



Shire of Ngaanyatjaraku
ON A JOURNEY

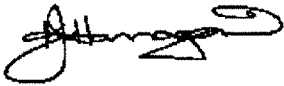
ORDINARY MEETING OF COUNCIL

MINUTES

27 May 2020
at
1.01 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.

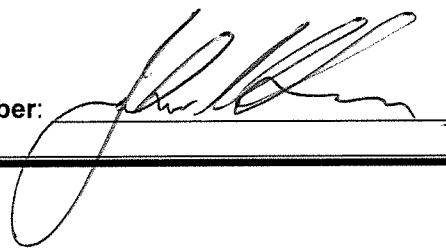


Chief Executive Officer

Date: 27-05-2020

These minutes were confirmed by Council as a true and correct record of proceedings of the Meeting of Council held on the 27 May 2020.

Presiding Member:



Date: 24/6/2020

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1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at 1.01pm.

2. ANNOUNCEMENT OF VISITORS

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

3. ATTENDANCE

3.1 PRESENT

Elected Members:	President Councillor Councillor Councillor Councillor Councillor	D McLean J Frazer A Jones L West J Porter D Frazer
Staff:	CEO FAC	K Hannagan (by phone from 1.02pm) G Handy
Guests:	Member for NWC	Vince Catania MLA (by phone from 1.30pm)
Members of Public:	There was one member of the public (Harriet Olney, Independent, NCAC) in attendance at the commencement of the meeting.	

3.2 APOLOGIES

Cr. P Thomas

3.3 APPROVED LEAVE OF ABSENCE

Cr. A Bates

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4.2 PUBLIC QUESTION TIME

Note: As the meeting was to be held by electronic means Public Questions were invited to be submitted by email to mail@ngaanyatjarraku.wa.gov.au or would be accepted at the Shire Office, Warburton prior to 10am Wednesday 29 April 2020.

No Questions received.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Cr Alwyn Bates has applied for a leave of absence as per Attachment 5.

Voting Requirement

Simple Majority

Officers Recommendation and Council Resolution

Moved: Cr A Jones Seconded: Cr J Porter

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 24 June 2020 Ordinary Meeting of Council.

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 (ATT 9.1)

Voting Requirement
Simple Majority

Officers Recommendation and Council Resolution

Moved: Cr L West Seconded: Cr J Frazer

That the Unconfirmed Minutes of the Ordinary Meeting of Council held on 29 April 2020 at the Council Chambers, Tjulyuru Cultural and Civic Centre, Warburton Community (ATTACHMENT 9.1) be confirmed as a true and accurate record.

Carried: 6/0

10. CEO REPORTS

10.1 PROGRESS ON THE IMPLEMENTATION OF COUNCIL RESOLUTIONS

FILE REFERENCE:	GV.05
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	16 May 2020
DISCLOSURE OF INTERESTS:	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

Wherever possible, Council decisions are implemented as soon as practicable after a Council meeting. However, there are projects or circumstances that mean some decisions take longer to action than others.

Ongoing monthly reports will show the status of Council Resolutions that have not been actioned.

Generally, all resolutions have been enacted. Some matters are of an on-going nature and will take several months to complete. Attached is a list of those items not yet completed.

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 D Frazer Seconded: Cr J Porter

That Council notes the attached Council Resolutions – Status as at April 2020 (Attachment 10.1) and this report.

Carried: 6/0

10.2 APPROVAL FOR USE OF SHIRE VEHICLE FOR COMMUNITY USE

FILE REFERENCE: CR.00

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

DATE REPORT WRITTEN: 22 May 2020

DISCLOSURE OF INTERESTS: The author has no financial, proximity or impartiality interest in the proposal.

Summary

For Council to endorse action of the Finance & Administration Coordinator.

Background

The Finance and Administration Coordinator was approached by the Chairman of NCAC, Mr D Harris on Thursday 21 May 2020 with a request to use a Shire vehicle and trailer to enable Mr. Harris to collect firewood for the Church. As the Communities CDP Program was on hold due to the Covid19 pandemic he was not able to use CDP equipment to do so.

