administrative burdens on small local governments to comply at a time when priorities include completion of the Compliance Audit Return and preparation of the March Budget Review.

#### Comment

##### 1. Code of Conduct for council members, committee members and candidates for election.

The Regulations provide a mandatory code of conduct with three parts and apply to council members, committee members and candidates running for election:

- Part A – principles - overarching behaviours that council members, committee members and candidates must take into consideration in their role as public representatives, or potential public representatives.
- Part B – behaviour - sets out the standards of behaviour which enable and empower council members to meet the principles outlined in Part A. Behaviour is expected to be managed at the local level by the local government, so Part B also deals with how complaints are to be managed.

- Part C – rules of conduct - matters that negatively affect the honest or impartial performance of a council member or involve a breach of trust placed in the council member or involve the misuse of information or material.

Local governments must adopt their own Code within three months of the amendments taking effect, which may be the “model” Code, which took effect on Feb 3 2021, with or without additional provisions.

Until their own Code is adopted, the model Code applies.

Local government cannot amend Parts A and C, but may amend B, if not inconsistent with Code.

There are also some general principles which apply to council members, committee members and/or candidates including matters relating to:

- general principles (personal integrity) – council members and committee members only
- general principles (personal integrity) – council members, committee members and candidates
- general principles (relationships with others) - council members and committee members only
- general principles (accountability) - council members and committee members only
- behaviour (personal integrity) – council members and committee members only
- behaviour (personal integrity) – council members, committee members and candidates
- behaviour (relationships with others) – council members, committee members and candidates

This means that as of 3 February 2021 the Shire of Ngaanyatjarraku has a new Code of Conduct (Attachment 12.1) applying to Council Members, Committee Members, and candidates at elections.

The prior Code of Conduct as it relates to Council Members and Committee Members is overridden by the new Code.

The Council must determine by May 4 to either adopt the (model) Code as its Code of Conduct, or to adopt a version which complies and is tailored for the Shire of Ngaanyatjarraku.

It is recommended that Council adopt the (model) Code as its Code of Conduct to satisfy this requirement and if the decision is made after May 2021 to include other provisions that can readily occur. In any event, the incoming Council following the October 2021 ordinary elections should also be invited to consider and “reaffirm” the Code of Conduct.

All Council Members will be provided with the new Code of Conduct - note the reference to Committee Members means persons who are not Council Members or employees, and who are otherwise bound by Code of Conduct provisions - usually an external appointment to the Audit Committee.

Other matters include:

- Dealing with complaints about alleged breaches
- Local government to deal with complaints, make finding and determine action, if proven
- Rules of Conduct matters:
  - Misuse of local government resources, especially for electoral purposes
  - Prohibition on securing personal advantage or disadvantage to others
  - Prohibition against involvement in administration
  - Relations with local government employees – council members and candidates
  - Disclosure of information
  - Disclosure of interests

Most of the provisions in the new Code are the same, or like existing provisions in the Shire of Ngaanyatjaraku Code of Conduct for Council Members and Committee Members.

Obviously, there is a new provision in the Code of Conduct which applies standards of behaviour to candidates for election.

These provisions effectively apply to all candidates for election but can only be enforced if a candidate is successful in being elected - thus it is unenforceable against candidates who are unsuccessful.

## 2 Appointment of Complaints Officer

The Code requires at 11(3) - "The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints." and DLGSCI advise that this appointment should occur prior to February 26 2021.

This relates to Division 3 of the Code of Conduct and applies to Council Members, Committee Members and candidates regarding:

- personal integrity
- relationships with others
- Council or Committee meetings

It should be noted that there will be, thus 2 Complaints Officers for 2 different purposes - but of course they may be the same person.

There is a requirement under s5.120 of the LGA to appoint a Complaints Officer (who is the CEO, by default, unless another employee is appointed), in relation to the (former) Rules of Conduct Regs matters, which are now incorporated into the Code of Conduct via Division 4 of the Regs.

These apply to Council Members and candidates but not Committee Members and relate to:

- misuse of local government resources
- securing personal advantage or disadvantaging others
- prohibition against involvement in administration
- relationship with local government employees
- disclosure of information
- disclosure of interests

As this decision to appoint the CI 11 (2) Complaints Officer is made by the local government it is capable of being delegated to the CEO under s5.42 of the LGA. Accordingly, it is proposed that the CEO be delegated to make the appointment.

