SHIRE OF GNOWANGERUP

MINUTES

SPECIAL MEETING OF COUNCIL

12 October 2022
Commencing at 4:30pm

Council Chambers
Yougenup Road, Gnowangerup WA 6335

COUNCIL'S VISION
Gnowangerup Shire – A progressive, inclusive and prosperous community built on opportunity

Shire of Gnowangerup

NOTICE OF A SPECIAL MEETING OF COUNCIL

Dear Council Member

A Special Meeting of the Shire of Gnowangerup will be held on Wednesday 12 October 2022, at the Council Chambers 28 Yougenup Road Gnowangerup, commencing at 4:30pm.

Signed: _____

Bob Jarvis
CHIEF EXECUTIVE OFFICER

Meaning of and CAUTION concerning Council's "In Principle" support:

When Council uses this expression it means that:
(a) Council is generally in favour of the proposal BUT is not yet willing to give its consent; and
(b) Importantly, Council reserves the right to (and may well) either decide against the proposal or to formally support it but with restrictive conditions or modifications.

Therefore, whilst you can take some comfort from Council's "support" you are clearly at risk if you act upon it before Council makes its actual (and binding) decision and communicates that to you in writing.

SHIRE OF GNOWANGERUP

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of Gnowangerup for any act, omission or statement or intimation occurring during Council or committee meetings.

The Shire of Gnowangerup disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or committee meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or committee meeting does so at that person's or legal entity's own risk.

In particular and without detracting in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or officer of the Shire of Gnowangerup during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Gnowangerup.

The Shire of Gnowangerup advises that anyone who has any application lodged with the Shire of Gnowangerup shall obtain and should only rely on **written confirmation** of the outcome of the application, and any conditions attaching to the decision made by the Shire of Gnowangerup in respect of the application.

These minutes are not a verbatim record but include the contents pursuant to Regulation 11 of Local Government (Administration) Regulations 1996.

Signed: _____

Bob Jarvis
CHIEF EXECUTIVE OFFICER

Gnowangerup Shire – A progressive, inclusive and prosperous community built on opportunity

SHIRE OF GNOWANGERUP

DECLARATION OF INTEREST FORM

To: Chief Executive Officer
Shire of Gnowangerup
28 Yougenup Road
GNOWANGERUP WA 6335

I,(1) _____ wish to declare an interest in the following item to be considered by Council at its meeting to be held on (2)_____

Agenda Item(3)_____

The **type** of Interest I wish to declare is (4).

- ☐ Financial pursuant to Section 5.60A of the Local Government Act 1995
- ☐ Proximity pursuant to Section 5.60B of the Local Government Act 1995
- ☐ Indirect Financial pursuant to Section 5.61 of the Local Government Act 1995
- ☐ Impartiality pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007.

The **nature** of my interest is (5) _____
_____
_____

The **extent** of my interest is (6) _____
_____
_____

I understand that the above information will be recorded in the minutes of the meeting and placed in the Disclosure of Financial and Impartiality of Interest Register.

Yours sincerely

_____ _____
Signed Date

Notes:
1. Insert your name (print).
2. Insert the date of the Council Meeting at which the item is to be considered.
3. Insert the Agenda Item Number and Title.
4. Tick box to indicate type of interest.
5. Describe the nature of your interest.
6. Describe the extent of your interest (if seeking to participate in the matter under S. 5.68 & 5.69 of the Act)..

DECLARATION OF INTERESTS (NOTES FOR YOUR GUIDANCE)

A Member, who has a 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 FINANCIAL INTEREST (NOTES FOR YOUR GUIDANCE)

The following notes are a basic guide for Councillors when they are considering whether they have a **Financial Interest** in a matter. These notes will be 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 measured 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.

INTERESTS AFFECTING IMPARTIALITY

DEFINITION: An interest that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected, but does not include an interest as referred to in Section 5.60 of the 'Act'. A member who has an Interest Affecting Impartiality in any matter to be discussed at a Council or Committee Meeting, which 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.

IMPACT OF AN IMPARTIALITY DISCLOSURE

There are very different outcomes resulting from disclosing an interest affecting impartiality compared to that of a financial interest. With the declaration of a financial interest, an elected member leaves the room and does not vote. With the declaration of this new type of interest, the elected member stays in the room, participates in the debate and votes. In effect then, following disclosure of an interest affecting impartiality, the member's involvement in the Meeting continues as if no interest existed.