Given the short notice, the Shire Officer was not able to seek the Chief Executive Officers comment and agreed to the loan of the Warburton rubbish collection trailer. The trailer was to be returned in good order as the Shire had recently had it repaired.

Comment

The Shire does not have a Fee & Charge for community use of Shire equipment, even if it did, in this instance the community member expected to use the equipment free of charge.

Neither do Shire Officers have Delegated Authority to loan Shire equipment for personal or community use.

Statutory Environment

Local Government Act 1995

2.7. 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

There are no known financial implications for this matter, subject to the trailer being returned in good working order. Note: - trailer returned same day in working order, no damage.

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

Not Applicable

Voting Requirement

Simple Majority

Officers Recommendation and Council Resolution

Moved: Cr A Jones Seconded: Cr D Frazer

That Council endorses the action of the Finance and Administration Coordinator in agreeing to the use of a Shire rubbish trailer as outlined in this report.

Carried: 6/0

11 DEPUTY CEO REPORTS

11.1 PAYMENTS LISTING, APRIL 2020

FILE REFERENCE:	FM.07
AUTHOR'S NAME AND POSITION:	Kerry Fisher Deputy Chief Executive Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	9 May 2020
DISCLOSURE OF INTERESTS:	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's 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 D Frazer Seconded: Cr L West

That Council receives the Payment Listing, April 2020 totaling payments of \$676,633.47 as per Attachment 11.1.

Carried: 6/0

11.2 COUNCIL INVESTMENTS

FILE REFERENCE:	FM.04
AUTHOR'S NAME AND POSITION:	Kerry Fisher Deputy Chief Executive Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	22 April 2020
DISCLOSURE OF INTERESTS:	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.

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

Not applicable.

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 CS2.7 Investments.

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 J Porter

That the report on Council Investments as at 21 May 2020 be received.

Carried: 6/0

11.3 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDED

FILE REFERENCE:	FM.10
AUTHOR'S NAME AND POSITION:	Kerry Fisher Deputy Chief Executive Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	18 May 2020
DISCLOSURE OF INTERESTS:	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 April 2020.

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.

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 subregulation (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 11.5 - Monthly Financial Report April 2020.

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 April 2020.

Carried: 6/0

11.4 NATIONAL REDRESS SCHEME (PARTICIPATION OF WA LOCAL GOVERNMENTS)

FILE REFERENCE:	GR.00
AUTHOR'S NAME AND POSITION:	Kerry Fisher Deputy Chief Executive Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	9 May 2020
DISCLOSURE OF INTERESTS:	Nil

Summary

This report is for Council to:

- Note the background information and the WA Government's decision in relation to the National Redress Scheme;
- Note the key considerations and administrative arrangements for the Shire of Ngaanyatjarraku to participate in the National Redress Scheme;
- Formally endorse the Shire of Ngaanyatjarraku's participation as part of the WA Government's declaration in the National Redress Scheme; and
- Grant authority to an appropriate position / officer to execute a service agreement with the State, if a Redress application is received.

Background

The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) was established in 2013 to investigate failures of public and private institutions to protect children from sexual abuse. The Royal Commission released three reports throughout the inquiry:

- Working with Children Checks (August 2015);
- Redress and Civil Litigation (September 2015); and
- Criminal Justice (August 2017).

The Royal Commission's Final Report (15 December 2017) incorporated findings and recommendations of the three previous reports and contained a total of 409 recommendations, of which 310 are applicable to the Western Australian Government and the broader WA community.

The implications of the Royal Commission's recommendations are twofold: the first is accountability for historical breaches in the duty of care that occurred before 1 July 2018 within any institution; the second is future-facing, ensuring better child safe approaches are implemented holistically moving forward.

The scope of this report addresses only the historical element of institutional child sexual abuse through the National Redress Scheme.

All levels of Australian society (including the WA local government sector and the Shire of Ngaanyatjarraku) will be required to consider leading practice approaches to child safeguarding separately in the future.

