

*Heart of the Stirling*



**SHIRE OF GNOWANGERUP**

**MINUTES**

**SPECIAL MEETING OF COUNCIL**

**8<sup>th</sup> JUNE 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 8<sup>th</sup> June 2022, at the Council Chambers 28 Yougenup Road Gnowangerup, commencing at 4:30pm.

Signed:  \_\_\_\_\_

**Bob Jarvis**  
**CHIEF EXECUTIVE OFFICER**

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**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.*



### 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**



**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;

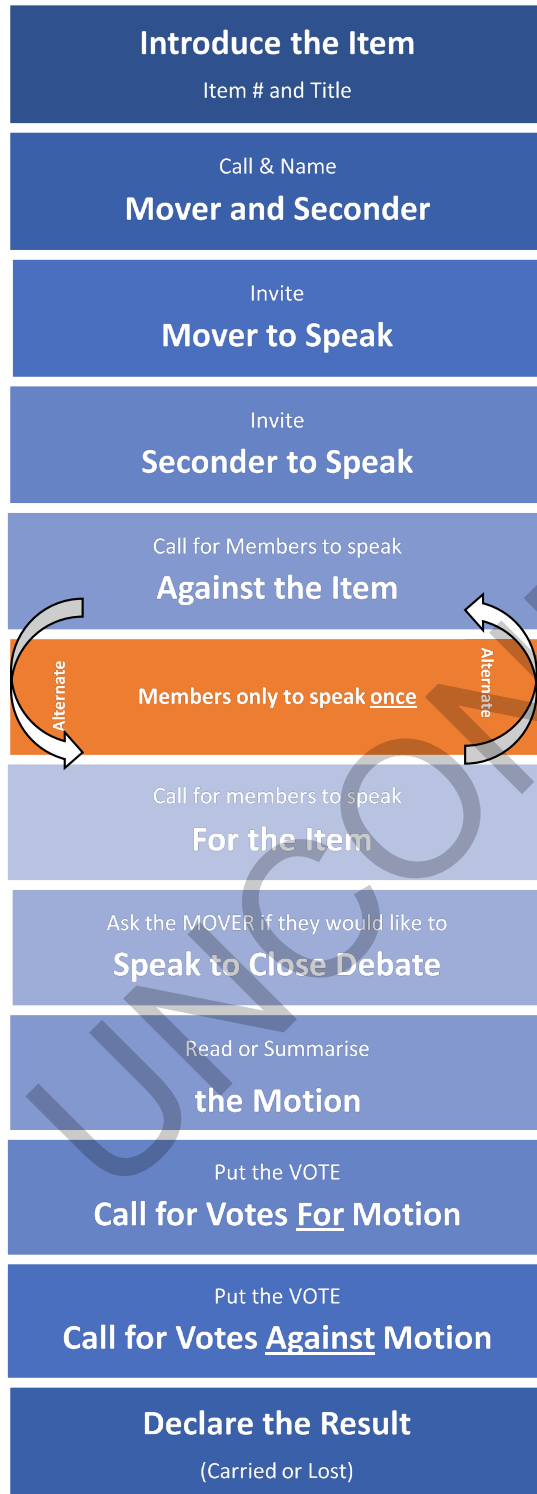
- (a) in a written notice given to the Chief Executive Officer before the Meeting; or
- (b) at the Meeting, immediately before the matter is discussed.

