



COUNCIL MINUTES

CONFIRMED: 19 OCTOBER 2022

Ordinary Meeting of Council

7pm, Wednesday 21 September 2022

Council Chambers, 6177 Great Northern Highway, Bindoon

PUBLIC QUESTION TIME

1. Time Permitted

A minimum of 15 minutes is permitted for Public Question Time at Council Meetings. If there are not sufficient questions to fill the allocated time, the Presiding Member will move to the next item. If there are more questions to be considered within 15 minutes, the Presiding Member will determine whether to extend Public Question Time. Each person seeking to ask questions during Public Question Time may address the Council for a maximum of two minutes each.

2. Protocol

No member of the public may interrupt the Council Meeting proceedings or enter into conversation.

Members of the public wishing to participate in Public Question Time at the Council Meeting who wish to submit written questions, are requested to lodge them with the Chief Executive Officer the Tuesday by **5pm on the day before the meeting**

The Presiding Member will control Public Question time and ensure that each person wishing to ask a question is given a fair and equal opportunity to do so. Members of the public wishing to ask a question must state his or her name and address before asking a question. If the question relates to an item of the Agenda, the item number and title should be stated.

3. General Rules

The following general rules apply to Public Question Time:

- Public Questions should only relate to the business of the local government and should not be a personal statement or opinion.
- Only questions relating to matters affecting the local government will be considered at a Council Meeting, and only questions that relate to the purpose of the meeting will be considered at a Special Council Meeting.
- Questions may be take on notice and responded to after the meeting.
- Questions may not be directed to specific Elected Members or a Shire employee.
- Questions are not to be framed in such a way as to reflect adversely on a particular Elected Member or Shire employee.
- First priority will be given to persons who have submitted their questions in writing.
- Second priority will be given to persons who are asking questions relating to items on the current Council Meeting Agenda.

DEPUTATIONS

1. Time permitted

A minimum of 10 minutes is permitted for Deputations.

2. Protocol

No member of the public may interrupt the Council Meeting proceedings or enter into conversation.

Members of the public make a Deputation at the Council Meeting are requested to lodge them with the Chief Executive Officer the Tuesday by **5pm on the day before the meeting**

The Presiding Member will control Deputation time and ensure that each person wishing to ask a question is given a fair and equal opportunity to do so. Members of the public making a Deputation must state his or her name, company (if applicable) and address before commencing. Members must also state the item number and title on the Agenda.

3. General Rules

The following rules apply when making a Deputation:

- (a) Deputation is not to exceed five persons, only two of whom may address the Council, although others may respond to specific questions from Members.
- (b) Deputations must not exceed 10 minutes without the agreement of the Council.
- (c) Additional members of the deputation may be allowed to speak with the agreement of the Presiding Member.

Council is unlikely to take any action on the matter discussed during the deputation without first considering an officer's report on that subject in a later Council agenda.

RECORDING AND ACCESS TO RECORDINGS OF COUNCIL MEETINGS POLICY

Objective

To ensure that there is a process in place to outline access to the recorded proceedings of Council.

To emphasise that the reason for the recording of Council Meetings is to ensure the accuracy of Council Minutes and that any reproduction is for the sole purpose of Council business.

Recording of Proceedings

1. Proceedings for meetings of the Council, Electors, and Public Question Time during Council meetings shall be recorded by the Shire on sound recording equipment, except in the case of meetings of the Council where the Council closes the meeting to the public.
2. Notwithstanding clause 1, proceedings of a meeting of the Council which is closed to the public shall be recorded where the Council resolves to do so.
3. No member of the public is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without approval as per ***Local Government (Council Meetings) Local Law 2014***, c6.15.

Access to Recordings

4. The record of proceedings is to be loaded on to the Shire's website once the minutes have been made available.

Retention of Recordings

5. Recordings pertaining to the proceedings of Council Meetings shall be retained in accordance with the ***State Records Act 2000***.

During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation.

Members of the public shall ensure that their mobile telephone and/or audible pager is not switched on or used during any meeting of the Council.

Members of the public are hereby advised that use of any electronic, visual or audio recording device or instrument to record proceedings of the Council is not permitted without the permission of the Presiding Member.

PREFACE

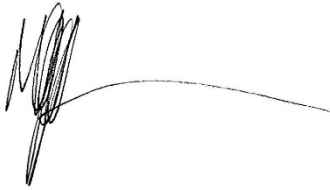
When the Chief Executive Officer approves these minutes for distribution they are in essence "Unconfirmed" until the following Ordinary Meeting of Council, where the minutes will be confirmed subject to any amendments.

The "Confirmed" minutes are then signed off by the Presiding Member.

Attachments that formed part of the agenda, in addition to those tabled at the Ordinary Meeting of Council are put together as an addendum to these Minutes.

UNCONFIRMED MINUTES

These minutes were approved for distribution on 29 September 2022.



Matthew Giffellon
Chief Executive Officer

CONFIRMED MINUTES

These minutes were confirmed at a meeting held on 19 October 2022.



Signed _____

NOTE: the Presiding Member at the meeting at which these minutes are confirmed is the person who signs above.

Disclaimer

The purpose of this Council meeting is to discuss and, where possible, make resolutions about items appearing on the agenda.

Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a member or officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the *Local Government Act 1995* (section 5.25 (e)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person.

The Shire of Chittering expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a member or officer, or the content of any discussion occurring, during the course of the Council meeting.



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Good evening Councillors, staff, ladies and gentlemen, we wish to acknowledge the traditional custodians of the land we are meeting on, the Yued people. We would like to pay respect to the Elders of the Nyoongar nation, past and present, who have walked and cared for the land, we acknowledge and respect their continuing culture, and the contributions made to this region.

ITEM 1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Presiding Member declared the meeting open at 7.02pm.