National Redress Scheme

The Royal Commission's Redress and Civil Litigation (September 2015) Report recommended the establishment of a single National Redress Scheme (the Scheme) to recognise the harm suffered by survivors of institutional child sexual abuse.

The Scheme acknowledges that children were sexually abused, recognises the suffering endured, holds institutions accountable and helps those who have been abused access counselling, psychological services, an apology and a redress payment.

The Scheme commenced on 1 July 2018, will run for 10 years and offers eligible applicants three elements of Redress:

- A direct personal response (apology) from the responsible institution, if requested;
- Funds to access counselling and psychological care; and
- A monetary payment of up to \$150,000.

All State and Territory Governments and many major non-government organisations and church groups have joined the Scheme.

The WA Parliament has passed the legislation for the Government and WA based non-government organisations to participate in the National Redress Scheme.

The Western Australian Government (the State) started participating in the Scheme from 1 January 2019.

Under the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth), local governments may be considered a State Government institution.

A decision was made at the time of joining the Scheme to exclude WA local governments from the State Government's participation declaration. This was to allow consultation to occur with the sector about the Scheme, and for fuller consideration of how the WA local government sector could best participate.

Comment

Following extensive consultation, the State Government (December 2019):

- Noted the consultations undertaken to date with the WA local government sector about the National Redress Scheme;
- Noted the options for WA local government participation in the Scheme;
- Agreed to local governments participating in the Scheme as State Government institutions, with the State Government covering payments to the survivor; and
- Agrees to the Department of Local Government, Sport and Cultural Industries (DLGSC) leading further negotiations with the WA local government sector regarding local government funding costs, other than payments to the survivor including counselling, legal and administrative costs.

The following will be covered for local governments participating in the Scheme as a State Government institution and part of the State's declaration:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination of requests for information and record keeping in accordance with the State Records Act 2000); and
- Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below for further explanation).

State Government financial support for local government participation in the Scheme, as set out, will ensure that Redress is available to as many WA survivors of institutional child sexual abuse as possible.

Individual local governments participating in the Scheme as a State Government institution, with the State will be responsible for:

- Providing the State with the necessary (facilities and services) information to participate in the Scheme;
- Resources and costs associated with gathering their own (internal) information and providing that information (Request for Information) to the State (if they receive a Redress application); and
- Costs associated with the delivery of a DPR (apology), if requested (based on a standard service fee, plus travel and accommodation depending on the survivor's circumstance). The State's decision includes that all requested DPR's will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice, on every occasion.

The WALGA State Council meeting of 4 March 2020:

1. Acknowledged the State Government's decision to include the participation of Local Governments in the National Redress Scheme as part of the State's declaration.
2. Endorsed the negotiation of a Memorandum of Understanding and Template Service Agreement with the State Government, and
3. Endorsed by Flying Minute the Memorandum of Understanding prior to execution, to uphold requirements to respond within legislative timeframes.

The State and WALGA will sign a Memorandum of Understanding to reflect the principles of WA local governments participating in the Scheme as State Government institutions and being part of the State's declaration.

State agencies (led by DLGSC), WALGA and Local Government Professionals WA will support all local governments to prepare to participate in the Scheme from 1 July 2020 (or earlier, subject to completing the necessary arrangements).

The State's decision allows for the WA Government's Scheme participation declaration to be amended to include local governments and this report seeks endorsement of the Shire of Ngaanyatjarraku's participation in the Scheme.

As an independent entity and for absolute clarity, it is essential that the Shire of Ngaanyatjarraku formally indicates via a decision of Council, the intention to be considered a State Government institution (for the purposes on the National Redress Scheme) and be included in the WA Government's amended participation declaration.

The Shire of Ngaanyatjarraku will not be included in the State's amended declaration unless it formally decides to be included.

The financial and administrative coverage offered by the State will only be afforded to WA local governments that join the Scheme as a State Government institution, as part of the State's amended declaration.

