



**Shire of Ngaanyatjaraku**  
ON A JOURNEY

**ORDINARY MEETING OF COUNCIL**

**MINUTES**

**29 June 2022**

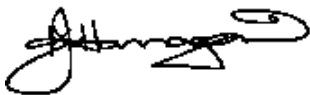
**at**

**1.04 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: 29-6-2022

These minutes were confirmed by Council as a true and correct record of proceedings of the Meeting of Council held on the 29 June 2022.

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



Date: 27/ 7 /2022

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**1. DECLARATION OF OPENING**

The Presiding Member declared the meeting open at 1.04pm.

**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 Councilor Councilor Councilor Councilor Councilor	D McLean D Frazer J Frazer L West J Porter A Jones
<b>Staff:</b>	CEO CFO AC DGC DIS	K Hannagan (via video-conference) K Fisher (via video-conference) S Richardson C Green (via video-conference) L Morgan
<b>Guests:</b>		
<b>Members of Public:</b>	There were no members of the public in attendance at the commencement of the meeting.	

**3.2 APOLOGIES**

Cr. P Thomas

**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**

Cr P Thomas has requested a leave of absence for the July Ordinary Council Meeting if need be.

<p><b>Council Resolution</b></p> <p><b>Moved: Cr J Frazer                      Seconded: Cr D Frazer</b></p> <p><b>That Council approves Cr P Thomas’s request for leave of absence for the July Ordinary Council Meeting if required.</b></p> <p style="text-align: right;"><b>Carried: 6/0</b></p>
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Cr P Thomas has also requested that if he can attend that he attend by telephone.

### **Council Resolution**

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

**That Council approves Cr P Thomas's request to attend the July Ordinary Council Meeting by telephone, as he will be:**

- (a) in audio contact, by telephone, a means of instantaneous communication, 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) withnot 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 leasedland 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 ORDINARY MEETING OF COUNCIL**

**Voting Requirement**  
Simple Majority

**Officers Recommendation and Council Resolution**

**Moved: Cr J Frazer          Seconded: Cr J Porter**

**That the Unconfirmed Minutes of the Ordinary Meeting of Council held on 24 May 2022 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**

**9.2      AUDIT AND RISK COMMITTEE**

**Voting Requirement**

Simple Majority

**Officers Recommendation and Council Resolution**

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

**That Council:**

- 1.      Notes the Unconfirmed Minutes (Tabled) of the Audit and Risk Committee Meeting held on Wednesday 29 June 2022 at the Council Chambers, Tjulyuru Cultural and Civic Centre, Warburton Community; and**
- 2.      Adopts the Recommendations from the Audit & Risk Committee.**

**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>	20 June 2022
<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

All resolutions of Council have been acted upon.

#### Statutory Environment

*Local Government Act 1995:*

Section 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."*

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'.

Section 5.100 of the Act expressly provides that a person who is a committee member but is not a council member or an employee is not to be paid a fee for attending any meeting.

#### Financial Implications

There are no known financial implications for this matter.

#### Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership

Outcome 8, A well-functioning organisation

Strategy, 8.2, Maintain corporate governance, responsibility and accountability

#### 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 J Frazer      Seconded: Cr D Frazer**

**That Council notes the monthly report, Progress on the implementation of Council Resolutions.**

**Carried: 6/0**

## 10.2 LEGISLATIVE IMPACTS AND OPPORTUNITIES FOR VOLUNTEER BUSH FIRE BRIGADES – PROPOSED WALGA ADVOCACY POSITION

<b>FILE REFERENCE:</b>	ES.00
<b>AUTHOR'S NAME AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	1 June 2022
<b>DISCLOSURE OF INTERESTS:</b>	The author has no financial, proximity or impartiality interest in the proposal.

### Summary

For Council to consider responses to:

1. DFES regarding proposed Memorandum of Understanding between the Shire and DFES for provision of Bushfire services to Warburton; and
2. WALGA on Legislative Impacts and Opportunities for Volunteer Bush Fire Brigades.

### Background

#### History

The Volunteer Bush Fire Brigades have been a vital part of the regional Western Australian emergency services fabric since 1954 in a formal legislated system, but before that in heart of the community unsupported volunteer service groups. The continuation of this service by the volunteers, ensuring the continuity of the brigades along with the safety of the members, remain as the key priorities. How this is best achieved given findings of the 2016 Ferguson Report and the new safety mandates of the Work Health & Safety Act 2020 (WHS Act) for volunteers, is a primary issue.

Long gone are the days of a group of farming neighbors fronting up to a fire, with the Shire sending down some crew with machinery to assist. Volunteer bush fire brigades replaced this loose affiliation in 1954 through the commencement of the Bush Fires Act with local governments being given responsibility to establish and run the brigades. Over time the State Government has increasingly mandated duty of care requirements to the members and those charged with their management, to the point where the duty of care now extends to the volunteers themselves.

#### 2016 "Reframing Rural Fire Management" Report of the Special Inquiry Into the January 2016 Waroona Fire (Ferguson Report)

Following the 2016 Waroona Yarloop bush fires the Public Sector Commission tasked a special inquiry led by Mr. Euan Ferguson AFSM into the matter. His report (Pg. 18) summarises the losses of these fires as follows:

"Tragically, during the fire, two residents of Yarloop lost their lives. The fire burned a total area of 69,165 hectares comprising 31,180 hectares of private property and 37,985 hectares of public land. One hundred and eighty one properties were destroyed. At time of writing, it is estimated that the cost of the fire, including the costs of suppression, losses, damage and recovery (including estimated insurance losses) totals approximately \$155 million.

In his report prologue (pg.12) he summarises his findings thus:

"It is my view that there exists a need to effect fundamental changes to the system of rural fire management in Western Australia. My conclusion, which has been very carefully considered, is that the current system for managing bushfire in Western Australia is failing citizens and the government.