ITEM 2. RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE / ANNOUNCEMENTS

Attendance

The following members will be in attendance:

Cr Aaron King	President
Cr Mary Angus	Deputy President
Cr Kylie Hughes	
Cr Carmel Ross	
Cr David Dewar	
Cr John Curtis	

The following staff will be in attendance:

Matthew Gilfellon	Chief Executive Officer
Melinda Prinsloo	Executive Manager Corporate Services
Leo Pudhota	Executive Manager Technical Services
Peter Stuart	Executive Manager Development Services
Denaye Kerr	EA to the CEO

Members of the General Public: 3

Media: 0

Apologies

Cr Mark Campbell

Approved leave of absence

Nil

Announcements

Councillors to advise of their attendance in their role as an Elected Member at community activities and meetings. As the Chief Executive Officer's office looks after some (not all) appointments for the President and Deputy President; the Agenda includes only those meetings. Councillors are therefore requested to provide additional information at the Ordinary Meeting of Council for inclusion in the minutes.

Cr Aaron King

17 August 2022	Ordinary Council Meeting
24 August 2022	Local Emergency Management Committee Meeting
28 August 2022	A Taste of Chittering
29 August 2022	CEO Recruitment Committee Meeting
1 September 2022	CEO Remuneration / Performance Review Closeout
6 September 2022	President & CEO Meeting
13 September 2022	President & CEO Meeting
14 September 2022	Agenda Forum and Briefings
16 September 2022	Australian Citizenship Ceremony
18 September 2022	Site Inspection, 26 Wallaroo Drive, Chittering Land Inspection, Vintage Car Day

Cr Mary Angus

17 August 2022	Ordinary Council Meeting
23 August 2022	Dowerin Field Day Luncheon, Crown
26 August 2022	Avon Midland Country Zone Meeting, Jurien Bay
29 August 2022	CEO Recruitment Committee Meeting
1 September 2022	CEO Remuneration / Performance Review Closeout
6 September 2022	President & CEO Meeting Lower Chittering Community Space Reflections Area Walk Through and Meeting
13 September 2022	President & CEO Meeting
14 September 2022	Agenda Forum and Briefings
16 September 2022	Australian Citizenship Ceremony

Cr Kylie Hughes

17 August 2022	Moora Sub-Group Rural Road Group Meeting, Moora Ordinary Council Meeting
22 August 2022	Ellen Brockman Integrated Catchment Group Committee Meeting Chittering Landcare Committee Meeting
29 August 2022	CEO Recruitment Committee Meeting
1 September 2022	CEO Remuneration / Performance Review Closeout
14 September 2022	Agenda Forum and Briefings

Cr Carmel Ross

17 August 2022	Ordinary Council Meeting
29 August 2022	CEO Recruitment Committee Meeting

Cr John Curtis

14 September 2022	Agenda Forum and Briefings
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Cr Mark Campbell

17 August 2022	Ordinary Council Meeting
1 September 2022	CEO Remuneration / Performance Review Closeout
6 September 2022	Lower Chittering Community Space Reflections Area Walk Through and Meeting

14 September 2022 Agenda Forum and Briefings

Cr David Dewar

17 August 2022 Ordinary Council Meeting

20 August 2022 Youth Krew

1 September 2022 CEO Remuneration / Performance Review Closeout

14 September 2022 Agenda Forum and Briefings

ITEM 3. DISCLOSURE OF INTEREST

CEO05 – 09/22 2022 Review of Shire of Chittering Local Laws		
Councillor	Type of Interest	Nature / Extent of Interest
Cr Carmel Ross	Impartiality	<p>Nature: Member of Volunteer Committee that organises the Bindoon Farmers Market that is held approx. 9 times per year at Clune Park</p> <p>Extent: Relevant to the Local Government Property and Public Place Local Law 2022 section of this agenda item.</p>

MOT01 – 09/22 Cr Aaron King – Construction of Muchea Recreation Centre – Project Reporting		
Councillor	Type of Interest	Nature / Extent of Interest
Cr Kylie Hughes	Impartiality	<p>Nature: Member of the Muchea Netball Club</p> <p>Extent: Muchea Netball Club are a user of the facility</p>

ITEM 4. PUBLIC QUESTION TIME

Response to previous public questions taken on notice

Nil

Public question time

Nil

ITEM 5. PRESENTATIONS / PETITIONS / DEPUTATIONS

Petitions

PET01 – 09/22 Tuarn Brown, Chittering Residents and Ratepayers Association

Speed Limits on Blue Plains Road – Petition to have the speed limit reduced to no more than 70km

PET02 – 09/22 Tuarn Brown, Chittering Residents and Ratepayers Association

Aged Care Land Options – Petition to have this located in Bindoon

Presentations

Nil

Deputations

DEP01 – 09/22 Tuarn Brown, Chittering Residents and Ratepayers Association

Speaking on Agenda Item CEO06 – 09/22 – Potential Aged Care Land Options

ITEM 6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

ITEM 7. CONFIRMATION OF MINUTES

Ordinary Meeting of Council: 17 August 2022

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 010922

Moved Cr Angus, seconded Cr Ross

That the minutes of the Ordinary Meeting of Council held on Wednesday 17 August 2022, as published on the Shire website, be confirmed.

CARRIED UNANIMOUSLY 6 / 0

TIME: 7.14PM

ITEM 8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

The Presiding Member acknowledged the passing of Her Majesty Queen Elizabeth II and called for a minutes silence in honor of her 70 years of service.

The Presiding Member also reminded Council members to remain silent when another elected member is speaking.

ITEM 9. REPORTS

DEVELOPMENT SERVICES

Nil

TECHNICAL SERVICES

Nil

CORPORATE SERVICES**CS01 – 09/22 List of Accounts Paid for the Period Ending 31 August 2022**

Applicant	Shire of Chittering
File ref	12/03/4
Author	Finance Officer - Accounts
Authorising Officer	Executive Manager Corporate Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. List of Accounts Paid as at 31 August 2022

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input checked="" type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to endorse payments presented in the List of Accounts Paid for the period ending 31 August 2022.

Background

Pursuant to *Local Government Act 1995 Section 6.8 (2)(b)*, where expenditure has been incurred by a local government, it is to be reported to the next ordinary meeting of Council.