The option also exists for the Shire of Ngaanyatjarraku to formally decide not to participate in the Scheme (either individually or as part of the State's declaration).

Should the Shire of Ngaanyatjarraku formally decide (via a resolution of Council) not to participate with the State or in the Scheme altogether, considerations for the Shire of Ngaanyatjarraku include:

- Divergence from the Commonwealth, State, WALGA and the broader local government sector's position on the Scheme (noting the Commonwealth's preparedness to name-and-shame non-participating organisations).
- Potential reputational damage at a State, sector, and community level.
- Complete removal of the State's coverage of costs and administrative support, with the Shire of Ngaanyatjarraku having full responsibility and liability for any potential claim.
- Acknowledgement that the only remaining method of redress for a victim and survivor would be through civil litigation, with no upper limit, posing a significant financial risk to the Shire of Ngaanyatjarraku.

Considerations for the Shire of Ngaanyatjarraku

Detailed below is a list of considerations for the Shire of Ngaanyatjarraku to participate in the Scheme:

1. Executing a Service Agreement:

All Royal Commission information is confidential, and it is not known if the Shire of Ngaanyatjarraku will receive a Redress application. A Service Agreement will only be executed if the Shire of Ngaanyatjarraku receives a Redress application.

Shire of Ngaanyatjarraku needs to give authority to an appropriate position / officer to execute a service agreement with the State if a Redress application is received. Timeframes for responding to a Request for Information are 3 weeks for priority applications and 7 weeks for non-priority applications. A priority application timeframe (3 weeks) will be outside most Council meeting cycles and therefore it is necessary to provide the authorisation to execute an agreement in advance.

2. Reporting to Council if / when an application is received

Council will receive a confidential report, notifying when a Redress application has been received. All information in the report will be de-identified but will make Council aware that an application has been received.

3. Application Processing / Staffing and Confidentiality

Administratively the Shire of Ngaanyatjarraku will determine:

- Which position(s) will be responsible for receiving applications and responding to Requests for Information;
- Support mechanisms for staff members processing Requests for Information.

The appointed person(s) will have a level of seniority in order to understand the magnitude of the undertaking and to manage the potential conflicts of interest and confidentiality requirements

4. Record Keeping

The State Records Office advised (April 2019) all relevant agencies, including Local Governments, of a 'disposal freeze' initiated under the State Records Act 2000 (the Act) to protect past and current records that may be relevant to actual and alleged incidents of child sexual abuse. The Shire of Ngaanyatjarraku's record keeping practices as a result, have been modified to ensure the secure protection and retention of relevant records. These records (or part thereof) may be required to be provided to the State's Redress Coordination Unit in relation to a Redress application.

The Redress Coordination Unit (Department of Justice) is the state record holder for Redress and will keep copies of all documentation and RFI responses. Local Governments will be required to keep their own records regarding a Redress application in a confidential and secure manner, and in line with all requirements in The Act.

5. Redress Decisions

The Shire of Ngaanyatjarraku should note that decisions regarding Redress applicant eligibility and the responsible institution(s), are made by Independent Decision Makers, based on the information received by the applicant and any RFI responses. The State Government and the Shire of Ngaanyatjarraku do not have any influence on the decision made and there is no right of appeal.

Consultation

The State, through the Department of Local Government, Sport and Cultural Industries (DLGSC), consulted with the WA local government sector and other key stakeholders on the Royal Commission into Institutional Responses to Child Sexual Abuse (in 2018) and the National Redress Scheme (in 2019).

The consultation throughout 2019 has focused on the National Redress Scheme with the aim of:

- raising awareness about the Scheme;
- identifying whether WA local governments are considering participating in the Scheme;
- identifying how participation may be facilitated; and
- enabling advice to be provided to Government on the longer-term participation of WA local governments.

Between March and May 2019, DLGSC completed consultations that reached 115 out of 137 WA local governments via:

- Webinars to local governments, predominately in regional and remote areas;
- Presentations at 12 WALGA Zone and Local Government Professional WA meetings;
- Responses to email and telephone enquiries from individual local governments.