**IMPACT OF AN IMPARTIALITY DISCLOSURE**

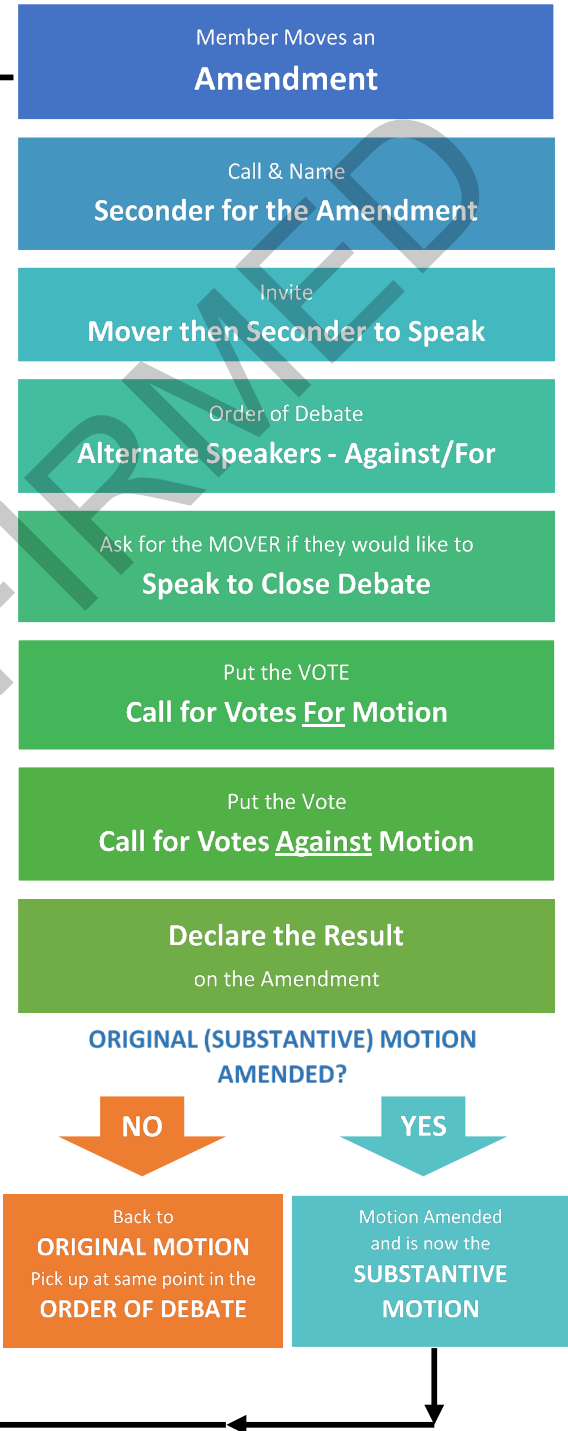
There are very different outcomes resulting from disclosing an interest affecting impartiality compared to that of a financial interest. With the declaration of a financial interest, an elected member leaves the room and does not vote. With the declaration of this new type of interest, the elected member 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



## AMENDMENT



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.