Consultation/Communication ImplicationsLocal

Executive Manager Corporate Services

State

Nil

Legislative ImplicationsState

Local Government Act 1995

Local Government (Financial Management) Regulations

Local

Nil

Policy ImplicationsState

Nil

Local

Nil

Financial Implications

All expenditure has been approved via adoption of the 2022/23 Annual Budget, or resulting from a Council resolution for a budget amendment.

Strategic ImplicationsState

Nil

Local

Nil

Site Inspection

Not applicable

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Compliance	Low	Minor	Low	Quality Assurance prior to publishing
Opportunity: Nil				

Officer Comment/Details

The attached "List of Accounts Paid as at 31 August 2022" is presented to Council for endorsement.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 020922

Moved Cr Angus, seconded Cr King

That Council endorses the following List of Accounts Paid as per Attachment 1 totalling \$910,472.71 for the period ending 31 August 2022:

1. PR6114, PR6132;
2. EFT23871 – EFT23970; and
3. Direct Debits, Cheques as listed.

CARRIED UNANIMOUSLY 6 / 0

TIME: 7.19PM

CS02 – 09/22 Monthly Financial Report for the Period Ending 31 August 2022

File ref	12/03/4
Author	Senior Finance Coordinator
Authorised by	Executive Manager Corporate Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Monthly Financial Report for the Period Ending 31 August 2022

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input checked="" type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to consider the financial statement for the period ending 31 August 2022.

Background

In accordance with *Local Government (Financial Management) Regulations 1996*, the Financial Activity Statement has been prepared in compliance with the following:

“Regulation 34(1) of the Local Government (Financial Management) Regulations 1996, which requires a local government to prepare a statement of financial activity each month, presented according to nature and type, by program, or by business unit. For the 2019/20 financial year the statement of financial activity will be presented by nature and type.

Regulation 34(5) of the Local Government (Financial Management) Regulations 1996, which requires a local government to adopt a percentage or value, calculated in accordance with Australian Accounting Standards, to be used in statements of financial activity for reporting material variances. For the 2019/20 financial year 10% and a value greater than \$100,000 will be used for the reporting of variances.”

Consultation/Communication Implications

This document has been prepared in consultation with Responsible Officers for review and analysis.

Legislative ImplicationsState

This monthly financial report complies with *Section 6.4 of the Act and Regulations 34(5) of the Local Government (Financial Management) Regulations 1996*.

Local

Nil

Policy ImplicationsLocal

Finance Policy 2.1 Budget Preparation

Finance Policy 2.2 Investment of Funds

Finance Policy 2.7 Significant Accounting Policies

Financial Implications

Nil

Strategic Implications

- Strategic Community Plan 2022-2032

Focus area: Strong leadership

Objective: S5.2 Strong partnerships and relationships

Strategy: S5.2.1 Built effective partnerships with stakeholders

Objective: S5.3 Accountable governance

Strategy: S5.3.1 Good governance, which supports efficient and effective service delivery

Site Inspection

Not applicable

Risk Assessment/Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Compliance	Rare	Minor	Low	Quality Assurance prior to publishing
Opportunity: None				

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Reputation: Providing transparent, accurate financial records.	Unlikely	Minor	Low	Adequate training for all Finance Officers, to ensure balanced reports each month.
Opportunity: None				

Officer Comment/Details

Council adopted the Annual Budget for the 2022/23 financial year on 29 June 2022 (Resolution 170622). The figures in this report are compared to the Adopted Budget.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 030922**Moved Cr Ross, seconded Cr Angus****That Council receives the Monthly Financial Report for period ending 31 August 2022, as per Attachment 1.****CARRIED UNANIMOUSLY 6 / 0**

TIME: 7.20PM

CHIEF EXECUTIVE OFFICER**CEO01 – 09/22 Occupational Safety and Health Statistics Report – August 2022**

Applicant	N/A
File ref	GOV.REP.OSH
Author	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. OSH Statistics Report for August 2022

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input checked="" type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to receive the Shire of Chittering's Occupational Safety and Health Statistics Report for August 2022.

Background

At the Ordinary Meeting of Council held 17 November 2021, Council adopted the following motion:

<p>MOTION / COUNCIL RESOLUTION 231121 Moved Cr King, seconded Cr Angus That:</p> <ol style="list-style-type: none"> 1. "The Shire of Chittering" adopts the following position statement: "Council cares about the employees of the shire and want to ensure that all employees arrive safely home each day. This requires that everyone commits to their role in ensuring a safe workplace, starting with Council". 2. Council requires the Chief Executive Officer to provide a quarterly report (February (previous quarter), April, July and October of each calendar year) of the following key safety performance indicators (KPI's) for the Shire workforce and contractors; including but not limited to: <ol style="list-style-type: none"> a. Number of safety observations; b. Number of safety audits and inspections; c. Number of working hours (total, workforce and contractors) d. Number of training hours; e. Number of toolbox talks; f. Number of equipment breakdowns;
--

- g. Average overtime per person by department.*
3. *Council requires the Chief Executive Officer to provide a monthly report to be tabled at each Ordinary Council Meeting, the following key safety performance indicators (KPI's) for the Shire workforce and contractors ; including but not limited to:*
- a. Number of Drug and Alcohol tests performed;*
 - b. Number of positive Drug test and BAC Exceedances;*
 - c. Number of worker compensation claims;*
 - d. Number of "current" worker compensation claims;*
 - e. Number of Near Misses;*
 - f. Number of Medically Treated Injuries;*
 - g. Number of Restricted Work Injuries;*
 - h. Number of Lost Time Injuries.*

CARRIED UNANIMOUSLY 7 / 0

TIME: 9.53pm

Consultation Summary

Local

Nil

State

Nil

Legislative Implications

State

- *Work Health and Safety Act 2020*

Local

Nil

Policy Implications

State

Nil

Local

- *Shire of Chittering Policy 3.8 Occupational Safety and Health (OSH)*

Financial Implications

Nil

Strategic Assessment / Implications

Local

Nil

State

Nil

Site Inspection

Site inspection undertaken: Not applicable

Risk Assessment / Implications

Nil

Officer Comment/Details

Nil

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 040922

Moved Cr Ross, seconded Cr Angus

That Council receive the Shire of Chittering Occupational Safety and Health Statistics Report for August 2022.