The recommendations for change were provided in two categories: Strategic and Agency opportunities for improvement. 17 Recommendations and 23 Opportunity statements were made. Critical to the context of this Council Report, is Recommendation 15, which is about rural fire management and its recommends:

"The State Government to create a Rural Fire Service to enhance the capability for rural fire

management and bushfire risk management at a State, regional and local level. The proposed Rural Fire Service will:

- be established as a separate entity from the Department of Fire and Emergency Services or, alternatively, be established as a sub-department of the Department of Fire and Emergency Services;
- have an independent budget;
- be able to employ staff;
- have a leadership structure which, to the greatest degree possible, is regionally based and runs the entity;
- be led by a Chief Officer who reports to the responsible Minister on policy and administrative matters; and to the Commissioner for Fire and Emergency Services during operational and emergency response;
- have responsibilities and powers relating to bushfire prevention, preparedness and response; and
- operate collaboratively with the Department of Fire and Emergency Services, the Department of Parks and Wildlife, Local Government and volunteer Bush Fire Brigades.

“In creating the Rural Fire Service, the State Government to consider whether back office and corporate support services could be effectively provided by an existing Department, such as the Department of Fire and Emergency Services or the Department of Parks and Wildlife.

“The State Government to review the creation of the Rural Fire Service two years after its establishment, to assess whether its structure and operations are achieving the intended outcome.

This recommendation has only been partially implemented and the independent entity with the capabilities and resourcing described in the recommendation is far from realization. This is in part because this requires legislative change, one that removes local government as the head of power body establishing and underpinning this entity. The opportunity for this change is now available with the review of the emergency services legislation.

#### Bush Fire Fighting Risk

The prologue to the Ferguson Report provides an excellent description of the complexities of fighting bush fires and making judgment following the event (pg. 11):

“Hindsight is a wonderful thing. But we must act with disciplined caution when exercising this hindsight. It must always be remembered that those who were key players in this fire emergency were not afforded such luxury. Many individuals, be they citizens or members of agencies or in community teams, worked in extreme and challenging conditions. Many were hot, hungry, dehydrated and sometimes sick with worry and exhaustion. Dangers were ever present. Fast decisions had to be made with information that was incomplete and sometimes conflicting. There were many unknowns. People made decisions. Assumptions changed. Best laid plans failed. Teams used their initiative and adjusted. Even the most straightforward of tasks became complex. Emergency and essential services worked to create order out of chaos. Everyone worked against time and the progression of the fire.”

“It would be easy to look at any shortcomings and be tempted to fall into the trap of finding fault and allocating blame. This must be resisted. In striving for excellence in bushfire emergency management, it must be recognised that there are many parts of the system: the fire, the weather, the terrain and the actions and reactions of people that are subject to sudden and unpredictable change. Under these conditions, much is unknown. Almost everything is shrouded by uncertainty. People make judgements and those judgements are not infallible. Errors can and do occur, despite the best intentions and best efforts of people.”

While the Ferguson Report wasn't written with the aim of “finding fault and allocating blame”, the new Work Health and Safety Act 2020 is. It is specifically designed and written to provide standards and responsibilities for health and safety, in order to provide a path for finding fault, allocating blame and then punishing those who are at fault.

#### Work Health and Safety Act 2020

Key features of the WHS Act are provided in the following extract from the “Overview of Western

Australia's Work Health and Safety Act 2020" put out by the Department of Mines, Industry Regulation and Safety, and Worksafe (pg. 2):

- The primary duty holder is the 'person conducting a business or undertaking' (PCBU) which is intended to capture a broader range of contemporary workplace relationships.
- A primary duty of care requiring PCBUs to, so far as is reasonably practicable, ensure the health and safety of workers and others who may be affected by the carrying out of work.
- Duties of care for persons who influence the way work is carried out, as well as the integrity of products used for work, including the providers of WHS services.
- A requirement that 'officers' exercise 'due diligence' to ensure compliance.
- The new offence of industrial manslaughter, which provides substantial penalties for PCBUs where a failure to comply with a WHS duty causes the death of an individual, in circumstances where the PCBU knew the conduct could cause death or serious harm.
- The voiding of insurance coverage for WHS penalties, and imposition of penalties for providing or purchasing this insurance.
- The introduction of WHS undertakings, which are enforceable, as an alternative to prosecution.
- Reporting requirements for 'notifiable incidents' such as the serious illness, injury or death of persons and dangerous incidents arising out of the conduct of a business or undertaking.
- A framework to establish a general scheme for authorisations such as licenses, permits and registrations (for example, for persons engaged in high-risk work or users of certain plant or substances), including provisions for automated authorisations.

Importantly, the WHS Act captures the duty of care requirements for bush fire brigades and volunteers.

Work Health and Safety Act 2020 Duty of Care Failure and Penalties

Hefty fines now apply to local governments and criminal charges may be imposed on executive staff should they fail in their duty of care under the new Work Health and Safety Act 2020. A sevenfold increase in the maximum fine is now applicable to executives along with a 20 year jail term. The local government body is now subject to an uninsurable fine up to \$10M, up 2.85 times from \$3.5M.

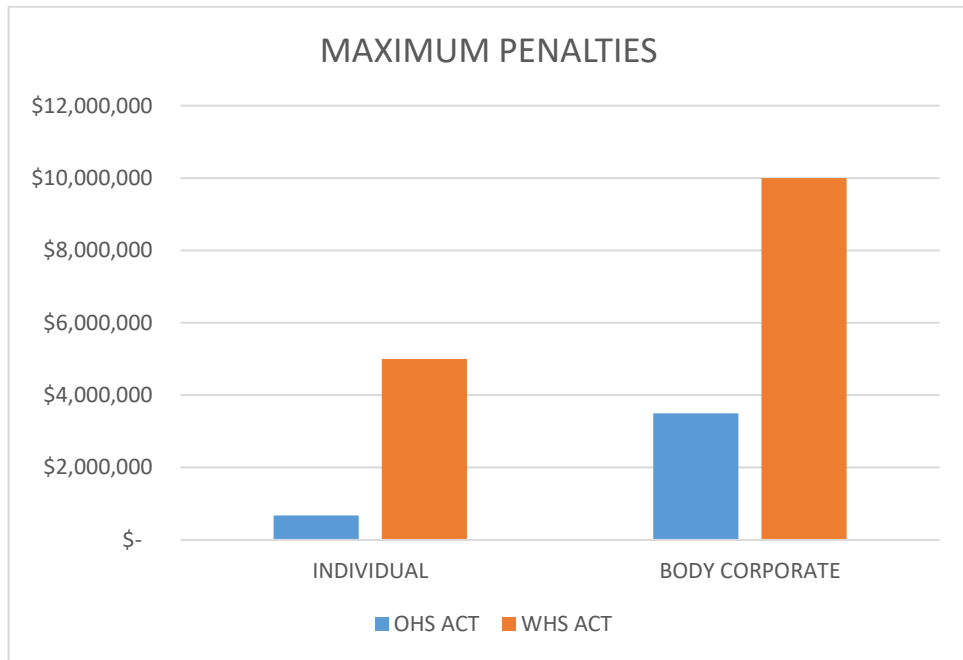


Figure 1. Maximum Individual and Body Corporate Penalties Comparison Between the Previous OHS Act (blue) and the WHS Act (orange)