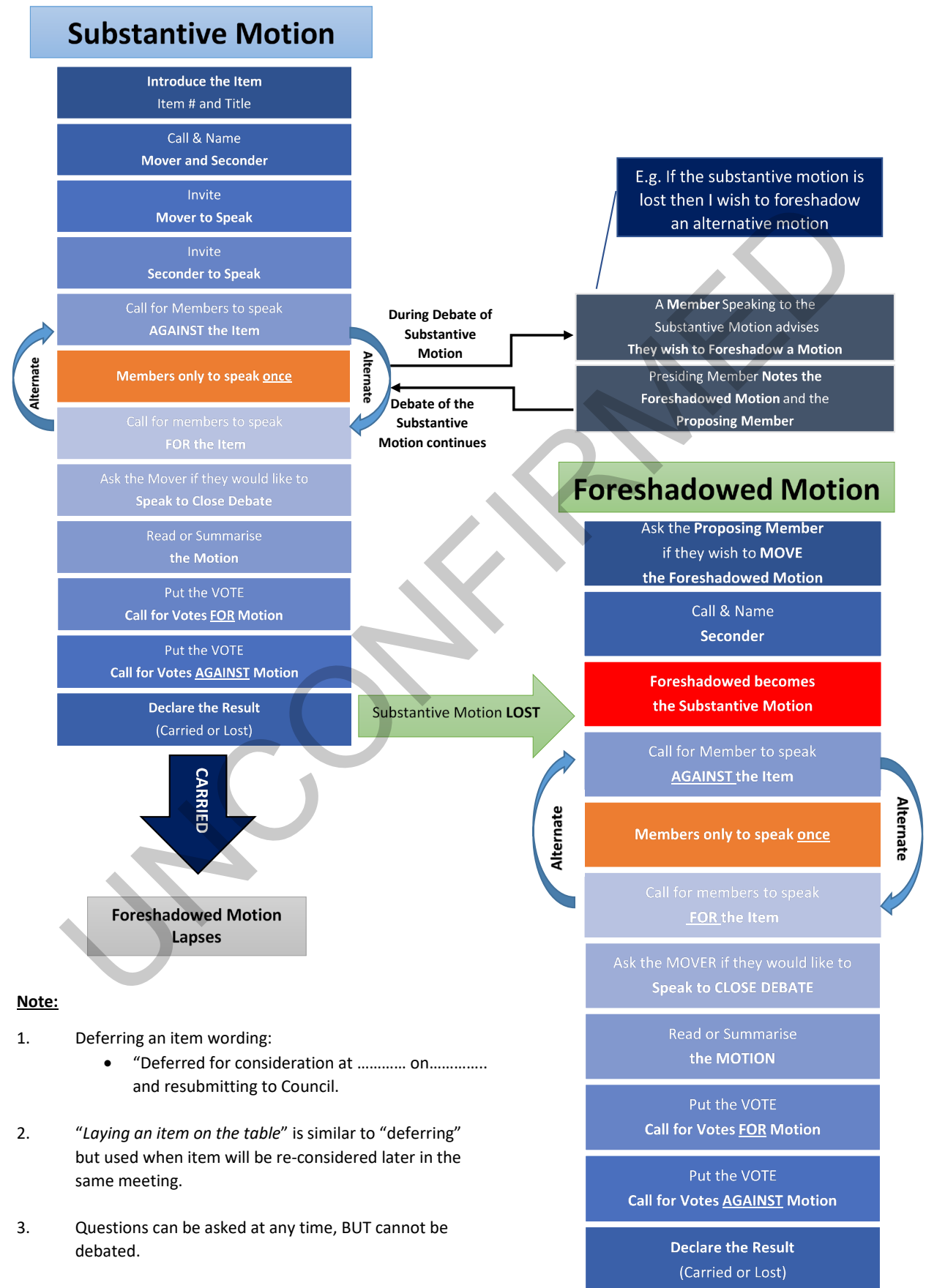


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OPENING PROCEDURES

**1. OPENING AND ANNOUNCEMENT OF VISITORS**

Shire President, Fiona Gaze welcomed Councillors and staff present in Chambers and confirmed with Councillors attending via conference call as allowed for pursuant to regulation 14D of the *Local Government (Administration) Regulations 1996*, that they could clearly hear and that they could be heard by those present in Chambers and opened the meeting at 4:43pm.

**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 Kate O’Keeffe JP	Attendance via telephone conference call
Cr Peter Callaghan	
Cr Lex Martin	
Cr Rebecca O’Meehan	
Bob Jarvis	Chief Executive Officer
Cherie Delmage	Deputy Chief Executive Officer
Geoff Carberry	Asset and Waste Management Coordinator
Abbey Newbey	Executive Assistant Relief

**3.2 APOLOGIES**

Anita Finn	Executive Assistant
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**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**

CEO - Bob Jarvis

Report 11.2

Indirect Financial Interest

The CEO is the incumbent and the report is about his replacement.

**8. PETITIONS / DEPUTATIONS / PRESENTATIONS**

8.1 PETITIONS

8.2 DEPUTATIONS

8.3 PRESENTATIONS

**9. CONFIRMATION OF PREVIOUS MEETING MINUTES**

Nil

**10. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil

UNCONFIRMED

REPORTS FOR DECISION

11. REPORTS FOR DECISION

**11.1 UNBUDGETED TRANSFER OF EMPLOYEE ENTITLEMENT RESERVES**

<b>Location:</b>	N/A
<b>Proponent:</b>	N/A
<b>Date of Report:</b>	30 <sup>th</sup> May 2022
<b>Business Unit:</b>	Finance
<b>Officer:</b>	Cherie Delmage – Deputy Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil

ATTACHMENTS

Nil

PURPOSE OF THE REPORT

For Council to approve an unbudgeted transfer of funds from the Employee Entitlement Leave Reserve to the Shire of Gnowangerup Municipal Account.

BACKGROUND

At the time of adoption, the Shire of Gnowangerup 2021/2022 Budget did not include a transfer from Reserves as the payout of leave entitlements of any significance was not foreseen.

COMMENTS

One long term employee has recently finished up with another due to finish prior to the end of this financial year. To assist with cashflow and to utilise the purpose of the Leave Reserve, it is recommended that we transfer the required funds to our Municipal account.

CONSULTATION

Consultation has occurred between Mr Bob Jarvis, CEO; Mr Darren Long, DL Consulting; Mrs Sharon Minter, Senior Finance Officer and Cherie Delmage, DCEO.

