



Shire of Ngaanyatjaraku
ON A JOURNEY

**Minutes of Special Council Meeting
Held at Warburton
11th January 2017 at 11:00am**

SHIRE OF NGAANYATJARRAKU
SPECIAL COUNCIL MEETING
11 January 2017

A G E N D A

1. **OPENING OF MEETING BY SHIRE PRESIDENT**
2. **RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE**
3. **DECLARATION OF MEMBERS' AND OFFICERS' INTERESTS**
4. **QUESTION TIME**
5. **REPORTS BY THE CHIEF EXECUTIVE OFFICER**

Report No. SM001-17

Show Cause Notice to Council – Minister for Local
Government

MATTERS FOR THE INFORMATION OF MEMBERS

CLOSURE OF MEETING BY SHIRE PRESIDENT

**MINUTES OF SPECIAL COUNCIL MEETING
HELD ON 11th JANUARY 2017 AT 11:00AM (WST)
IN THE SHIRE OF NGAANYATJARRAKU MEETING ROOM**

The Shire President Cr McLean welcomed everyone to today's Special Meeting and declared it open at 11:09am.

PRESENT Cr. J.D. McLean (President)
Cr. A. Bates
Cr. P. Thomas
Cr. A. Jones
Cr. L. West

Mr. Chris Paget - Chief Executive Officer (via phone link)

APOLOGIES

Councillors B. Thomas, C.F. Twine and J. Frazer – all absent on leave

QUESTION TIME

No questions

DECLARATION OF MEMBERS' AND OFFICERS' INTERESTS

Mr. C. Paget declared an impartiality interest in Report SM001-17 as his role as CEO is referred to in the Show Cause Notice, and he is the author of the report to Council.

REPORTS BY THE CHIEF EXECUTIVE OFFICER

REPORT NO: SM001-17 TO: SPECIAL COUNCIL MEETING 11th JANUARY 2017
SUBJECT: SHOW CAUSE NOTICE TO COUNCIL – MINISTER FOR LOCAL GOVERNMENT

DATE: 9th January 2017

AUTHOR: Chris Paget, Chief Executive Officer

RESPONSIBLE OFFICER: Chris Paget, Chief Executive Officer

FILE NO: GV.00:090117

DISCLOSURE OF INTERESTS: The CEO declares an impartiality interest in this item as he is referenced in the Show Cause Notice.

TABLED

Correspondence from Minister Paul Miles MLA, dated 6th January 2017 and including ‘Show Cause’ Notice to Council.

PURPOSE

The purpose of this Agenda item is for Councillors to consider the correspondence addressed to the Shire President from the Hon. Paul Miles MLA Minister for Local Government, Community Services, Seniors & Volunteering, and Youth, which was sent on Friday 6th January 2017 and included a ‘Show Cause’ Notice to the Council in accordance with Section 8.15B of the *Local Government Act 1995*.

BACKGROUND

Minister Miles’ letter to the Shire President regards concerns in relation to Council failing to perform its functions correctly in its ability and capacity to meet statutory compliance reporting deadlines, which have now been noted in the Show Cause Notice.

The Minister has stated his intention in the Show Cause Notice is to “require the Council to undertake remedial action” to address the failures and deficiencies noted therein.

The Council is required to meet, consider and submit a response to the Show Cause Notice within 21 days after receipt of the Notice, i.e. prior to or by Friday 27th January 2017.

STATUTORY IMPLICATIONS

Local Government Act 1995 – Section 8.15:

8.15. Minister can take action to ensure that recommendations are put into effect

(1) The Minister may, if he or she thinks fit —

(a) after receiving the local government’s advice; or

(b) after the time allowed by or under section 8.14(3) runs out, if no advice has been received by then, order the local government, or any of its council members or employees, to give effect to any one or more of the recommendations in the report in a manner and within a time ordered by the Minister.

(2) If the Minister’s order under subsection (1) is not complied with according to its terms the Minister may, by order, suspend the council of the local government.

8.15A. Local government may have to meet inquiry costs

If—

(a) an authorised person makes findings adverse to a local government, or to its council or any member, or to any of its employees; or

(b) an inquiry by an authorised person was instituted at the request of a local government, the Minister may order the local government to pay all or part of the costs of the inquiry and the local government is to comply with that order.

[Section 8.15A inserted by No. 64 of 1998 s. 43.]

Division 2A — Council may be peremptorily suspended or required to undertake remedial action

[Heading inserted by No. 2 of 2012 s. 22.]