In time Council may wish to consider authorising the Shire President to be a Complaints Officer, and the Deputy President to be a Complaints Officer (in relation to complaints against the Shire President). This would allow the CEO to be the Complaints Officer in relation to complaints made by the Deputy President against the Shire President, and in relation to complaints jointly against the Shire President and the Deputy President.

## 3 Approval of Complaints Form

Local Governments must also approve a complaint form in accordance with cl. 11(2)(a) of the Code of Conduct. It is proposed that the DLGSC template be used for this purpose and it is attached.

## **Statutory Environment**

On February 3, 2021 changes took effect to the:

- Local Government Act 1995,

- Local Government (Model Code of Conduct) Regulations 2021
- Local Government (Administration) Amendment Regulations 2021 and
- Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021 commenced.

### **Financial Implications**

There are no financial implications resulting from the recommendations of this report.

### **Strategic Implications**

Integrated Strategic Plan 2018 - 2028

Goal 3, Leadership

Outcome 3.2, Good Leadership

### **Risk Management**

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

### **Policy Implications**

The new Code of Conduct for Council Members, Committee Members and candidates for election will replace the former relevant Code provisions in the Council Policy Manual.

The remaining provisions of the former Code regarding employees will continue until the CEO makes a new Code to apply to employees.

In due course, when the CEO makes the Code of Conduct for employees, it will be included in the CEO Procedures Manual.

### **Attachments**

Attachment 12.1(a) - Shire of Ngaanyatjarraku Code of Conduct

Attachment 12.1(b) - Complaints Form pursuant to Code of Conduct

### **Voting Requirement**

Simple Majority or Absolute Majority as shown

**Officers Recommendation and Council Resolution**

**Moved en bloc by Absolute Majority: Cr J Frazer**

**Seconded: Cr D Frazer**

**That, in relation to the Code of Conduct applying, by default to Council Members, Committee Members and candidates for election, that Council resolves:**

- 1. by absolute majority to adopt and apply the model Code of Conduct (as attached) as per the Local Government (Model Code of Conduct) Regulations 2021,**
- 2. that the CEO consider any subsequent advice provided by the DLGSCI, WALGA and LG Professionals and bring a further report to a subsequent Council Ordinary Council Meeting on options for a tailored Code of Conduct to be adopted by the Shire of Ngaanyatjarraku and applied to Council Members, Committee Members, and election candidates,**
- 3. by absolute majority, pursuant to s5.42 of the Local Government Act 1995 to delegate authority to the CEO to appoint the Complaints Officer for the purposes of cl11(3) of the Code of Conduct for Council Members, Committee Members, and election candidates, and that this happen expeditiously following the Council meeting to ensure compliance.**
- 4. that the Complaint Form for the purposes of cl 11(2) of the Code of Conduct for Council Members, Committee Members, and election candidates, be approved, as attached.**
- 5. in relation to the Code of Conduct for Employees, that the CEO is encouraged to seek the views of all employees on whatever draft is proposed, especially regarding the gift limits and processes.**
- 6. Council be provided with a briefing in due course on the final form of the Code of Conduct for employees so that Council Members are generally aware of the rules applying to all employees.**

**Carried: 6/0**

## 12.2 AMENDMENTS TO LOCAL GOVERNMENT ACT AND REGULATIONS – CEO STANDARDS

<b>FILE REFERENCE:</b>	PL.00
<b>AUTHOR'S NAME AND POSITION:</b>	Cary Green Director Governance and Corporate
<b>AUTHORISING OFFICER AND POSITION</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	23 March 2021
<b>DISCLOSURE OF INTERESTS:</b>	<p>The CEO is affected by the CEO Standards but given they became Council Standards by virtue of legislation, with no requirement for Council consent, there is no interest to declare in relation to this Report.</p> <p>If additional Standards are considered for adoption by Council, and which may affect the CEO, then appropriate disclosures will be made.</p> <p>In relation to the Officer Recommendation regarding the CEO's contract and discussions with the Shire President to ensure no contradictions exist, the CEO declares an interest in that matter and proposes to leave the Chamber for those discussions and the decision.</p> <p>The CEO had no role in the preparation of this Report and recommendation regarding this issue, with the DGC commissioning the consultant to prepare the agenda item.</p> <p>The consultant has no interests that need to be disclosed in relation to this report, but in any event as the author of a report to Council must comply with provisions regarding certain types of interests.</p>

### **Summary**

A range of legislative changes that commenced in early February 2021.

One of those matters relates to the need to adhere to minimum standards covering the recruitment, selection, performance review and early termination of Chief Executive Officers (CEO).