LEGAL AND STATUTORY REQUIREMENTS

***Local Government Act 1995***

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

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

*\* Absolute majority required.*

POLICY IMPLICATIONS

There are no foreseen policy implications with this report.

### FINANCIAL IMPLICATIONS

If the Council adopts the Officer's Recommendation, a transfer of \$64,000 will be made from the Shire's Leave Reserve into the Shire's operating Municipal Account. At the end of the financial year, once budgeted transfers have occurred, the Leave Reserve will have a remaining balance of \$164,247 (may vary slightly based on interest).

### STRATEGIC IMPLICATIONS

Strategic Community Plan 2021 - 2031

Finance and Governance, to deliver open and transparent systems and reporting that ensure the prudent use of funding streams

### STRATEGIC RISK MANAGEMENT CONSIDERATIONS:

Primary Strategic Risk Category	Financial Management
Description	Cash Flow Management
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

If the Council resolves to not adopt the Officer's Recommendation, there will be a negative impact on the Shire of Gnowangerup's cash flow.

### CONCLUSION

The most appropriate way of dealing with this potential cash flow issue is to source the appropriate funding from the Reserve which was established for this purpose.

### VOTING REQUIREMENTS

Absolute Majority

### COUNCIL RESOLUTION

Moved: Cr G Stewart

Seconded: Cr P Callaghan

**0622.50 That Council:**

**Authorise the transfer of \$64,000 from the Shire's Leave Reserve Account to the Shire's operating Municipal Account to cover for unbudgeted costs associated with payout of leave entitlements.**

**CARRIED BY ABSOLUTE MAJORITY: 9/0**

CEO Bob Jarvis declared a Indirect Financial Interest and left the room at 4:48pm

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<b>11.2</b>	<b>APPOINTMENT OF RECRUITMENT AGENCY FOR CEO APPOINTMENT</b>
<b>Location:</b>	N/A
<b>Proponent:</b>	N/A
<b>Date of Report:</b>	31 May 2022
<b>Business Unit:</b>	Strategy & Governance
<b>Officer:</b>	Cherie Delmage – Deputy Chief Executive Officer
<b>Disclosure of Interest:</b>	Nil

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#### ATTACHMENTS

- Shire of Gnowangerup Standards for CEO Recruitment, Performance and Termination

#### *Quotes Under Confidential Cover*

- 11 Recruitment
- Logo Appointments
- Hays Executive

#### PURPOSE OF THE REPORT

For Council to appoint a recruitment agency to begin the recruitment process of appointing a new Chief Executive Officer (CEO).

#### BACKGROUND

Current CEO, Mr Bob Jarvis, commenced with the Shire of Gnowangerup on 1 October 2019 and has elected to finish up at the end of his three-year tenure being 30 September 2022. As such, the Council will need to begin the process of recruiting a new CEO.

#### COMMENTS

The process of appointing a new CEO is governed by the *Local Government Act 1995*, specifically Part 5, Division 4 – Local Government Employees, Sections 5.36-5.41.

Due to the importance of the role and the need to ensure that the Shire is compliant in all facets of the process, it is recommended that Council utilise an external agency with local government recruitment experience to assist the Council in this process.

Four requests for quotes were sent out on 18 May 2022 with three responses received.

#### ➤ *Quote 1*

11 Recruitment

Pro 18 Month Performance Based Replacement Guarantee

Con Higher cost than an alternate quote

➤ *Quote 2*

Lo-Go Appointment

Pro Lowest quote

Pro Extensive local government experience

Con No replacement guarantee; negotiated fee option available if original appointee resigns or is terminated by Council during probationary period

➤ *Quote 3*

Hays Executive

Pro Restricted replacement guarantee support up to three months of appointment

Con Significantly higher cost than the other two proposals and based on a 13% Rewards Package.

### CONSULTATION

The matter was discussed with Council at its workshop held Wednesday 25 May 2022.

### LEGAL AND STATUTORY REQUIREMENTS

#### ***Local Government Act 1995***

*Division 4 — Local government employees*

#### **5.36. Local government employees**

(1) *A local government is to employ —*

(a) *a person to be the CEO of the local government; and*

(2) *A person is not to be employed in the position of CEO unless the council —*

(a) *believes that the person is suitably qualified for the position; and*

(b) *is satisfied\* with the provisions of the proposed employment contract.*

*\* Absolute majority required.*

(4) *Unless subsection (5A) applies, if the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.*

### POLICY IMPLICATIONS

There are no foreseen policy implications with this report.