CARRIED UNANIMOUSLY 6 / 0

TIME: 7.23PM

CEO02 – 09/22 WALGA Governance Review

Applicant	WALGA
File ref	
Author	Chief Executive Officer
Authorising Officer	N/A
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. WALGA Governance Principles

	Authority / Discretion	Definition
<input checked="" type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council are requested to consider the draft WALGA Governance Principles that were developed as part of a governance review and are to be considered at the 2022 WALGA Annual General Meeting.

Background

In March 2022, State Council commissioned the WALGA Best Practice Governance Review (BPGR) with the aim of ensuring WALGA's governance model is contemporary, agile and maximises engagement with members. The BPGR, overseen by a Steering Committee appointed by State Council, is now well underway.

The BPGR Steering Committee have formulated a set of governance principles to guide the development of potential governance models.

At a special meeting on 22 August, State Council endorsed the principles, along with an AGM Agenda item which seeks endorsement of the principles by members at the 2022 Annual General Meeting on 3 October.

The purpose of the AGM item is to gauge member support for progressing the BPGR to the development of potential models.

Following consideration of the principles at the 2022 AGM, an extensive consultation and engagement process will be undertaken with members on these potential governance models. This will occur during October, November and December, with the intention of using the member feedback to inform a final report. This report will then be considered at Zone meetings in February 2023 and subsequently the March 2023 State Council meeting.

Once the final report is endorsed, Constitutional amendments will be prepared for consideration by State Council, followed by the broader membership at the 2023 AGM. As per WALGA's Constitution, amendments to the Constitution require endorsement by a 75 percent majority at both State Council and a general meeting of members.

Consultation Summary

Local

Nil

State

Nil

Legislative Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Strategic Assessment / Implications

Nil

Site Inspection

Not applicable

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Interruption to Service: The change in governance could affect the effectiveness of lobbying performed on the shire's behalf.	Rare	Insignificant	Low	Participation in the Governance Review
Opportunity:				

Officer Comment/Details

The Shire of Chittering has appointed two delegates to attend the WALGA AGM. These delegates will vote on this issue and are therefore seeking feedback from Council.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 050922

Moved Cr Hughes, seconded Cr Angus

That Council Endorse the draft Principles for the WALGA Governance Review.

CARRIED UNANIMOUSLY 6 / 0

TIME: 7.24PM

CEO03 – 09/22 Verge Maintenance Policy Feedback

Applicant	N/A
File ref	04/03/1
Author	Chief Executive Officer
Authorising Officer	N/A
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Emails – Verge Maintenance Policy Feedback 2. Facebook Replies – Verge Maintenance Policy Feedback

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input checked="" type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to receive the feedback on the Verge Maintenance Policy.

Background

At the July Ordinary Meeting of Council, a Verge Maintenance Policy was adopted. As part of the decision, Council instructed the CEO to advertise the Verge Maintenance Policy for not less than two weeks and to bring a report to Council Incorporating the Feedback.

The Verge Maintenance Policy was advertised via Facebook and the Northern Valley News. Five emails were received regarding the verge maintenance. On the shire's "Have Your Say" Facebook Page, 67 comments were received. The emails and Facebook Comments form attachments to this report.

Consultation SummaryLocal

The Verge Maintenance Policy was advertised via Facebook and the Northern Valley News. Five emails were received regarding the verge maintenance. On the shire's "Have Your Say" Facebook Page, 67 comments were received.

State

Nil

Legislative Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Strategic Assessment / Implications

Nil

Site Inspection

Not applicable

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Reputation: This is a contentious issue and not changing the policy could result in more negative feedback.	Likely	Minor	Moderate	Providing good explanations in the messaging.
Opportunity: To better educate members of the public.				

Officer Comment/Details

Though there was much feedback received, there was only a small amount of constructive feedback received. Most of this feedback was from residents who were happy to maintain their own verges, but wished for a higher level of maintenance of median strips and roundabouts. As this was a desired effect of the implementation of the verge policy, it follows that the correct course is to keep the verge policy as was adopted at the July Council Meeting.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 060922**Moved Cr Angus, seconded Cr Hughes****That Council receive the results of the Verge Maintenance Policy adoption.****CARRIED UNANIMOUSLY 6 / 0**

TIME: 7.32PM

CEO04 – 09/22 Register of Policies: Amendments

Applicant	Shire of Chittering
File ref	04/03/1
Author	Executive Management Officer
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none"> 1. Administration Policy 1.12 – Smoking, Drugs & Alcohol 2. Administration Policy 1.16 – OSH Fleet Safety and Motor Vehicle Guidelines 3. Staff Policy 3.8 – Work Health & Safety 4. Staff Policy 3.16 – Staff Disciplinary 5. Staff Policy 3.17 – Use of Council Vehicles 6. Staff Policy 3.18 – Social Media 7. Staff Policy 3.19 – Training and Development 8. Staff Policy 3.20 – Study Assistance

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to endorse the amendments to the Policy Register as per the attachments.

Background

Policies are determined by Council and may be amended or waived according to circumstances. This power is conveyed to Council in Section 2.7(2)(b) of the *Local Government Act 1995*.

Whereas, pursuant to Section 5.41 of the *Local Government Act 1995* policies cannot be made in relation to managing the day to day operations of the local government; as these come under the jurisdiction of the functions of the CEO.

The objectives of the Council's Policy Manual are:

- to provide Council with a formal written record of all policy decisions;
- to provide the staff with clear direction to enable them to respond to issues and act in accordance with Council's general direction;
- to enable Councillors to adequately handle enquiries from electors without undue reference to the

staff or the Shire;

- to enable Council to maintain a continual review of Council policy decisions and to ensure they are in keeping with community expectations, current trends and circumstances;
- to enable electors to obtain immediate advice on matters of Council Policy.

Policies should not be confused with operational directives and/or procedures, which are determined by the CEO, as a mechanism for good management and implementation of council policies.