## Maximum penalties for breach of health and safety duty offences

Offence	Duty holder		
	Body corporate	Individual as a PCBU or officer	Individual as worker or other
Industrial manslaughter	\$10 000 000	\$5 000 000, 20 years in jail	Not applicable
Category 1	\$3 500 000	\$680 000, 5 years in jail	\$340 000, 5 years in jail
Category 2	\$1 800 000	\$350 000	\$170 000
Category 3	\$570 000	\$120 000	\$55 000

*Note: Where a penalty provides for a fine or term of imprisonment, the Court may impose a sentence that includes either or both penalties.*

### Exceptions (section 34)

Volunteers are not liable for a failure to comply with a health and safety duty except in their capacity as a worker (section 28) or other person at a workplace (section 29).

Table 1. Maximum Penalties. Department of Mines, Industry Regulation and Safety, and Worksafe, "Overview of Western Australia's Work Health and Safety Act 2020", pg. 36.

LEVEL	INDIVIDUAL 1ST OFFENCE	INDIVIDUAL SUBSEQUENT OFFENCE	BODY CORPORATE 1ST OFFENCE	BODY CORPORATE SUBSEQUENT OFFENCE
1	\$ 100,000	\$ 120,000	\$ 450,000	\$ 570,000
2	\$ 250,000	\$ 350,000	\$1,500,000	\$1,800,000
3	\$ 400,000	\$ 500,000	\$2,000,000	\$2,500,000
4	\$ 550,000	\$ 680,000	\$2,700,000	\$3,500,000

Table 2. Maximum Penalties Under the Previous Occupational, Health and Safety Act 1984", pg. 36.

- The State Government has made crystal clear its overarching expectations regarding duty of care, including to volunteers. In doing so, however, it has raised a fundamental question about the appropriate provision of leadership and support for volunteer bush fire brigades in the extreme risk environment in which they operate.

### Comment

- In March 2022 the provisions of the new Work Health and Safety Act 2020 were fully transitioned. They clearly detail the standard of duty of care that entities responsible for volunteers now carry.
- This standard has brought into focus the fact that local government is no longer the right entity to be discharging the duty of care and the duty of provision of extreme risk bush fire management services in Western Australia. Western Australia, while its health and safety legislation is now in alignment with the rest of Australia, is now at odds with the rest of Australia in terms of State Government responsibility for volunteer bush fire brigades.
- Local government is clearly unable to meet the management and duty of care expectations enunciated in the Work, Health and Safety Act 2020 in the extreme risk area of bush firefighting. This new legislation exposes the gap between the extreme risk of bush fires and the capabilities of local governments to meet this risk. It has set up local government for failure if nothing is done to fix the fundamental question - what entity is best able to meet the

responsibility for supporting volunteer bush fire brigades. This responsibility must be placed in the hands of a State Government department or agency with appropriate expertise, capabilities and resourcing under the emergency services banner to adequately address and manage the risks associated with bush fires and support volunteers in this endeavor.

- Cabinet has agreed on a review of the three emergency services Acts, the Fire Brigades Act 1942, the Bush Fires Act 1954 and the Fire and Emergency Services Act of 1998, to create a single comprehensive Emergency Services Act which will improve community safety and better support all of our emergency services workers into the future. This work is being undertaken by DFES. (<https://www.dfes.wa.gov.au/site/about-us/corporate-information/legislation/legislation.html>).
- This review represents a once in a generation opportunity have this matter addressed and give volunteer bush fire brigades the level of overarching support they need, through a State Government agency or department with new legislation designed to take over this role from local governments.
- It is not appropriate that the current hybrid responsibility sharing arrangement continue between Local Government and the State Government, for either historic or power sharing reasons. This will perpetuate the current mixed message and unclear lines of responsibility that comes from a legislative underpinning of volunteer bush fire brigades as local government entities, while management, training, funding and operational support are provided through DFES. This will not ultimately be in the best interests of the volunteers and their ability to be supported in the important role they undertake in managing bush fire risk.
- WALGA has issued a Proposed Advocacy Position and InfoPage which proposes a hybrid model allowing local governments to opt in or out of management of volunteer bush fire brigade models. A 6-week consultation is underway with the matter to be presented to WALGA State Council in September 2022. Option 4 aligns with the position espoused in this report, namely responsibility being transferred to the State Government, albeit with volunteer bush fire brigades being given entity status.

### Risk and WHS Act Implications

The new WHS Act safety mandate has brought into focus two related questions, and these questions must be rigorously and independently assessed and addressed, ahead of preference and historically affiliation, if a best practice, safe and compliant outcome is to be achieved. **Who is best placed to manage bush fire brigades, given the systems, expertise and control hierarchy needed to operate within the new WHS Act requirements? Secondly, is the current legislation, which provides for local governments to establish and run bush fire brigades, still appropriate, given these mandated safety management requirements?** Recommendation 15 of the Ferguson Report answers these questions.

Local governments, and particularly those in executive level management, see a chasm between their risk management capabilities, expertise, control, financial support and the standards mandated in the new WHS Act for the extremely high-risk and complex activity of fighting bushfires. They also see that the State Government, through the Department of Fire and Emergence Services (DFES), which has the expertise, knowledge, systems, training support and control, is much more capable in fighting fires than local government as an entity will ever be. In fact, in all of these areas DFES currently provides support to the bush fire brigades, with local government effectively simply providing a legacy legislative platform for their existence, along with some administrative support, assets and land for VBFB facilities.