### FINANCIAL IMPLICATIONS

If the Council adopt the Officer's Recommendation, an initial payment of \$3,300.00 exclusive GST will be made from operational funds. Further costs for the CEO recruitment process will need to be factored into the 2022/2023 Council budget deliberations to cover the remaining \$3,300.00 Recruitment Services Fee along with other recruitment costs.

### 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**

Alternate options and associated implications are noted under comments.

**CONCLUSION**

It is important that the Council commence the CEO recruitment process as soon as possible to allow for a smooth transition and timely appointment.

**VOTING REQUIREMENTS**

Absolute Majority

**COUNCIL RESOLUTION**

Moved: Cr R O’Meehan

Seconded: Cr G Stewart

**0622.51 That Council:**

- 1. Authorise the Chief Executive Officer (CEO) to appoint Lo-Go Appointments to undertake the recruitment of a Chief Executive Officer (CEO) for the cost of \$6,600.00 GST Exclusive as per their proposal dated 18 May 2022;**
- 2. Approve the reallocation of \$3,300.00 from GL: 04082 Legal Costs to GL: 61272 Human Resources Cost to cover the first 50% payment required upon the acceptance of the proposal; and**
- 3. Include the consideration of CEO recruitment costs during 2022/2023 budget deliberations.**

**CARRIED BY ABSOLUTE MAJORITY: 9/0**

*Heart of the Stirlings*



**SHIRE OF GNOWANGERUP**

**STANDARDS  
FOR  
CEO RECRUITMENT, PERFORMANCE  
AND TERMINATION**



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## Standard Purpose

This Standard is adopted in accordance with section 5.39B of the *Local Government Act 1995*.

## Division 1 — Preliminary provisions

### 1. Citation

These are the Shire of Gnowangerup's Standards for CEO Recruitment, Performance and Termination.

### 2. Terms used

(1) In these standards —

**Act** means the Local Government Act 1995;

**additional performance criteria** means performance criteria agreed by the local government and the CEO under clause 16(1)(b);

**applicant** means a person who submits an application to the local government for the position of CEO;

**contract of employment** means the written contract, as referred to in section 5.39 of the Act, that governs the employment of the CEO;

**contractual performance criteria** means the performance criteria specified in the CEO's contract of employment as referred to in section 5.39(3)(b) of the Act;

**job description form** means the job description form for the position of CEO approved by the local government under clause 5(2);

**local government** means the Shire of Gnowangerup;

**selection criteria** means the selection criteria for the position of CEO determined by the local government under clause 5(1) and set out in the job description form;

**selection panel** means the selection panel established by the local government under clause 8 for the employment of a person in the position of CEO.

(2) Other terms used in these standards that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

## Division 2 — Standards for recruitment of CEOs

### 3. Overview of Division

This Division sets out standards to be observed by the local government in relation to the recruitment of CEOs.

#### **4. Application of Division**

- (1) Except as provided in subclause (2), this Division applies to any recruitment and selection process carried out by the local government for the employment of a person in the position of CEO.
- (2) This Division does not apply —
  - (a) if it is proposed that the position of CEO be filled by a person in a class prescribed for the purposes of section 5.36(5A) of the Act; or
  - (b) in relation to a renewal of the CEO's contract of employment, except in the circumstances referred to in clause 13(2).

#### **5. Determination of selection criteria and approval of job description form**

- (1) The local government must determine the selection criteria for the position of CEO, based on the local government's consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of the local government.
- (2) The local government must, by resolution of an absolute majority of the council, approve a job description form for the position of CEO which sets out —
  - (a) the duties and responsibilities of the position; and
  - (b) the selection criteria for the position determined in accordance with subclause (1).

#### **6. Advertising requirements**

- (1) If the position of CEO is vacant, the local government must ensure it complies with section 5.36(4) of the Act and the *Local Government (Administration) Regulations 1996* regulation 18A.
- (2) If clause 13 applies, the local government must advertise the position of CEO in the manner referred to in the *Local Government (Administration) Regulations 1996* regulation 18A as if the position was vacant.