As presented at the July Ordinary Council Meeting we have been conducting a complete review of all policies and this is the second group that forms part of that annual review.

Consultation Summary

Local

Chief Executive Officer

Executive Manager Corporate Services

Executive Manager Technical Services

Executive Manager Development Services

State

Nil

Legislative Implications

State

Section 2.7(2)(b) of the *Local Government Act 1995* states:

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.

Section 5.41 of the *Local Government Act 1995* states:

5.41. Functions of CEO

The CEO's functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws; and
- (b) ensure that advice and information is available to the council so that informed decisions can be made; and
- (c) cause council decisions to be implemented; and
- (d) manage the day to day operations of the local government; and

Local

Nil

Policy ImplicationsState

Nil

Local

Nil

Financial Implications

Nil

Strategic Assessment / ImplicationsLocal

- Strategic Community Plan 2022-2032

Focus area: Administration and Governance

Objective: S5.2 Outcome: Accountable and Transparent Governance

Strategy: S5.2.1 Become a leader in the areas of transparency, disclosure and public accountability

State

Nil

Site Inspection

Not applicable

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Reputational: Loss of reputation by no longer doing things that have been done in the past	Possible	Insignificant	Low	Reviewing policies and updating them in line with current legislation and operational practices provides more equity, consistency and transparency.
Opportunity: To provide clear direction to staff, Councillors and the Community pertaining to matters, in keeping with community expectations, current trends and circumstances.				

Officer Comment/Details

A review of the Shire of Chittering's Policy Register was conducted and the initial group was submitted to the July Ordinary Council Meeting. The following policies form the second group to be reviewed that consequently require amendments:

Administration Policy 1.12 – Smoking, Drugs & Alcohol

The Policy is recommended to be deleted, as pursuant to Section 5.41 of the *Local Government Act 1995* it falls under the jurisdiction of the CEO and will accordingly become part of the "Fitness for Work" Operational Directive. (**Attachment 1**).

Administration Policy 1.16 – OSH Fleet Safety and Motor Vehicle Guidelines

The Policy is recommended to be deleted, as it is covered in other policies and is a duplication of information. Parts of this policy will accordingly become part of the "Fitness for Work" Operational Directive and other parts will be moved into the Staff Policy 3.17 – Use of Council Vehicles Policy; but

ultimately pursuant to Section 5.41 of the *Local Government Act 1995* it falls under the jurisdiction of the CEO. (**Attachment 2**).

Staff Policy 3.8 – Work Health & Safety

The Policy has been updated in line with recent changes to the newly legislated West Australian *Work Health and Safety Act 2020* and will reference all Operational Directives that it relates to. (**Attachment 3**).

Staff Policy 3.16 – Staff Disciplinary

The Policy is recommended to be deleted, as pursuant to Section 5.41 of the *Local Government Act 1995* it falls under the jurisdiction of the CEO – being that it comes under the “day to day operations”. (**Attachment 4**).

Staff Policy 3.17 – Use of Council Vehicles

The Policy has been updated to reflect the outcome of a cost analysis of fuel costs and also from an administrative perspective. (**Attachment 5**).

Staff Policy 3.18 – Social Media

The Policy is recommended to be deleted, as Section 25 of the *Local Government Legislation Amendment Act 2019* (Amendment Act) requires a CEO to prepare and implement a code of conduct for employees and pursuant to Section 5.41 of the *Local Government Act 1995* the implementation of falls under the jurisdiction of the CEO – being that it comes under the “day to day operations”. (**Attachment 6**).

Staff Policy 3.19 – Training and Development

The Policy is recommended to be deleted, as pursuant to Section 5.41 of the *Local Government Act 1995* it falls under the jurisdiction of the CEO – being that it comes under the “day to day operations” - and will therefore become a part of a Training Operational Directive. (**Attachment 7**).

Staff Policy 3.20 – Study Assistance

The Policy is recommended to be deleted, as pursuant to Section 5.41 of the *Local Government Act 1995* it falls under the jurisdiction of the CEO – being that it comes under the “day to day operations” - and will accordingly become part of a Training Operational Directive. (**Attachment 8**).

There are still an additional 3 policies that need to be brought before Council at the conclusion of their revision. Those being:

Staff Policy 3.4	Staff Uniforms
Staff Policy 3.9	Protection from the sun for Outdoor Work
Staff Policy 3.10	Contractors

OFFICER RECOMMENDATION

Moved Cr Ross, seconded Cr Hughes

That Council:

1. Endorse the following amended policies and ensure that the numbering is updated accordingly:
 - Staff Policy 3.8 – Work Health and Safety
 - Staff Policy 3.17 – Use of Council Vehicles
2. Delete the following policies and ensure that the numbering is updated accordingly:
 - Administration Policy 1.12 – Smoking Drugs & Alcohol
 - Administration Policy 1.16 – OSH Fleet Safety and Motor Vehicle Guidelines
 - Staff Policy 3.16 – Staff Disciplinary
 - Staff Policy 3.18 – Social Media
 - Staff Policy 3.19 – Training and Development
 - Staff Policy 3.20 – Study Assistance

LOST 3 / 3

TIME: 7.42PM

*For: Cr Angus, Cr Ross, Cr Hughes
Against: Cr Curtis, Cr Dewar, Cr King*

The Presiding member cast his deciding vote against the motion.

FORESHADOWED MOTION / COUNCIL RESOLUTION 070922

Moved Cr King, seconded Curtis

That Council instruct the Chief Executive Officer to workshop with Council the proposed amendments to the Policy Register after which the item is to be brought to the first practicable Ordinary Meeting of Council.

CARRIED 4 / 2

TIME: 7.45PM

*For: Cr King, Cr Ross, Cr Dewar, Cr Curtis
Against: Cr Angus, Cr Hughes*

CEO05 – 09/22 2022 Review of Shire of Chittering Local Laws

Applicant	Shire of Chittering
File ref	19/04/0001
Author	Executive Management Officer
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none"> 1. Draft Local Law – Bush Fires Repeal Local Law 2022 2. Draft Local Law – Cats Local Law 2022 3. Draft Local Law – Cemeteries Local Law 2022 4. Draft Local Law – Dogs Local Law 2022 5. Draft Local Law – Extractive Industries Local Law 2022 6. Draft Local Law – Local Government Property and Public Places Local Law 2022 7. Draft Local Law – Standing Orders Local Law 2022

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

The proposed new local laws are submitted for Council's consideration and approval for local public advertising for a minimum of 42 days seeking public submissions as per the attachments.