The disparate, disjointed management by individual local governments, may provide some tailored local focus, but it has no strategic, management expertise, operational expertise, coordination or cohesiveness, nor State Government consistent operational budget funding outside of grants; despite now carrying safety expectations well above local government primary expertise and risk management capabilities.

As an alternative way of viewing this issue, local governments would not be expected, or able, to competently manage the emergency services currently within DFES areas of responsibility. Nor

would Local government manage ambulance services, and nor should they. These are matters outside of local government core business and expertise. As a risk response, government, agencies and departments must operate within their core business and competencies. With a new focus on health and safety it is no longer appropriate that local government be required to operate in a highly specialized extreme risk area, when suitable alternatives exist, or should exist, as stated in the Ferguson Report.

#### Australian Models for Management of Bush Fire Brigades

The WHS Act was ostensibly enacted, in part, to bring Western Australia in line with the rest of the Australian states, including responsibility for volunteers. Perhaps as an unintended consequence, this has highlighted a significant disparity across Australia, with every other state having their volunteer bushfire brigades run by State Government agencies rather than local governments. Many in local government charged with management oversight of the VBFBs, believe that a handover to the State Government is the necessary next step for Western Australia, if coming into line with the rest of Australia.

#### Bush Fire Brigade Volunteers

The Ferguson Report (pp. 237 – 245) details the public response to the question of DFES involvement in fighting bush fires:

- DFES staff do not have sufficient expertise in rural fire management and don't understand our needs; and
- Inappropriate training is provided.

There is some skepticism and reluctance among some VBFB members regarding leaving the local governments, where they believe there is often more autonomy, local knowledge and a local focus.

A review of the emergency legislation needs to ensure that bush fire brigades are at the table in terms of consultation and that their legitimate concerns are aired and resolved.

#### Conclusion

There is an urgent need for Local Governments and the State Government to review the suitability of local governments role in delivery of volunteer bush fire brigades, given the spotlight on volunteer management raised by the new Work Health and Safety Act 2020. The Ferguson Report, in 2016, provides a pathway for a new entity to do this, with a State Government core business emergency services entity tailored to bush firefighting and meeting the needs of volunteers. The current review of the three emergency services Acts represents a one in a generation opportunity to modernise the legislation underpinning volunteer bush firefighting in Western Australia to align under a suitable agency.

The above is pertinent for the Shire of Ngaanyatjarraku as it has been lobbying for 18 months for fire services to be provided to the Shire. This started with DFES proposing a Volunteer Fire and Emergency Services Unit (VFES) with Warburton Community Council, which would be an equivalent arrangement to that effected for the Bidyadanga community in the Kimberley region in 2017. DFES have responded and proposed that the Shire and DFES enter into a Memorandum of Understanding (MoU) for the transfer and control of management of the Bushfire Brigade to the Shire only. This model would require the Shire to then enter a separate MoU with the Warburton Community Council (WCC) regarding the provision of volunteers for the brigade. This is not consistent with what was first proposed by DFES with the WCC and requires the Shire to be a 'middleman' and would be high risk to the Shire given its lack of resources.

As such the Shire have responded to DFES and advised that due to resourcing constraints the Shire does not wish to enter into a MOU solely between the Department and the Shire with a separate agreement between the Shire and NCAC.

The position proposed by the Shire is also consistent with the proposed advocacy position recently articulated by WALGA in its publication 'Arrangements for Management of Volunteer Bush Fire Brigades: Proposed Advocacy Position' dated May 2022, which recommends a clear pathway for local governments to transfer responsibility for the management of bush fire brigades to the State government when ongoing management is beyond the capacity, capability and resources of the local government. The Shire has no ratepayer base to fund volunteer insurance and also in the past has been unable to recruit volunteers in the usual manner. The Shire thus lacks the resources and capability to itself operate a bush fire brigade and fulfill its statutory obligations to volunteers under the Work Health and Safety Act 2020.

### **Statutory Environment**

Local Government Act of 1995: Division 3 — Executive functions of local governments, Subdivision 1 — Performing executive functions, s3.18. Performing executive functions: 3(b); as the WA Department of Fire and Emergency Services (DFES), is already providing a rural fire division (ref. 2), it could be considered that the further provision of Local Government controlled Fire & Emergency Services Brigades is an inappropriate duplication of "services or facilities provided by the ... State".

Work Health and Safety Act 2022, mandates the duty of care to volunteers by the person conducting a business undertaking. Senior Local Government officers with decision making and budget allocation control, have a duty of care to volunteer bush fire brigade members.

Bush Fires Act 1954, s36 and s41. Provides for local governments to establish, maintain and equip bush fire brigades.

### **Financial Implications**

#### Insurance

Up to \$10M in uninsurable organisational maximum penalties for the most serious failures to comply with the new WHS Act 2020.

WALGA Local Governments are responsible for providing compensation for injury caused to present and former BFB volunteers as a result of their duties. The commercial insurance market ceased writing injury insurance for volunteers in 2012, therefore a self-insurance mutual scheme was implemented to ensure that Local Governments continue to meet this obligation.

Since 2012, due to the high cost of claims, the aggregate limit of liability has increased from \$250,000 to \$750,000. In addition, the annual cost of insurance has nearly doubled (92%) from \$47.50 to \$91.20 per volunteer, and it is expected that this trend will continue (Data provided by LGIS, 17 May 2022 in pg. 7, Arrangements for Management of Volunteer Bush Fire Brigades: Proposed Advocacy Position - May 2022).

#### Volunteer Bush Fire Services Funding

The State Government has in place an Emergency Services Levy. This is a pre-existing and suitable funding mechanism for volunteer bush fire brigades services via an entity, under direct management of the State Government.

#### WALGA Advocacy Position

Nil.

### **Strategic Implications**

Plan for the Future 2021 – 2031

Goal 3, Our Leadership

Outcome 8, A well-functioning organisation

Strategy, 8.1, Maintain corporate governance, responsibility and accountability

### **Risk Management**

This item has been evaluated against the Shire of Ngaanyatjaraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is "High" risk if the Shire were to enter into a MoU with DFES.