It was apparent from the consultations local governments were most commonly concerned about the:

- potential cost of Redress payments;
- availability of historical information;
- capacity of local governments to provide a Direct Personal Response (apology) if requested by Redress recipients;
- process and obligations relating to maintaining confidentiality if Redress applications are received, particularly in small local governments;
- lack of insurance coverage of Redress payments by LGIS, meaning local governments would need to self-fund participation and Redress payments.

LGIS published and distributed an update (April 2019) regarding the considerations and (potential) liability position of the WA local government sector in relation to the National Redress Scheme.

The WALGA State Council meeting on 3 July 2019 recommended that:

1. WA local government participation in the State's National Redress Scheme declaration with full financial coverage by the State Government, be endorsed in principle, noting that further engagement with the sector will occur in the second half of 2019.
2. WALGA continue to promote awareness of the National Redress Scheme and note that local governments may wish to join the Scheme in the future to demonstrate a commitment to the victims of institutional child sexual abuse.

DLGSC representatives presented at a WALGA hosted webinar on 18 February 2020 and presented at all WALGA Zone meetings in late February 2020.

The State's decision, to cover the costs / payments to the survivor, has taken into account the feedback provided by local governments during the consultation detailed above.

Statutory Environment

The Shire of Ngaanyatjarraku in agreeing to join the Scheme, is required to adhere to legislative requirements set out in the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth).

Authorisation of an appropriately appointed person to execute a service agreement with the State, if a Redress application is received, will be in accordance with s.9.49A(4) of the Local Government Act 1995.

Financial Implications

The State's decision will cover the following financial costs for local governments:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination or requests for information and record keeping); and
- Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below).

The only financial cost the local government may incur will be the payment of the DPR's, which is on an 'as requested' basis by the survivor. This will be based on the standard service fee of \$3,000 plus travel and accommodation depending on the survivor's circumstances. All requested DPR's will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice.

The State's decision also mitigates a significant financial risk to the local government in terms of waiving rights to future claims. Accepting an offer of redress has the effect of releasing the responsible participating organisation and their officials (other than the abuser/s) from civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme. This means that the person who receives redress through the Scheme, agrees to not bring or continue any civil claims against the responsible participating organisation in relation to any abuse within the scope of the Scheme.

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's 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 11.4 – Local Government Information Paper (December 2019).

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr D Frazer Seconded: Cr J Frazer

That Council:

- 1) Notes the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries regarding the National Redress Scheme and the participation of WA local governments;**
- 2) Notes that the Shire of Ngaanyatjarraku will not be included in the WA Government's amended participation declaration (and afforded the associated financial and administrative coverage), unless the Shire of Ngaanyatjarraku makes a specific and formal decision to be included;**
- 3) Endorses the participation of the Shire of Ngaanyatjarraku in the National Redress Scheme as a State Government institution and included as part of the State Government's declaration;**
- 4) Authorises the Chief Executive Officer to execute a service agreement with the State, if a Redress application is received; and**
- 5) Notes that a confidential report will be provided to Council if a Redress application is received by the Shire of Ngaanyatjarraku.**

Carried: 6/0

12. EHO & BUILDING SERVICES REPORTS

13. WORKS ENGINEERING REPORTS

14. NEW BUSINESS OF AN URGENT NATURE AS ADMITTED BY DECISION

Council Resolution

Moved: Cr A Jones Seconded: Cr J Frazer

That Council resolves to allow Vince Catania MLA, Member for North West Central to address the Council and seek their comments on issues arising from the Covid19 pandemic or any other issues the Shire may need assistance with.

Carried: 6/0

15. CONFIDENTIAL MATTERS

16. NEXT MEETING

Scheduled for Wednesday, 24 June 2020 at the Tjulyuru Cultural and Civic Centre, Warburton Community commencing at 1:00 pm.

17. CLOSURE OF MEETING

There being no further business to discuss the Presiding Member closed the meeting at 1.45 pm.