Background

Section 3.16 of the the *Local Government Act 1995* requires that all of the local laws of local governments must be reviewed within an eight year period after their commencement to determine if they should remain unchanged or be repealed or amended. The Shire's current local laws were gazetted between 2001 and 2016 and are therefore well overdue for review.

The Shire engaged Darrell Forrest Advisory Services to assist with a comprehensive review of new local laws for the Shire of Chittering.

In line with the statutory requirements in the *Local Government Act 1995*, the Shire's current local laws have undergone a vigorous review. The review examined each local law for:

- currency and operational requirements of the Shire

- compliance and consistency with legislative requirements
- current local government standards
- continued need for a specific local law
- appropriateness of modified penalties

Proposed new local laws were drafted based on the above criteria, with one (1) current local law identified for repeal as it no longer fit the Shire's needs.

Changes to legislation over the past few years have revealed issues that needed to be addressed. Some matters have come about due to changes in legislation, but also in how legislation is being interpreted, especially by the Joint Standing Committee on Delegated Legislation, and advised to other local governments. These comments have indicated matters that had previously been accepted by them but are now being required to be amended via an undertaking with the relevant local government, revealing potential weakness.

The Shire has been assisted in the review of the local laws by a consultant with over 40 years local government experience.

Council may make amendments to the proposed local laws now, or when it comes to Council for final adoption after the public consultation period. If made at the later time, and the amendment is considered significant, the public consultation period must recommence.

Consultation Summary

Local

Chief Executive Officer

Executive Manager Corporate Services

Executive Manager Technical Services

Executive Manager Development Services

The statutory process requires that the proposed local laws be advertised for a minimum of 42 days seeking public submissions. The proposed local laws are to be referred to all relevant State Ministers for comment.

State

Nil

Legislative Implications

State

Section 3.12 to 3.15 of the *Local Government Act 1995* as below outlines the procedure for making local laws –

3.12 Procedure for making local laws

- (1) In making a local law a government is to follow the procedure described in this section, in the sequence which it is described.
- (2A) Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.
- (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.

- (3) The local government is to –
- (a) give local public notice stating that –
 - (i) the local government proposes to make a local law the purpose and effect of which is summarised in the notice; and
 - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and
 - (b) as soon as the notice is given, give a copy of the proposed local law and copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and
 - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.
- *Absolute majority required.
- (5) After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
- (6) After the local law has been published in the Gazette the local government is to give local public notice –
- (a) stating the title of the local law; and
 - (b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
 - (c) advising that the local law is published on the local government's official website and that copies of the local law may be inspected at or obtained from the local government's office.
- (7) The Minister may give direction to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.
- (8) In this section –
- making** in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

3.13 Procedure where significant change in proposal

If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.

3.14 Commencement of local laws

- (1) Unless it is made under section 3.17, a local law comes into operation on the 14th day after the day on which it is published in the Gazette or on such later day as may be specified in the local law.
- (2) A local law made under section 3.17 comes into operation on the day on which it is published in the Gazette or on such later day as may be specified in the local law.

3.15 Local laws to be published

A local government is to take reasonable steps to ensure that the inhabitants of the district are informed of the purpose and effect of all of its local laws.

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Assessment / Implications

Local

- Strategic Community Plan 2022-2032

Focus area: Administration and Governance

Objective: S5.2 Outcome: Accountable and Transparent Governance

Strategy: S5.2.1 Become a leader in the areas of transparency, disclosure and public accountability

State

Nil

Site Inspection

Not applicable

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Compliance: Some temporary non compliances	Possible	Insignificant	Low	Reviewing Local Laws and updating them in line with current legislation and

				operational practices provides more equity, consistency and transparency.
Opportunity: To provide clear direction to staff, Councillors and the Community pertaining to matters, in keeping with community expectations, current trends and circumstances.				

Officer Comment/Details

Pursuant to Section 3.16 of the *Local Government Act 1995* a comprehensive review of the Shire of Chittering's Local Laws was conducted with the assistance of a consultant with over 40 years local government experience.

OFFICER RECOMMENDATION

Moved Cr Hughes, seconded Cr Curtis

That Council with respect to the statutory review of the Local Laws:

1. Notes the completion of a periodic review of local laws in accordance with the Local Government Act 1995 section 3.16; and
2. Pursuant to section 3.12(2) and (3) of the Local Government Act 1995, and all other legislation enabling it, give State-wide local public notice, inviting submissions during a minimum 6-week time frame, that Council proposes to make the following new local laws as detailed in the attachments:
 - Shire of Chittering Bush Fires Repeal Local Law 2022
 - Shire of Chittering Cats Local Law 2022
 - Shire of Chittering Cemeteries Local Law 2022
 - Shire of Chittering Dogs Local Law 2022
 - Shire of Chittering Extractive Industries Local Law 2022
 - Shire of Chittering Local Government Property and Public Places Local Law 2022
 - Shire of Chittering Standing Orders Local Law 2022
3. Note the purposes and effects of these local laws:
 - Shire of Chittering Bush Fires Repeal Local Law 2022

The purpose of this local law is to:

 - repeal an obsolete local law.

The effect of this local law is to provide for:

 - the obsolete local law will be revoked and abrogated.
 - Shire of Chittering Cats Local Law 2022

The purpose of this local law is to:

 - provide for the management of cats throughout the Shire of Chittering.

The effect of the local law is to:-

 - promote responsible cat ownership and manage the control of cats within the Shire of Chittering.
 - Shire of Chittering Cemeteries Local Law 2022

The purpose of this local law is to:

 - provide for the orderly management of the Bindoon Cemetery in accordance with established plans and to create offences for inappropriate behaviour within the cemetery grounds.