## Policy Implications

The adoption of advocacy positions will inform WALGA policy positions and will be incorporated in WALGA's Advocacy Positions Manual.

## Attachments

10.2(a) – Letter to DFES 25 May 2022

10.2(b) - Arrangements for Management of Volunteer Bush Fire Brigades: Proposed Advocacy Position May 2022, WALGA

## Voting Requirement

Simple Majority Required.

### Officers Recommendation and Council Resolution

Moved: Cr J Frazer

Seconded: Cr J Porter

#### That Council:

1. Notes the Shires response to DFES on not entering into an MoU with DFES for provision of services in Warburton as proposed by them.
2. Requests the WA Local Government Association (WALGA) to advocate for the:
  - a. Modernisation of Western Australian emergency services legislation, including alignment of the WA Bush Fires Act 1954 with the rest of Australia by removing the legislative requirement for WA Local Governments to manage Volunteer Bush Fire Brigades (VBFB); and
  - b. Provision of a legislated State Government department or agency to do so, fully implementing recommendation 15 of the "Reframing Rural Fire Management" Report of the Special Inquiry Into the January 2016 Waroona Fire (Ferguson Report), which states;

*"The State Government to create a Rural Fire Service to enhance the capability for rural fire management and bushfire risk management at a State, regional and local level. The proposed Rural Fire Service will:*

- *be established as a separate entity from the Department of Fire and Emergency Services or, alternatively, be established as a sub-department of the Department of Fire and Emergency Services;*
- *have an independent budget;*
- *be able to employ staff;*
- *have a leadership structure which, to the greatest degree possible, is regionally based and runs the entity;*
- *be led by a Chief Officer who reports to the responsible Minister on policy and administrative matters; and to the Commissioner for Fire and Emergency Services during operational and emergency response;*
- *have responsibilities and powers relating to bushfire prevention, preparedness and response; and*
- *operate collaboratively with the Department of Fire and Emergency Services, the Department of Parks and Wildlife, Local Government and volunteer Bush Fire Brigades.*

***“In creating the Rural Fire Service, the State Government to consider whether back office and corporate support services could be effectively provided by an existing Department, such as the Department of Fire and Emergency Services or the Department of Parks and Wildlife.***

***“The State Government to review the creation of the Rural Fire Service two years after its establishment, to assess whether its structure and operations are achieving the intended outcome.***

- 2. Requests WALGA to support, in the review of the emergency services legislation, a comprehensive plan by the Department of Fire and Emergency Services and the State Government for;**
  - a. Full engagement with the VBFs, local governments and WALGA to understand their successes, challenges, ideas and hopes for this service;**
  - b. Inclusion of a review of the history and past performance of the volunteer bush fire brigades in Western Australia, including all previous studies and findings, with volunteer safety as a key theme;**
  - c. A best practice assessment of volunteer bush fire brigades departmental/agency structures and legislative underpinnings across Australia; and**
- 3. A legislative outcome goal that ensures that organisational structures, expertise, strategy, management and control, best meet the health and safety mandates of the WHS Act 2020; Requests WALGA to support Option 4 of its “Arrangements for Management of Volunteer Bush Fire Brigades: Proposed Advocacy Position” paper, being, “Transfer - Responsibility for management of all BFBs is transferred to the State Government, consistent with the arrangements in other States and Territories”.**

**Carried: 6/0**

## 10.3 COUNCILLOR VACANCY TO REMAIN UNFILLED

**FILE REFERENCE:** GV.07

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

**DATE REPORT WRITTEN:** 7 June 2022

**DISCLOSURE OF FINANCIAL INTEREST:** The author has no financial, proximity or impartiality interests in the proposal.

### Summary

The purpose of this agenda item is for Council to consider requesting the approval of the Electoral Commissioner to allow the vacancy caused through the resignation of Cr. Alex Benning to remain unfilled until the next ordinary Council election in accordance with section 4.17 of the Local Government Act 1995.

### Background

Councillor Benning tendered his resignation to the President & Chief Executive Officer on 24 May 2022. In accordance with section 2.31 of the Local Government Act his resignation is effective from the date of delivery of the notice.

### Comment

Pursuant to Section 4.17(3) and (4A) of the *Local Government Act 1995* the Council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled and on that basis the term of the member who held the office is to be regarded to end on the day on which it would have ended if the vacancy had not occurred. Cr. Alex Benning was elected to office in October 2021, and his two-year term was to expire in October 2023. The next ordinary elections for Council are to be held in October 2023.

### Statutory Environment

*Local Government Act 1995:*

#### **2.32. How extraordinary vacancies occur in offices elected by electors**

*The office of a member of a council as an elector mayor or president or as a councillor becomes vacant if the member —*  
*(b) resigns from the office;*

#### **4.17. Cases in which vacant offices can remain unfilled**

*(3) If a councillor's office becomes vacant under section 2.32 and under subsection (4A) this subsection applies, the council may, with the approval of the Electoral Commissioner, allow\* the vacancy to remain unfilled and, subject to subsection (4), in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*

*\* Absolute majority required.*

*(4A) Subsection (3) applies —*

*(a) if —*

*(i) the office is for a district that has no wards; and*

*(ii) at least 80% of the number of offices of member of the council in the district are still filled; or*

*(b) if —*

*(i) the office is for a ward for which there are 5 or more offices of councillor; and*  
*(ii) at least 80% of the number of offices of councillor for the ward are still filled.*

*(4) If an ordinary or an extraordinary election is to be held in a district then an election to fill any vacancy in the office of councillor in that district that was allowed to remain unfilled under subsection (3) is to be held on the same election day and Division 9 applies to those elections as if they were one election to fill all the offices of councillor for the district or ward that need to be filled.*

### **Financial Implications**

There would be a cost to hold an in-person extraordinary election if Council wished to fill the vacancy, this would vary in price depending on if it is conducted 'in-house' or via engaging the WA Electoral Commission (WAEC) to run the process on the Shire's behalf. Council's annual budget has generally made provision of approximately \$5,000 (plus staff and travel costs) for the costs of running elections in-house; appointing the WAEC to oversee and manage the election is likely to cost significantly more (estimated \$10,000 - \$20,000) and a quotation would be sought to ascertain the amount should Council wish to proceed in this way.