Process of Motions

ORIGINAL MOTION

Introduce the Item
Item # and Title

Call & Name
Mover and Seconder

Invite
Mover to Speak

Invite
Seconder to Speak

Call for Members to speak
Against the Item

Alternate — **Members only to speak once** — Alternate

Call for members to speak
For the Item

Ask the MOVER if they would like to
Speak to Close Debate

Read or Summarise
the Motion

Put the VOTE
Call for Votes For Motion

Put the VOTE
Call for Votes Against Motion

Declare the Result
(Carried or Lost)

AMENDMENT

Member Moves an
Amendment

Call & Name
Seconder for the Amendment

Invite
Mover then Seconder to Speak

Order of Debate
Alternate Speakers - Against/For

Ask for the MOVER if they would like to
Speak to Close Debate

Put the VOTE
Call for Votes For Motion

Put the Vote
Call for Votes Against Motion

Declare the Result
on the Amendment

ORIGINAL (SUBSTANTIVE) MOTION AMENDED?

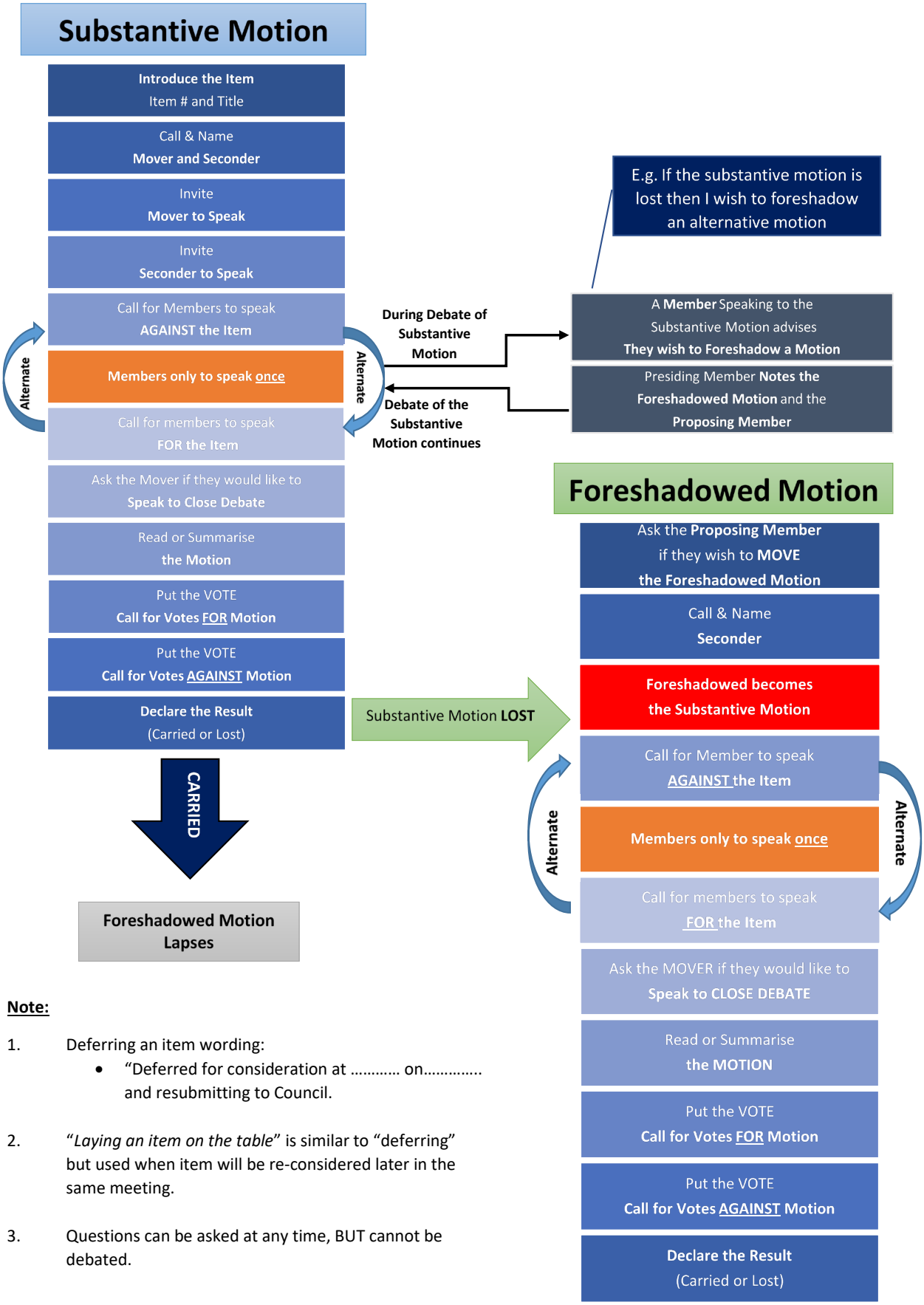
NO

Back to
ORIGINAL MOTION
Pick up at same point in the
ORDER OF DEBATE

YES

Motion Amended
and is now the
SUBSTANTIVE MOTION

Slight clarification of wording of motion: A minor amendment of the motion can be done at any time through the President with the approval of the Mover and the Seconder. The Minor amendment must be minuted.