The effect of this local law is to:

 - ensure compliance by all persons engaged in the administration of the cemetery, burying deceased in the cemeteries, or otherwise providing services to or making use of the cemeteries.
 - Shire of Chittering Dogs Local Law 2022

The purpose of this local law is to:

 - make provisions about the impounding of dogs, to control the number of dogs that can

be kept on premises and the manner of keeping those dogs and to prescribe areas in which dogs are prohibited and dog exercise areas.

- Properties zoned Rural Residential will be able to have three dogs on the premises without application.

The effect of this local law is to provide for:

- extend the controls over dogs which exist under the Dog Act 1976.

- Shire of Chittering Extractive Industries Local Law 2022

The purpose of this local law is to:

- prohibit the carrying on of an extractive industry unless by authority of a licence issued by the local government;
- regulate the carrying on of the extractive industry in order to minimise damage to the environment, thoroughfares and other persons health and property; and
- provide for the restoration and reinstatement of any excavation site.

The effect of this local law is to provide for:

- require that any person wanting to carry on an extractive industry will need to be licensed and will need to comply with the provisions of this local law.

- Shire of Chittering Local Government Property and Public Places Local Law 2022

The purpose of this local law is to:

- provide for the regulation, control and management of activities and facilities on local government and public property within the district, including thoroughfares.

The effect of this local law is to provide for:

- the establishment of the requirements with which any persons using or being on local government and public property within the district, must comply.
- some property is set aside for particular uses, some activities are allowed only under a permit or under a determination, and others are restricted or prohibited.

- Shire of Chittering Standing Orders Local Law 2022

The purpose of this local law is to:

- provide for the conduct of meetings of the Council, Committees and electors.

The effect of this local law is to provide for:

- better decision-making at meetings;
- the orderly and efficient conduct of meetings;
- greater community participation and understanding of the business of the Council; and
- more open and accountable local government.

4. Provide copies, in accordance with section 3.12(3) of the Local Government Act 1995, to the Minister for Local Government, all other Ministers as required and any other person requesting copies of the proposed local laws.

AMENDMENT

Moved Cr Ross, seconded Cr King

That an officer recommendation be amended to include a new point before point 4 to read as follows:

Following the receipt of feedback from the consultation process a workshop is held with Council to consider the feedback received and provide any further amendments that Council may consider suitable before the items returns to Council.

CARRIED UNANIMOUSLY 6 / 0

TIME: 7.55PM

SUBSTANTIVE MOTION

Moved Cr Hughes, seconded Cr Curtis

That Council with respect to the statutory review of the Local Laws:

1. Notes the completion of a periodic review of local laws in accordance with the Local Government Act 1995 section 3.16; and

2. Pursuant to section 3.12(2) and (3) of the Local Government Act 1995, and all other legislation enabling it, give State-wide local public notice, inviting submissions during a minimum 6-week time frame, that Council proposes to make the following new local laws as detailed in the attachments:
 - Shire of Chittering Bush Fires Repeal Local Law 2022
 - Shire of Chittering Cats Local Law 2022
 - Shire of Chittering Cemeteries Local Law 2022
 - Shire of Chittering Dogs Local Law 2022
 - Shire of Chittering Extractive Industries Local Law 2022
 - Shire of Chittering Local Government Property and Public Places Local Law 2022
 - Shire of Chittering Standing Orders Local Law 2022
3. Note the purposes and effects of these local laws:
 - Shire of Chittering Bush Fires Repeal Local Law 2022

The purpose of this local law is to:

 - repeal an obsolete local law.

The effect of this local law is to provide for:

 - the obsolete local law will be revoked and abrogated.
 - Shire of Chittering Cats Local Law 2022

The purpose of this local law is to:

 - provide for the management of cats throughout the Shire of Chittering.

The effect of the local law is to:-

 - promote responsible cat ownership and manage the control of cats within the Shire of Chittering.
 - Shire of Chittering Cemeteries Local Law 2022

The purpose of this local law is to:

 - provide for the orderly management of the Bindoon Cemetery in accordance with established plans and to create offences for inappropriate behaviour within the cemetery grounds.

The effect of this local law is to:

 - ensure compliance by all persons engaged in the administration of the cemetery, burying deceased in the cemeteries, or otherwise providing services to or making use of the cemeteries.
 - Shire of Chittering Dogs Local Law 2022

The purpose of this local law is to:

 - make provisions about the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs and to prescribe areas in which dogs are prohibited and dog exercise areas.
 - Properties zoned Rural Residential will be able to have three dogs on the premises without application.

The effect of this local law is to provide for:

 - extend the controls over dogs which exist under the Dog Act 1976.
 - Shire of Chittering Extractive Industries Local Law 2022

The purpose of this local law is to:

 - prohibit the carrying on of an extractive industry unless by authority of a licence issued by the local government;
 - regulate the carrying on of the extractive industry in order to minimise damage to the environment, thoroughfares and other persons health and property; and
 - provide for the restoration and reinstatement of any excavation site.

The effect of this local law is to provide for:

 - require that any person wanting to carry on an extractive industry will need to be licensed and will need to comply with the provisions of this local law.
 - Shire of Chittering Local Government Property and Public Places Local Law 2022

The purpose of this local law is to:

- provide for the regulation, control and management of activities and facilities on local government and public property within the district, including thoroughfares.

The effect of this local law is to provide for:

- the establishment of the requirements with which any persons using or being on local government and public property within the district, must comply.
- some property is set aside for particular uses, some activities are allowed only under a permit or under a determination, and others are restricted or prohibited.

- Shire of Chittering Standing Orders Local Law 2022

The purpose of this local law is to:

- provide for the conduct of meetings of the Council, Committees and electors.

The effect of this local law is to provide for:

- better decision-making at meetings;
- the orderly and efficient conduct of meetings;
- greater community participation and understanding of the business of the Council; and
- more open and accountable local government.

4. Following the receipt of feedback from the consultation process a workshop is held with Council to consider the feedback received and provide any further amendments that Council may consider suitable before the items returns to Council.
5. Provide copies, in accordance with section 3.12(3) of the Local Government Act 1995, to the Minister for Local Government, all other Ministers as required and any other person requesting copies of the proposed local laws.