8.15B. Notice that council may be peremptorily suspended or required to undertake remedial action

(1) Before the Minister makes an order under section 8.15C(2), the Minister is to give a notice (a show cause notice) in writing to the local government of the intention to do one or both of the following —

(a) suspend the council of the local government;

(b) require the council, or one or more of the members of the council, to undertake such remedial action as is specified in the notice.

(2) Within 21 days of receiving a show cause notice, or such longer period as the Minister allows, the local government is to give the Minister a written response to the notice.

[Section 8.15B inserted by No. 2 of 2012 s. 22.]

8.15C. Minister may order that council be peremptorily suspended or required to undertake remedial action

(1) This section applies if the Minister thinks that —

(a) the seriousness or duration of a suspected failure of the council of a local government to ensure that the local government performs its functions properly; or

(b) such other factors as the Minister considers relevant, make it inappropriate for the council to act, or to continue to act, without intervention under this section, as the governing body of the local government, whether or not there has been an inquiry under Division 1.

(2) The Minister may —

(a) after receiving the local government's response under section 8.15B(2); or

(b) after the time allowed by or under section 8.15B(2) runs out, if no response has been received by then, by order, do one or more of the following —

(c) suspend the council;

(d) require the council, or one or more of the members of the council, to undertake such remedial action as is specified in the order.

(3) An order under this section suspending a council ceases to have effect when

(a) an Inquiry Panel is appointed to conduct an inquiry and make a report about the local government; or

(b) the council is reinstated by the Minister under section 8.28(3); or

(c) the period of 6 months from when the order was made ends, whichever happens soonest.

[Section 8.15C inserted by No. 2 of 2012 s. 22.]

POLICY IMPLICATIONS

New policies and operational procedures or amendments to existing policies and procedures will be required to be developed by the process.

FINANCIAL IMPLICATIONS

Council will be required to meet the costs of engaging the mentor who will oversee the remedial action processes as outlined.

STRATEGIC IMPLICATIONS

Shire of Ngaanyatjarraku Strategic Community Plan 2016-2026

Strategic Goal 4.2: A capable and compliant Local Government

RISK IMPLICATIONS

Failure to comply with legislative requirements leading to damage of Council's reputation and/or financial cost to the Council, and possible further intervention by the Minister and/or Department.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

Under the terms of the letter and Notice Council are being provided the opportunity to resolve the ongoing issues (via appointment of a mentor, the development of action plans and policy, and Council members undertaking relevant training) and move forward to be able to "*properly perform the functions set out in the Local Government Act 1995 in relation to providing for the good governance of persons in the district*" in the future.

The proposed actions program, which will be approved by the Director General of the Department of Local Government and Communities, will be developed to address all of the identified issues at point 2 in the Show Cause Notice. All Councillors and staff will be expected to take part in and assist with this process as well as continuing to perform all their duties as normal.

It is suggested any possible public commentary in relation to this matter be dealt with by the Shire President in order to achieve the best possible outcome for the process. Accordingly, Councillors and staff are reminded of their responsibilities under Council's adopted Code of Conduct for Council Members, Committee Members and Employees.

OFFICER'S RECOMMENDATION

- 1) That Council resolves to accept the substance of the concerns raised in the Show Cause Notice without reservation, and commits to engaging in a remedial action pathway put in place at the Minister's direction by the Department of Local Government in order to address the issues and assist the Shire of Ngaanyatjarraku; and
- 2) That Council's response to the Minister's letter and the Notice be prepared and forwarded at the earliest opportunity.

VOTING REQUIREMENT

Simple majority

MOVED Cr. Jones, seconded Cr. West, that the recommendation contained within report SM001-17 be adopted.

#SM001-17

RESOLUTION:

- 1) *That Council resolves to accept the substance of the concerns raised in the Show Cause Notice without reservation, and commits to engaging in a remedial action pathway put in place at the Minister's direction by the Department of Local Government in order to address the issues and assist the Shire of Ngaanyatjarraku; and*
- 2) *That Council's response to the Minister's letter and the Notice be prepared and forwarded at the earliest opportunity.*

CARRIED 5/0

MATTERS FOR THE INFORMATION OF MEMBERS

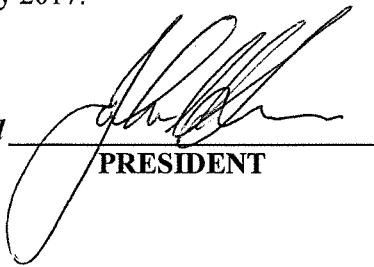
Nil

CLOSURE

There being no further business, the Shire President thanked everyone for their attendance and closed the meeting at 11.45am (WST).

These minutes of the meeting held 11th January 2017 were confirmed at the meeting held on 25th January 2017.

Signed



PRESIDENT

Date

25/1/17