### **Background**

The commencement, in February 2021 of provisions of the Local Government Act 1995, and the Local Government (Administration) Amendment Regulations 2021 include a requirement to adhere to minimum standards covering the recruitment, selection, performance review and early termination of Chief Executive Officers.

Although the changes had been foreshadowed by the State Government during 2019 and 2020, with consultation papers produced and extensive submissions were lodged by WALGA, LG Professionals and local governments highlighting concerns and issues, many of a practical nature, little notice seems to have been taken.

Nonetheless the short notice for coming into effect of some of the provisions seems entirely unwarranted and imposes administrative burdens on small local governments to comply at a time when priorities include completion of the Compliance Audit Return and preparation of the March

Budget Review.

## **Comment**

### 1. Standards for the recruitment, selection, performance review and termination of Local Government CEOs.

In October 2020, the DLGSCI published draft regulations that would introduce mandatory minimum standards covering the recruitment, selection, performance review and early termination of local government Chief Executive Officers.

The model Standards became operative 3 February 2021, and prescribe model standards for the recruitment, selection, performance review and termination of Local Government CEOs.

The Standards are therefore now the Standards of the Shire of Ngaanyatjarraku and are at Attachment 12.2.

In addition to prescribing minimum requirements for these processes, the CEO Standards will also require Local Governments to advertise the position of CEO if a period of 10 or more years has elapsed since a recruitment process has been carried out.

The Council may, in due course vary them to reflect localised circumstances, by adding additional provisions.

The Standards deal with such matters as:

1. Recruitment of CEOs - selection criteria, job description, advertising the vacancy, selection panel,
2. Contract of employment, mandatory advertising after 10 years of incumbency,
3. Performance review of CEO
4. Termination of CEO

There are additional requirements in the Regulations dealing with the employment or termination of the CEO and which require the Council to “certify” certain matters (in such an event) by way of resolution and to provide same to the DLGSCI.

There are also matters in the new Regulations regarding the performance review of the CEO which need to accord with those in the current CEO contract.

WALGA has recommended that Shire Presidents and CEOs should initiate discussions to determine whether any inconsistencies exist between the CEO Standards and the CEO’s employment contract and previously agreed Performance Review arrangements.

If inconsistencies exist, it may be appropriate to seek industrial relations advice to assist with negotiation and referral to Council (as the employing authority) for decision if required.

The President and CEO will meet to consider these matters and form the view whether there are no inconsistencies that warrant a further review or rewrite of the CEO’s contract.

### 2. Policy on Acting CEO Appointment

New s5.39C of the LGA require Council to adopt (by absolute majority) a Policy for temporary employment or appointment of an acting CEO.

Current Policy 3.2:

***In accordance with the legislative requirements, the Council has determined persons appointed as the permanent incumbent to a role which has been classified as a designated employee as defined within the Local Government Act 1995 (i.e. senior employee) are***



***suitably qualified to act as Chief Executive Officer.***

***Senior employees will be appointed to the role of Acting Chief Executive Officer at the discretion of the Chief Executive Officer, giving consideration to operational requirements and performance.***

***All appointments to the role of Acting Chief Executive Officer shall be made in writing and are not to exceed a period of three months. A Council resolution is required for appointments exceeding three months.***

***In the event of unforeseen absences of the Chief Executive Officer (such as illness), the default Acting Chief Executive Officer will one of the current Directors, as determined at the time.***

There is some ambiguity in the Policy wording, such as it not being clear the 3 months limit to an appointment is cumulative, or in any one appointment, and in any event, it is not clear if it was adopted in 2020 by absolute majority (as is now required pursuant to the LGA).

The CEO has delegated authority to appoint the ACEO, compliant with Policy 3.2.

DLGSCI advises that where the role of CEO is not fulfilled for a significant period, this leads to increased risk to the operations and governance of the local government.

Therefore, local governments are required to develop and implement a policy that outlines the arrangements to temporarily replace a CEO for any period less than twelve months, for example, when a CEO is on planned or unplanned leave.

The policy must include the decision-maker(s) for appointing an acting CEO.

The policy must be made available on the local government's official website.