#### **7. Job description form to be made available by local government**

If a person requests the local government to provide to the person a copy of the job description form, the local government must —

- (a) inform the person of the website address referred to in the *Local Government (Administration) Regulations 1996* regulation 18A(2)(da); or
- (b) if the person advises the local government that the person is unable to access that website address —
  - (i) email a copy of the job description form to an email address provided by the person; or
  - (ii) mail a copy of the job description form to a postal address provided by the person.

## **8. Establishment of selection panel for employment of CEO**

- (1) In this clause —  
*independent person* means a person other than any of the following —
  - (a) a council member;
  - (b) an employee of the local government;
  - (c) a human resources consultant engaged by the local government.
- (2) The local government must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.
- (3) The selection panel must comprise —
  - (a) council members (the number of which must be determined by the local government); and
  - (b) at least 1 independent person.

## **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.

#### **10. Application of cl. 5 where new process carried out**

- (1) This clause applies if the local government accepts a recommendation by the selection panel under clause 9(3)(a) that a new recruitment and selection process for the position of CEO be carried out in accordance with these standards.
- (2) Unless the local government considers that changes should be made to the duties and responsibilities of the position or the selection criteria —
  - (a) clause 5 does not apply to the new recruitment and selection process; and
  - (b) the job description form previously approved by the local government under clause 5(2) is the job description form for the purposes of the new recruitment and selection process.

#### **11. Offer of employment in 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.

#### **12. Variations to proposed terms of contract of employment**

- (1) This clause applies if an applicant who is made an offer of employment in the position of CEO under clause 11 negotiates with the local government a contract of employment (the negotiated contract) containing terms different to the proposed terms approved by the local government under clause 11(b).
- (2) 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.

#### **13. Recruitment to be undertaken on expiry of certain CEO contracts**

- (1) In this clause —

**commencement day** means the day on which the *Local Government (Administration) Amendment Regulations 2021* regulation 6 comes into operation.

- (2) This clause applies if —
- (a) upon the expiry of the contract of employment of the person (the incumbent CEO) who holds the position of CEO —
    - (i) the incumbent CEO will have held the position for a period of 10 or more consecutive years, whether that period commenced before, on or after commencement day; and
    - (ii) a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position was carried out, whether that process was carried out before, on or after commencement day;
- and
- (b) the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.
- (3) Before the expiry of the incumbent CEO's contract of employment, the local government must carry out a recruitment and selection process in accordance with these standards to select a person to be employed in the position of CEO after the expiry of the incumbent CEO's contract of employment.
- (4) This clause does not prevent the incumbent CEO's contract of employment from being renewed upon its expiry if the incumbent CEO is selected in the recruitment and selection process referred to in subclause (3) to be employed in the position of CEO.

#### **14. Confidentiality of information**

The local government must ensure that information provided to, or obtained by, the local government in the course of a recruitment and selection process for the position of CEO is not disclosed, or made use of, except for the purpose of, or in connection with, that recruitment and selection process.

### **Division 3 — Standards for review of performance of CEOs**

#### **15. Overview of Division**

This Division sets out standards to be observed by the local government in relation to the review of the performance of CEOs.

#### **16. Performance review process to be agreed between local government and CEO**

- (1) The local government and the CEO must agree on —
- (a) the process by which the CEO's performance will be reviewed (currently through CEO Review Committee Terms of Reference - Appendix 1); and



- (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.
- (2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 17, 18 and 19.
- (3) The matters referred to in subclause (1) must be set out in a written document.

### **17. Carrying out a performance review**

- (1) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.
- (2) The local government must —
  - (a) collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and
  - (b) review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

### **18. Endorsement of performance review by local government**

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

### **19. CEO to be notified of results of performance review**

After the local government has endorsed a review of the performance of the CEO under clause 18, the local government must inform the CEO in writing of —

- (a) the results of the review; and
- (b) if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.

## **Division 4 — Standards for termination of employment of CEOs**

### **20. Overview of Division**

This Division sets out standards to be observed by the local government in relation to the termination of the employment of CEOs.

### **21. General principles applying to any termination**

- (1) The local government must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.