### **Strategic Implications**

Plan for the Future 2021 – 2031

Goal 3, Our Leadership

Outcome 8, A well-functioning organisation

Strategy, 8.1, Maintain corporate governance, responsibility and accountability

### **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**

Not applicable

### **Attachments**

Nil

### **Voting Requirement**

Absolute majority required

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

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

#### **That Council:**

- 1. pursuant to section 4.17(3) and 4 (A) of the Local Government Act 1995, Council requests the WA Electoral Commissioner to permit the vacancy created by the resignation of Councilor Alex Benning to remain unfilled until the next ordinary election in October 2023; and**
- 2. writes a letter of thankyou to Cr Benning for his service with the Shire and Ngaanyatjarraku Community.**

**Carried: 6/0**

## 10.4 REVIEW OF COUNCIL POLICY MANUAL

**FILE REFERENCE:** CM.14

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

**DATE REPORT WRITTEN:** 22 June 2022

**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 the Annual review of its Policy Manual

### Background

A review of policies has been undertaken with the following changes. The Organisation Structure was changed at the May meeting of Council with:

- new position of General Manager Operation included: and
- a change of title for the Director Corporate Services to Chief Financial Officer, both effective 1 July 2022.

### 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*
- *Director Infrastructure*

It is proposed to add the General Manager Operations and change the title for the Director Corporate Services to Chief Financial Officer, both effective 1 July 2022.

### 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 10.4 – Amended Policy 3.1 - Senior Employees

**Voting Requirement**

Absolute Majority

**Officers Recommendation and Council Resolution**

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

**That Council having reviewed its Policy Manual:**

- 1    adopts by absolute majority the amended Council Policy 3.1 – Senior Employees as per Attachment 10.4 to this report; and**
- 2    updates the policy manual on the Shire’s official website.**

**Carried: 6/0**

# 11 CHIEF FINANCIAL OFFICER REPORTS

## 11.1 MONTHLY PAYMENTS LISTING

<b>FILE REFERENCE:</b>	FM.07
<b>AUTHOR'S NAME AND POSITION:</b>	Kerry Fisher Chief Financial Officer
<b>AUTHORISING OFFICER AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	21 June 2022
<b>DISCLOSURE OF INTERESTS:</b>	The author has no financial, proximity or impartiality interest in the proposal

### 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**

Plan for the Future 2021 – 2031

Goal 3, Our Leadership: Showing the way for our communities

Outcome 8, A well-functioning organisation

Strategy, 8.1, Maintain corporate governance, responsibility and accountability

**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**

11.1 – Payment Listing

**Voting Requirement**

Simple Majority Required.

**Officers Recommendation and Council Resolution**

**Moved: Cr D Frazer**

**Seconded: Cr J Frazer**

**That Council receives the Payment Listing May 2022 totaling payments of \$951,302.98 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 Chief Financial Officer
<b>AUTHORISING OFFICER AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	23 June 2022
<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 reduction of RBA interest rate has greatly reduced term deposit interest. Better rates have been thru a quotation process with Commonwealth Banking and as such \$3.5m has now been deposited there. These funds are mainly from the Commonwealth's FAG's 2022/23 grants paid in advance. An investment Register has now been developed to record the details of these longer-term investments.

### 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**

Plan for the Future 2021 – 2031

Goal 3, Our Leadership: Showing the way for our communities

Outcome 8, A well-functioning organisation

Strategy, 8.1, Maintain corporate governance, responsibility and accountability

**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**

11.2 – Investment Register.

**Voting Requirement**

Simple Majority Required.

**Officers Recommendation and Council Resolution**

**Moved: Cr D Frazer**

**Seconded: Cr J Frazer**

**That this report on Council Investments and the investments Register as at Attachment 11.2 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 Chief Financial Officer
<b>AUTHORISING OFFICER AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	23 June 2022
<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.

### Background

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

Council has resolved those 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 as at end January 2021 are:

- General Purpose income is well over budget due to early receipt of FAGS General income
- Housing income is slightly up due to higher-than-expected rentals of vacant staff housing
- Transport Income is up due to early receipt of 2022/23 FAGs Road income
- Governance expense generally tracking under with savings of \$19k due to no election required, other items also under budget contributing to less overhead allocated to other programs
- Health inspection staffing costs now back on track with new EHO and under budget due to lower overheads
- Housing Expenses are under budget in as the Maintenance Officer has not returned to the lands as yet to undertake budgeted works, Housing maintenance is under budget due to unavailability of staff;
- Community Amenities expenditure under as difficulty in sourcing rubbish collection staff, replacement of the Operations Coordinator and Waste services have not been progressed by the State Government;
- Recreation expenditure under due to difficulty in recruiting replacement staff;
- Transport expenditure under due to difficulty sourcing grader operators and Covid border closures.
- Tourism under as consultancy projects have begun but are behind in timing.
- Capital Income and expenditure are both behind in budget.

## **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**

Plan for the Future 2021 – 2031

Goal 3, Our Leadership: Showing the way for our communities  
Outcome 8, A well-functioning organisation  
Strategy, 8.1, Maintain corporate governance, responsibility and accountability

**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**

11.3 - Monthly Financial Report

**Voting Requirement**

Simple Majority Required.

**Officers Recommendation and Council Resolution**

**Moved: Cr J Porter      Seconded: Cr J Frazer**

**That Council receives the monthly financial report for May 2022.**

**Carried: 6/0**

## 11.4 FEES AND CHARGES 2022/23

<b>FILE REFERENCE:</b>	FM09
<b>AUTHOR'S NAME AND POSITION:</b>	Kerry Fisher Director Corporate Services
<b>AUTHORISING OFFICER AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	22 June 2022
<b>DISCLOSURE OF INTERESTS:</b>	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

### Summary

Council adopted 2020/21 Fees and Charges at its August 2021 Ordinary Council Meeting with no change from the previous year.

### Background

A local government may impose and recover a fee or charge for goods or services it provides. The proposed Fees and Charges have been collated and compiled in consultation with Coordinators responsible for providing the relevant services to the community and where possible ensuring appropriate levels of income/cost recovery are generated for the Shire.