Note:

1. Deferring an item wording:
   - "Deferred for consideration at …… on…….. and resubmitting to Council.

2. "*Laying an item on the table*" is similar to "deferring" but used when item will be re-considered later in the same meeting.

3. Questions can be asked at any time, BUT cannot be debated.

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OPENING PROCEDURES

1. OPENING AND ANNOUNCEMENT OF VISITORS

Shire President, Fiona Gaze welcomed Councillors and staff and opened the meeting at 4:52pm.

2. ACKNOWLEDGEMENT OF COUNTRY

The Shire of Gnowangerup would like to acknowledge the Goreng people who are the Traditional Custodians of this land. The Shire of Gnowangerup would also like to pay respect to the Elders both past and present of the Noongar Nation and extend that respect to other Aboriginals present.

3. ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

3.1 **ATTENDANCE**

Cr Fiona Gaze	Shire President
Cr Greg Stewart JP	Deputy Shire President
Cr Shelley Hmeljak	
Cr Mick Creagh	
Cr Rebecca Kiddle	
Cr Peter Callaghan	
Cr Lex Martin	
Cr Rebecca O'Meehan	
Anita Finn	Executive Assistant

3.2 **APOLOGIES**

Cr Kate O'Keeffe JP

3.3 **APPROVED LEAVE OF ABSENCE**

Nil

4. APPLICATION FOR LEAVE OF ABSENCE

Nil

5. RESPONSE TO QUESTIONS TAKEN ON NOTICE

Nil

6. PUBLIC QUESTION TIME

Nil

7. DECLARATION OF FINANCIAL INTERESTS AND INTERESTS AFFECTING IMPARTIALITY

Nil

8. PETITIONS / DEPUTATIONS / PRESENTATIONS

8.1 PETITIONS

Nil

8.2 DEPUTATIONS

Nil

8.3 PRESENTATIONS

Nil

9. CONFIRMATION OF PREVIOUS MEETING MINUTES

Nil

10. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

REPORTS FOR DECISION

11. REPORTS FOR DECISION

Nil

12. REPORT FOR DECISION – CONFIDENTIAL ITEMS

PROCEDURAL MOTION

1022.112

Moved: Cr L Martin **Seconded: Cr P Callaghan**

That in accordance with Section 5.23 (2)(a) & (b) of the Local Government Act 1995 the meeting is closed to members of the public with the following aspect(s) of the Act being applicable to this matter:

(a) the personal affairs of any person;
(b) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;

UNANIMOUSLY CARRIED: 8/0

12.1	**ENDORSEMENT OF THE NEW CHIEF EXECUTIVE OFFICER FOR THE SHIRE OF GNOWANGERUP**
Location:	N/A
Proponent:	N/A
Date of Report:	11 October 2022
Business Unit:	Strategy and Governance
Responsible Officer:	Bob Jarvis - Chief Executive Officer
Author:	Anita Finn - Executive Assistant
Disclosure of Interest:	Bob Jarvis

ATTACHMENTS

- Minutes for the CEO Recruitment & Selection Panel Meeting held on the 12 October 2022. ***(confidential – tabled at the meeting)***
- CEO Recruitment Report prepared by Geraldine Kistnasing (Executive Recruitment Consultant from Lo-Go Appointments) and endorsed by CEO Recruitment & Selection Panel ***(confidential)***
- Draft Contract of Employment for the CEO ***(confidential)***

PURPOSE OF THE REPORT

1. For Council to receive and note the Minutes of the CEO Recruitment & Selection Panel Meeting ('the Selection Panel') held on the 12 October 2022.

2. For Council to receive & endorse
   - the summary of the Selection Panel's assessment of each applicant, being the CEO Recruitment Report prepared by Geraldine Kistnasing from Lo-Go Appointments, and endorsed by the Panel at their meeting on 12 October 2022 of; and
   - the Selection Panel's recommendation as to which applicant is suitable to be employed in the position of CEO ('preferred candidate').

3. For Council to approve the Draft CEO employment contract and provisions contained therein and to authorise the Shire President and the current CEO to execute the contract. In the case of a variation to the proposed contract the council must approve the terms of the negotiated contract.