Policy 3.2, as redrafted is proposed for adoption by Council, by absolute majority:

***The CEO has delegated authority to appoint an Acting Chief Executive Officer pursuant to delegation .... and in accordance with this Policy.***

***All such appointments by the CEO must be advised to all Council Members.***

***In accordance with s5.39C of the LGA 1995, the Council has determined that employees holding positions designated as a Senior Employee as defined within the Local Government Act 1995 are suitably qualified to act as Chief Executive Officer.***

***Only designated Senior Employees may be appointed to the role of Acting Chief Executive Officer by the Chief Executive Officer, under delegated authority and considering operational requirements and performance.***

***Any decision to appoint a person, other than a designated Senior Employee as Acting CEO must be determined by Council.***

***All appointments to the role of Acting Chief Executive Officer shall be made in writing and are not to exceed a period of three months, in total.***

***Council will determine appointments as ACEO which exceeding three months in length, in one or more consecutive appointments.***

#### **Statutory Environment**

On 3 February 2021 changes took effect to the Local Government Act 1995, and the Local Government (Administration) Amendment Regulations 2021.

### **Financial Implications**

There are no financial implications resulting from the recommendations of this report.

### **Strategic Implications**

Integrated Strategic Plan 2018 - 2028

Goal 3, Leadership

Outcome 3.2, Good Leadership

### **Risk Management**

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is "Low" risk and can be managed by routine procedures and is unlikely to need specific application of resources.

### **Policy Implications**

The CEO Standards will need to be included as Council Policy..

### **Attachments**

Attachment 12.2 - Shire of Ngaanyatjarraku CEO Standards

### **Voting Requirement**

Simple Majority or Absolute Majority as shown in Recommendation

#### **Council Resolution**

**Moved: Cr J Frazer                      Seconded: Cr D Frazer**

#### **That Council resolves:**

- 1 By simple majority to request the Shire President, having examined the CEO's contract, in conjunction with the CEO and the Shire lawyers McLeods, to provide a report to a future Council meeting as to whether there are any material contradictions between the CEO's contract and the Standards, especially in relation to performance management criteria and processes.**
- 2 By simple majority to await a new template for the CEO contract for incorporating the relevant CEO Standards, but if such is likely to take longer than three (3) months, that a further report be brought to Council for consideration of other options.**
- 3 By simple majority to accept the assurance from CEO that until the current CEO Contract is revised and brought to Council for endorsement (if it needs amendment), that the CEO will observe the requirements of the relevant CEO Standards, be accepted.**
- 4 By simple majority that until the current CEO Contract is revised and brought to Council for endorsement, Council will observe the requirements of the relevant CEO Standards.**
- 5 By simple majority that Council members requiring further information on the CEO Contract and CEO Standards contact the Shire President, or Director Governance and Strategic.**

**Carried: 6/0**

Note: Officers recommendation amended at Item 1 to include advice from Shire Lawyers and former Item 2 has been removed until further advice is received from Shire Lawyers.

## 13. EHO & BUILDING SERVICES REPORT

## 14. WORKS ENGINEERING REPORTS

### 14.1 ACTION REPORT – WORKS ENGINEER

<b>FILE REFERENCE:</b>	RD.00
<b>AUTHOR'S NAME AND POSITION:</b>	Peter Kerp Works Engineer
<b>AUTHORISING OFFICER AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	16 March 2021
<b>DISCLOSURE OF INTERESTS:</b>	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

#### **Summary**

To inform Council of Works Engineering activities and actions for the preceding months.

#### **Background**

Not applicable

#### **Comment**

See attachment.

#### **Statutory Environment**

Not applicable

#### **Financial Implications**

No known financial implications for this matter.

#### **Strategic Implications**

Integrated Strategic Plan  
2018 -2028 Goal 1, Our  
Land Outcome 1.2,  
Travel the Land  
Strategy: 1.2.1, Good  
Roads

#### **Risk Management**

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is "Low" risk and can be managed by routine procedures and is unlikely to need specific application of resources.

#### **Policy Implications**

There are no known policy implications for this matter

#### **Attachments**

Attachment 14.1 – Action Report, Works Engineering

#### **Voting Requirement**

Simple Majority Required.

Cr L West left the Chamber at 1.50pm  
Cr L West returned to the Chamber at 1.51pm

**Officers Recommendation and Council Resolution**

**Moved: Cr A Jones      Seconded: Cr J Frazer**

**That Council receives the Action Report, Works Engineering for February 2021.**

**Carried: 6/0**

**15. NEW BUSINESS OF AN URGENT NATURE AS ADMITTED BY DECISION**

**16. CONFIDENTIAL MATTERS**

**17. NEXT MEETING**

Scheduled for Wednesday, 28 April 2021 at the Tjulyuru Cultural and Civic Centre, Warburton Community commencing at 1:00 pm.

**18. CLOSURE OF MEETING**

There being no further business to discuss the Presiding Member closed the meeting at 1.53pm.