- (2) The local government must accord a CEO procedural fairness in relation to the process for the termination of the CEO's employment, including —
  - (a) informing the CEO of the CEO's rights, entitlements and responsibilities in relation to the termination process; and
  - (b) notifying the CEO of any allegations against the CEO; and
  - (c) giving the CEO a reasonable opportunity to respond to the allegations; and
  - (d) genuinely considering any response given by the CEO in response to the allegations.

## **22. Additional principles applying to termination for performance related reasons**

- (1) This clause applies if the local government proposes to terminate the employment of a CEO for reasons related to the CEO's performance.
- (2) The local government must not terminate the CEO's employment unless the local government has —
  - (a) in the course of carrying out the review of the CEO's performance referred to in subclause (3) or any other review of the CEO's performance, identified any issues (the performance issues) related to the performance of the CEO; and
  - (b) informed the CEO of the performance issues; and
  - (c) given the CEO a reasonable opportunity to address, and implement a plan to remedy, the performance issues; and
  - (d) determined that the CEO has not remedied the performance issues to the satisfaction of the local government.
- (3) The local government must not terminate the CEO's employment unless the local government has, within the preceding 12 month period, reviewed the performance of the CEO under section 5.38(1) of the Act.

## **23. Decision to terminate**

Any decision by the local government to terminate the employment of a CEO must be made by resolution of an absolute majority of the council.

## **24. Notice of termination of employment**

- (1) If the local government terminates the employment of a CEO, the local government must give the CEO notice in writing of the termination.
- (2) The notice must set out the local government's reasons for terminating the employment of the CEO.



## APPENDIX

### 1. CEO Review Committee - Term of Reference



SHIRE OF GNOWANGERUP

## CEO REVIEW COMMITTEE

### TERMS OF REFERENCE

#### Purpose

The CEO Review Committee (Committee) is responsible for making recommendations to Council on Chief Executive Officer (CEO) appointments, contract reviews/renewals, performance and remuneration reviews and assessments.

The Committee is a formally appointed committee of Council and is responsible to that body. The Committee does not have executive powers or authority to implement actions in areas over which the CEO has legislative responsibility and does not have a delegated power from Council. The Committee does not have any management functions and cannot involved itself in management processes or procedures.

The Committee is to report to Council and provide appropriate advice and recommendations on matters relevant to its terms of reference in order to facilitate informed decision making by Council in relation to the legislative functions and duties of the local government that have not been delegated to the CEO.

#### Objectives

The primary objectives of the Committee are to make recommendations to Council on CEO appointments, contract reviews/renewals, performance and remuneration reviews and assessments.

Reports from the Committee will assist Council in discharging its legislative responsibilities of governing the Shire's affairs.

## Duties and Responsibilities

The duties and responsibilities of the Committee members will be to:

1. Make recommendations to Council on CEO performance reviews and assessments;
2. Review and recommend annual goals and targets for the CEO against key performance indicators to Council for consideration.
3. Make recommendations to Council on CEO remuneration reviews and assessments.
4. Make recommendations to Council on CEO appointments.
5. Make recommendations to Council on CEO contract reviews and/or renewals.

## Membership

The Committee will consist of all elected members of Council. All members shall have full voting rights.

The CEO and employees are not members of the committee.

The CEO and senior staff, with the approval of the Presiding Member and CEO, may be called to attend meetings to provide advice and guidance to the Committee.

The Executive Assistant will provide administrative support to the Committee by preparing agendas and minutes, and organising meetings.

The Presiding Member and Deputy Presiding Member must be elected in accordance with section 5.12 and Schedule 2.3 of the Act.

## Meetings

The Committee shall have flexibility in relation to when it needs to meet, but as a minimum, will need to meet at least once a year. It is the responsibility of the Presiding Member to call the meetings of the Committee.

## Reporting

Reports and recommendations of each Committee meeting shall be presented to the next ordinary meeting of the Council and must be moved by the Presiding Member, or in his/her absence the Deputy Presiding Member, or in both their absences, any other member of the Committee.

CEO Bob Jarvis returned to the meeting at 4:49pm

**12. REPORT FOR DECISION – CONFIDENTIAL ITEMS**

Nil

**OTHER BUSINESS AND CLOSING PROCEDURES**

**13. URGENT BUSINESS INTRODUCED BY DECISION OF COUNCIL**

**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 22<sup>nd</sup> June 2022.

**16. CLOSURE**

The Shire President thanks Council and staff for their time and declares the meeting closed at 4:49 pm.