4. For Council to certify that the person was employed in accordance with the local government's adopted standards in relation to the recruitment of CEOs.

BACKGROUND

The current CEO, Mr Bob Jarvis, finishes with the Shire of Gnowangerup on 31 October 2022.

At its Ordinary Council Meeting held on 27 July 2022, the Councillors established a CEO Recruitment & Selection Panel to conduct and facilitate the CEO recruitment and selection process.

In accordance with the *Local Government (Administration) Regulations 1996, and* Shire of Gnowangerup Standards for CEO Recruitment, Performance and Termination the recommendation by the Selection Pane must

(1) Each applicant's knowledge, experience, qualifications and skills must be assessed against the selection criteria by or on behalf of the Selection Panel.
(2) Following the assessment referred to in subclause (1), the selection panel must provide to the local government —
(a) a summary of the Selection Panel's assessment of each applicant; and
(b) unless subclause (3) applies, the Selection Panel's recommendation as to which applicant or applicants are suitable to be employed in the position of CEO.

Before making an applicant an offer of employment in the position of CEO, the local government must, by resolution of an absolute majority of the Council, approve —

(a the making of the offer of employment to the applicant; and
(b) the proposed terms of the contract of employment to be entered into by the local government and the applicant.

Variations to proposed terms of contract of employment

This clause applies if an applicant who is made an offer of employment in the position of CEO a contract of employment (the negotiated contract) containing terms different to the proposed terms approved by the Council.

Before entering into the negotiated contract with the applicant, the local government must, by resolution of an absolute majority of the council, approve the terms of the negotiated contract.

COMMENTS

Selection Panel meeting were held on 10 & 24 August and 12 & 19 September and 12 October 2022.

Meet and Greet interviews were held with four candidates via Zoom on 12 September 2022 and three formal interviews were conducted on 19 September 2022.

Pre interviews via phone, reference & background checks were completed by Geraldine Kistnasing – Executive Recruitment Consultant from Lo-Go Appointments. Please refer to the attached CEO Recruitment Report for more details.

At its meeting on 12 October 2022 the Selection Panel endorsed the CEO Recruitment Report, Draft CEO employment contract and decided on the recommendation for Council.

CONSULTATION

External Consultation: Geraldine Kistnasing, Senior Recruitment Consultant, Lo-Go Appointments
Selection Panel meetings were held on 10 & 24 August and 12 & 19 September and 12 October 2022.

1. Shire of Gnowangerup Standards for CEO Recruitment, Performance and Termination

2. Local Government (Administration) Regulation 1996, Schedule 2, Division 2

Clause 9. Recommendation by selection panel

(1) Each applicant's knowledge, experience, qualifications and skills must be assessed against the selection criteria by or on behalf of the selection panel.

(2) Following the assessment referred to in subclause (1), the selection panel must provide to the local government —

(a) a summary of the selection panel's assessment of each applicant; and

(b) unless subclause (3) applies, the selection panel's recommendation as to which applicant or applicants are suitable to be employed in the position of CEO.

(3) If the selection panel considers that none of the applicants are suitable to be employed in the position of CEO, the selection panel must recommend to the local government —

(a) that a new recruitment and selection process for the position be carried out in accordance with these standards; and

(b) the changes (if any) that the selection panel considers should be made to the duties and responsibilities of the position or the selection criteria.

(4) The selection panel must act under subclauses (1), (2) and (3) —

(a) in an impartial and transparent manner; and

(b) in accordance with the principles set out in section 5.40 of the Act.

(5) The selection panel must not recommend an applicant to the local government under subclause (2)(b) unless the selection panel has —

(a) assessed the applicant as having demonstrated that the applicant's knowledge, experience, qualifications and skills meet the selection criteria; and

(b) verified any academic, or other tertiary level, qualifications the applicant claims to hold; and

(c) whether by contacting referees provided by the applicant or making any other inquiries the selection panel considers appropriate, verified the applicant's character, work history, skills, performance and any other claims made by the applicant.

(6) The local government must have regard to, but is not bound to accept, a recommendation made by the selection panel under this clause.

Part 4 — Local government employees

18FB. Certification of compliance with adopted standards for CEO recruitment (Act s. 5.39B(7))

(3) As soon as practicable after the person is employed in the position of CEO, the local government must, by resolution, certify that the person was employed in accordance with the local government's adopted standards in relation to the recruitment of CEOs.*

** Absolute majority required.*

(4) The local government must give a copy of the resolution to the Departmental CEO within 14 days after the resolution is passed by the local government.