### Comment

The proposed increases to Fees and Charges 2022/23 includes the following assumptions and changes:

- Community Resource Centre, Warburton increased 3% to cover increased ongoing costs for labour and materials to maintain properties in a serviceable condition
- Housing Rentals, all Communities increased 3% to cover increased ongoing costs for labour and materials maintain properties in a serviceable condition
- Sport & Recreation Officer to recover the full cost of an officer, including superannuation, workers compensation and employment on-costs
- Mileage – per game for travel to other Communities as per the recommended ATO rate

### Statutory Environment

Local Government Act 1995, 6.16 (Imposition of Fees and Charges), 6.17 (Setting level of Fees and Charges) and 6.19 (Local government to give notice of Fees and Charges) relates.

Section 6.19 requires that the Local Government provides local public notice of proposed new fees and the date the new fee will be applied from. It is proposed the new fees by applied from 1 July 2022.

Local Government Act 1995, Section 1.7 (Local Public Notice).

### Financial Implications

It is expected that the proposed change will be included in budgeting process for the 2022/23 budget.

### Strategic Implications

Plan for the Future 2021 - 2031

Goal 3, Our Leadership: Showing the way for our communities

Outcome 8, A well-functioning organisation

Strategy 8.1, Maintain corporate governance, responsibility and accountability

### Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku'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**

No policy implications apply in the preparation of the report.

**Voting Requirement**

Absolute Majority Required

**Officers Recommendation and Council Resolution**

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

**That with respect to the fees and charges for 2022/23, Council:**

- 1. Adopt the fees and charges schedule, and**
- 2. Authorises the Chief Executive Officer to provide local public notice of the above fees and charges which are to be imposed from 1 July 2022.**

**Carried: 6/0**

## 12. DIRECTOR GOVERNANCE & STRATEGIC REPORTS

### 12.1 INTEGRATED PLANNING AND REPORTING (IPRF) FRAMEWORK

<b>FILE REFERENCE:</b>	CM.14
<b>AUTHOR'S NAME AND POSITION:</b>	Cary Green Director Governance and Strategic
<b>AUTHORISING OFFICER AND POSITION:</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	8 June 2021
<b>DISCLOSURE OF INTERESTS:</b>	The author has no financial, proximity or impartiality interest in the proposal.

#### **Summary**

For Council to adopt the following Integrated Planning and Reporting (IPR) Framework document:

- a) Workforce Plan (WFP)

#### **Background**

The Local Government Act 1995 and the Local Government (Administration) Regulations 1996 require each Local Government to adopt a Strategic Community Plan and Corporate Business Plan as part of a 'Plan for the Future'.

The legislative requirements of the Plan for the Future are underpinned by the Department of Local Government, Sport and Cultural Industries' Advisory Standards and Guidelines, titled the Integrated Planning and Reporting (IPR) Framework. The IPR framework identifies three 'informing strategies', namely a Long-Term Financial Plan (LTFP), Asset Management Plan (AMP) and Workforce Plan (WFP) that Local Governments are required to complete.

#### **Comment**

The Plan for the Future (2021-2031) was adopted by Council in May 2021, and in accordance with the above statutory requirements a review of that plan will be submitted to the July 2022 Council Meeting. The revised Asset Management Plan & Long Term Financial Plan will also be submitted to this meeting.

The Shire has also recently undergone an Organisational Structure review, which was adopted by Council in May 2022. Because of this review, the adopted Workforce Plan has been updated to reflect the new structure.

#### Workforce Plan

The *Workforce Plan (WFP)* is the Shire's four-year 'people plan' that ensures the organisation has the right people, in the right positions, at the right time for the right cost. It seeks to provide the best opportunity for achieving the Shire's Strategic Community Plan aspirations and Corporate Business Plan projects. The updated Workforce Plan is presented to Council for consideration as part of this item.

#### **Statutory Environment**

S5.56 (1) of the Local Government Act 1995.

Council's minimum obligations relating to planning for the future (IPR).



### **Financial Implications**

The WFP is an informing document that links the Shires Strategic objectives with the staff operational functions to deliver the objectives.

### **Strategic Implications**

Plan for the Future 2021 – 2031

Goal 3, Our Leadership

Outcome 8, A well-functioning organisation

Strategy, 8.2, Maintain corporate governance, responsibility and accountability

### **Risk Management**

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Strategy, Risk Assessment Matrix. The perceived level of risk is medium as the IPR Framework provides guidance to Council on how to manage its business. However, continuing to monitor and progress the outcomes of the plan will further reduce the risk.

### **Policy Implications**

Not Applicable.

### **Attachments**

12.1 - Workforce Plan (WFP)

### **Voting Requirement**

Absolute Majority

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

**Moved: Cr A Jones**

**Seconded: Cr D Frazer**

#### **That Council:**

- 1 adopts the revised Workforce Plan (WFP);**
- 2 gives local public notice that the above plan has been adopted by the Council; and**
- 3 publishes copies of the plan on the Shires website.**

**Carried: 6/0**

## 12.2 REVIEW OF DELEGATIONS REGISTER

<b>FILE REFERENCE:</b>	CM.14
<b>AUTHOR'S NAME AND POSITION:</b>	Cary Green Director Governance and Strategic
<b>AUTHORISING OFFICER AND POSITION</b>	Kevin Hannagan Chief Executive Officer
<b>DATE REPORT WRITTEN:</b>	10 June 2021
<b>DISCLOSURE OF INTERESTS:</b>	The author has no financial, proximity or impartiality interest in the proposal.

### Summary

For Council to consider the review of its Powers of Delegation to the Chief Executive Officer.

### Background

The Shire's Delegation Register was last reviewed in April 2021 and must be reviewed at least annually. As such a review of the register has been undertaken in accordance with the LG Act.

### Comment

The Delegation's Register was adopted by Council in April 2021, and in accordance with the above statutory requirements a review of the Delegations Register has been conducted and is presented to council for consideration. Changes are highlighted in yellow.

### Statutory Environment

*The Local Government Act 1995*

*Section 5.42, Delegation of some powers and duties to CEO*

*(1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under —*

*(a) this Act other than those referred to in section 5.43; or*

*(b) the Planning and Development Act 2005 section 214(2), (3) or (5).*

*\* Absolute majority required.*

*(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*

*Section 5.46. Register of, and records relevant to, delegations to CEO and employees*

*(1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.*

*(2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.*

*(3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.*

### Financial Implications

There are no known financial implications.

### Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership

Outcome 8, A well-functioning organisation

Strategy, 8.2, Maintain corporate governance, responsibility and accountability

**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**

Not Applicable.

**Attachments**

12.2 – Delegations Register

**Voting Requirement**

Absolute Majority Required.

**Officers Recommendation and Council Resolution**

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

**That Council:**

- 1 Having considered the attached Delegation Register review of its Powers of Delegation to the Chief Executive Officer;**
- 2 Adopts the reviewed Delegation Register, June 2022.**

**Carried: 6/0**

### **13. DIRECTOR INFRASTRUCTURE SERVICES REPORT**

#### **13.1 ACTION REPORT – WORKS ENGINEER**

**FILE REFERENCE:** RD.00

**AUTHOR'S NAME AND POSITION:** Peter Kerp  
Works Engineer

**AUTHORISING OFFICER AND POSITION:** Les Morgan  
Director Infrastructure

**DATE REPORT WRITTEN:** 21 June 2022

**DISCLOSURE OF INTERESTS:** 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 month.

#### **Background**

Not applicable

#### **Comment**

See attachment.

#### **Statutory Environment**

Not applicable

#### **Financial Implications**

No known financial implications for this matter.

#### **Strategic Implications**

Plan for the Future 2021 - 2031

Goal 2, Our Land

Outcome 5, Travelling our Land

Strategy: 5.1, Effective management and planning of road infrastructure

#### **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 13.1 – Action Report, Works Engineering

#### **Voting Requirement**

Simple Majority Required.

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

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

**That Council receives the Action Report, Works Engineering June 2022.**

**Carried: 6/0**

## 13.2 ACTION REPORT – OPERATIONS COORDINATOR

<b>FILE REFERENCE:</b>	RD.00
<b>AUTHOR’S NAME AND POSITION:</b>	Joseph Joseph Operations Coordinator
<b>AUTHORISING OFFICER AND POSITION:</b>	Les Morgan Director Infrastructure
<b>DATE REPORT WRITTEN:</b>	22 June 2022
<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 Operational activities and actions for the preceding month.

### Background

Not applicable

### Comment

See attachment.

### Statutory Environment

Not applicable

### Financial Implications

No known financial implications for this matter.

### Strategic Implications

Plan for the Future 2021 - 2031

Goal 2, Our Land

Outcome 6, Living on our Land

Strategy: 6.1, Maintain Shire owned buildings and facilities

### 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 13.2 – Action Report, Operations Coordinator

### Voting Requirement

Simple Majority Required.

#### Officers Recommendation and Council Resolution

Moved: Cr J Porter

Seconded: Cr D Frazer

That Council receives the Action Report, Operations June 2022.

Carried: 6/0

### 13.3 ACTION REPORT – ENVIRONMENTAL HEALTH & BUILDING SERVICES

**FILE REFERENCE:** EM.00

**AUTHOR'S NAME AND POSITION:** Gordon Houston  
EHO & Building Officer

**AUTHORISING OFFICER AND POSITION:** Les Morgan  
Director Infrastructure

**DATE REPORT WRITTEN:** 22 June 2022

**DISCLOSURE OF INTERESTS:** The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

#### **Summary**

To inform Council of Environmental Health & Building Services activities and actions for the preceding month.

#### **Background**

Not applicable

#### **Comment**

See attachment.

#### **Statutory Environment**

Not applicable

#### **Financial Implications**

No known financial implications for this matter.

#### **Strategic Implications**

Plan for the Future 2021 - 2031

Goal 1, Our People

Outcome 2, Healthy People

Strategy: 2.2, Ensure appropriate regulatory health and waste services provision with funding

#### **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 13.3 – Action Report, EHO / Building Services

#### **Voting Requirement**

Simple Majority Required.

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

**Moved: Cr L West**

**Seconded: Cr J Frazer**

**That Council receives the Action Report, EHO / Building Services for May / June 2022.  
Carried: 6/0**

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

**15. CONFIDENTIAL MATTERS**

**15.1 CEO ANNUAL PERFORMANCE REVIEW**

**FILE REFERENCE:** PL.00

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

**DATE REPORT WRITTEN:** 8 June 2022

**DISCLOSURE OF FINANCIAL INTEREST:** The author has a financial and impartiality interest in the proposal as he is the subject of the reports.

**Voting Requirement**  
Simple Majority Required.

**Officers Recommendation and Council Resolution**

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

**That Council:**

- 1. Resolve that Reports 15.1 is confidential in accordance with s5.23 (2) the Local Government Act because it deals with matters affecting s5.23 (2):  
(a) a matter affecting an employee or employees;**
- 2. Close the meeting to the public at 1.26 pm pursuant to sub section 5.23 (2)(a) of the Local Government Act 1995.**
- 3. Authorises the Chief Executive Officer to remain in the meeting to answer questions and take minutes for report 15.1.**

**Carried: 6/0**

All members of the public gallery and staff left the meeting at 1.26 pm. (Note: Chief Executive Officer to take any minutes.)

**Voting Requirement**  
Simple Majority

**Officers Recommendation and Council Resolution**

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

**That Council re-open the meeting to the public at 1.30 pm.**

**Carried: 6/0**

Staff members re-entered the room at 1.30pm.

The Presiding Member advised of Council's decision for the Confidential Agenda Item 15.1

**Council Resolution**

**Moved: Cr A Jones**

**Seconded: Cr D Frazer**

**That Council:**

- 1. Notes the Chief Executive Officers annual performance review against the criteria as per Confidential Attachment 15.1;**
- 2. Rates the Chief Executive Officers overall performance as ‘exceeds expectations’;**
- 3. Requests the Chief Executive Officer to develop the next annual review criteria in accordance with the adopted Plan for the Future 2021-2031, Corporate Business Plan Actions, the CEO’s Position Description and report back to Council with a draft for consideration.**

**Carried: 6/0**

**16 NEXT MEETING**

Scheduled for Wednesday, 27 July 2022 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 1.31 pm.