6. Terms of Reference – Operational Matters

a) For the purposes of reporting and accountability requirements, the Panel must keep minutes of all meetings of the Panel. The Reporting of the recommendations of the Panel to the Council in this manner is sufficient to satisfy the reporting and accountability requirements of the Council.

POLICY IMPLICATIONS
Nil

FINANCIAL IMPLICATIONS
Nil

STRATEGIC IMPLICATIONS
Strategic Community Plan
Theme: Our Organisation
Objective: Investment in the skills and capabilities of our staff and leaders

STRATEGIC RISK MANAGEMENT CONSIDERATIONS:

Primary Strategic Risk Category	Compliance Risk (Statutory, Regulatory)
Description	Appointment of a suitably qualified and experienced CEO
Residual Risk: (Low, Moderate, High, Extreme)	Moderate
Consequence: (Insignificant, Minor, Moderate, Major, Catastrophic)	Major
Likelihood: (Almost Certain, Likely, Possible, Unlikely, Rare)	Possible

IMPACT ON CAPACITY
Nil

ALTERNATE OPTIONS AND THEIR IMPLICATIONS
Council could choose not to follow the recommendations. In this case a new recruitment and selection process for the position be carried out which will be an additional recruitment expense (not included in 2022/2023 budget) and time consuming.

CONCLUSION
If Council chooses not to follow the Selection Panel's recommendations additional expenses will occur and it might put additional pressure on staff

VOTING REQUIREMENTS
Simple Majority – Officers Recommendation
Absolute Majority – CEO Recruitment & Selection Panel's Recommendations

COUNCIL RESOLUTION

Moved: Cr S Hmeljak Seconded: Cr M Creagh

1022.113 That Council

1. **Receives and notes the minutes of the CEO Recruitment & Selection Panel held on 12 October 2022.**

UNANIMOUSLY CARRIED: 8/0

COUNCIL RESOLUTION

Moved: Cr R O'Meehan Seconded: Cr R Kiddle

1022.114 That Council

1. **Receives the attached CEO Recruitment & Selection Panel's assessment summary and recommendation as to the applicant that is suitable to be employed as the Chief Executive Officer (CEO) for the Shire of Gnowangerup**

2. **Agrees that the preferred candidate is suitably qualified for the position in accordance with section 5.36(2)(a) of the Local Government Act 1995, and notes that the person's character, work history, competencies, performance and any other claims made by the applicant have been verified.**

3. **Approves the attached Contract of Employment – Chief Executive Officer and provisions contained therein being satisfied with the proposed provisions relating to the preferred candidate's employment in accordance with section 5.36(2)(b) of the Local Government Act 1995**

4. **Authorises the Shire President and the current CEO to execute the CEO employment contract and apply the common seal in accordance with section 9.49A(1)(a) of the Local Government Act 1995, subject to the preferred candidate's acceptance of the provisions contained within the attached Contract of Employment based on a three year term noting that the total remuneration package is commensurate with the Salaries and Allowances Tribunal's Local Government Chief Executive Officers and Elected Members Determination No 1 of 2022 (SAT Determination) for a Band 4 local government**

5. **With respect to the appointment of the Chief Executive Officer, maintains confidentiality as to the identity of the individual, until the successful candidate has formally executed the contract and the appointment has been announced by the Shire of Gnowangerup,**

6. **Notes that if the preferred candidate is not satisfied with the Contract of Employment offered, that negotiations ensue, and a revised Contract of Employment is presented to the Council, or a determination is made to readvertise the position.**

7. **Subject to the preferred candidate accepting the attached Contract of Employment and it being fully executed, certifies that the Council has complied with the requirements of the Shire of Gnowangerup's adopted CEO Recruitment, Performance and Termination Standards and, within 14 days of this resolution, provides a copy of the resolution as confirmation to the Department of Local Government, Sport and Cultural Industries (as per s.5.39B(7) of the Local Government Act 1995 and Regulation 18FB of the Local Government (Administration) Regulations 1996).**

CARRIED BY ABSOLUTE MAJORITY: 8/0

PROCEDURAL MOTION

Moved: Cr L Martin **Seconded: P Callaghan**

1022.115 That Council:

Reopens the meeting to members of the public.

UNANIMOUSLY CARRIED: 8/0

No member of the public present

OTHER BUSINESS AND CLOSING PROCEDURES

13. URGENT BUSINESS INTRODUCED BY DECISION OF COUNCIL

Nil

14. MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

15. DATE OF NEXT MEETING

The next Ordinary Council Meeting will be held on the 26 October2022.

16. CLOSURE

The Shire President thanked Council and staff for their time and declared the meeting closed at 4:56 pm.