LOST 3 / 3

TIME: 8.00PM

*For: Cr Angus, Cr Ross, Cr Hughes
Against: Cr Curtis, Cr Dewar, Cr King*

The Presiding Member cast his deciding vote against this motion.

FORESHADOWED MOTION

Moved Cr King, seconded Cr Curtis

That Council instruct the Chief Executive Officer to workshop with Council the proposed new Local Laws after which the item is to be brought to the first practicable Ordinary Meeting of Council.

AMENDMENT TO FORESHADOWED MOTION

Moved Cr Ross, seconded Cr Angus

That Council instruct the Chief Executive Officer to:

1. Workshop with Council the proposed new Local Laws after which the item is to be brought to the first practicable Ordinary Meeting of Council; and
2. Have at the workshop a suitable consultant who can advise on the development of Local Laws.

CARRIED UNANIMOUSLY 6 / 0

TIME: 8.13PM

SUBSTANTIVE MOTION / COUNCIL RESOLUTION 080922

Moved Cr King, seconded Cr Curtis

That Council instruct the Chief Executive Officer to:

- 1. Workshop with Council the proposed new Local Laws after which the item is to be brought to the first practicable Ordinary Meeting of Council; and**
- 2. Have at the workshop a suitable consultant who can advise on the development of Local Laws.**

CARRIED UNANIMOUSLY 6 / 0

TIME: 8.15PM

CEO06 – 09/22 Potential Aged Care Land Options

Applicant	N/A
File ref	03/01/0005
Author	Chief Executive Officer
Authorising Officer	N/A
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Report – Potential Aged Care Land

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to decide on which land to include in an Expression of Interest that is to go to Aged Care Providers.

Background

At the July Ordinary Meeting of Council, an Aged Care Plan was accepted by Council. A step of the plan was to Investigate Potential Aged Care Land Options and Determine Potential Restrictions on the Utilisation of the Land.

Investigations have been undertaken into potential aged care land, and a summary of these investigations is presented to Council to decide on which land to include in an Expression Of Interest that is to go to Aged Care Providers.

Consultation SummaryLocal

There have been many different consultations relevant to this item including:

- Strategic Community Plan 2022-2032 Workshops and Survey's
- Bindoon Town Centre Aspirational Plan and Lower Chittering Community Space Aspirational Plan Workshops and Survey's
- Aged Care Forum and Survey
- Council Workshop with Community Groups who were pushing for different aspects of aged care and different methods to achieve outcomes.

State

Nil

Legislative Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Strategic Assessment / ImplicationsLocal

- Strategic Community Plan 2022-2032
Focus area: Community
Objective: S1.2 A Safe and Healthy Community
Strategy: S1.2.1 Improve education, health, disability and aged services.

State

Nil

Site Inspection

Site inspection undertaken: Yes

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Reputation: Some community members may be upset at the change of direction for some lots.	Possible	Minor	Moderate	Getting the message out that these are only being offered as part of an EOI process.
Opportunity: The message can also highlight the amount of work that Council has undertaken in the Aged Care space for the past few years.				

Officer Comment/Details

A range of potential aged care land has been provided, with each parcel of land having positives and potential constraints.

The purpose of this item is not to decide on the one parcel of land to offer, but rather to provide a range of land options to ensure that the best responses are received from the Expression of Interest.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 090922

Moved Cr Angus, seconded Cr Ross

That Council instruct the Chief Executive Officer to include in the Aged Care Expression of Interest the following lots:

- Lot 215 Great Northern Highway, Bindoon;
- 11 Edmonds Place, Bindoon
- Lot 68 Woolah Rise, Bindoon
- Lot 20 & Lot 30 Archibald Street, Muchea
- 7 Chittering Street, Muchea
- Lot 100 Muchea East Road, Lower Chittering
- Lot 18 Muchea East Road, Lower Chittering
- 2619 Bindoon-Moora Road, Wannamal
- 2610 Bindoon-Moora Road, Wannamal

CARRIED UNANIMOUSLY 6 / 0

TIME: 8.55PM

AMENDMENT

Moved Cr Curtis, seconded Cr Hughes

That the following be deleted:

- Lot 20 & Lot 30 Archibald Street, Muchea
- 7 Chittering Street, Muchea
- Lot 100 Muchea East Road, Lower Chittering
- Lot 18 Muchea East Road, Lower Chittering
- 2619 Bindoon-Moora Road, Wannamal
- 2610 Bindoon-Moora Road, Wannamal

That the following lots be allocated as follows:

- Lot 215 Great Northern Highway, Bindoon (Independent Living Units)
- 11 Edmonds Place, Bindoon (Independent Living Units)
- Lot 68 Woolah Rise, Bindoon (Aged Care Facility)

LOST 2 / 4

TIME: 8.43PM

For: Cr Curtis, Cr Dewar

Against: Cr King, Cr Angus, Cr Ross, Cr Hughes

AMENDMENT

Moved Cr Hughes, seconded Cr Curtis

That the following be deleted:

- 7 Chittering Street, Muchea

LOST 3 / 3

TIME: 8.50PM

For: Cr Hughes, Cr Dewar, Cr Curtis

Against: Cr Angus, Cr King, Cr Ross

The Presiding Member cast his deciding vote against this motion.

ITEM 10. REPORTS OF COMMITTEES

COM01 – 09/22 Review of Local Emergency Management Committee Membership and Terms of Reference

Applicant	Shire of Chittering
File ref	ES.MEET.LEMC.2022
Author	Executive Assistant
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Updated Terms of Reference 2. LEMC Extract from Committee Booklet – Original with notes and changes

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to review the membership and updated Terms of Reference for the Local Emergency Management Committee.

Background

The Local Emergency Management Committee is a Committee of Council that helps steer Emergency Management in the Shire of Chittering. Recently, there has been a low attendance of members, which has resulted in no quorum or meetings. As Emergency Management is an important aspect of Local Government, the membership and objectives are proposed to be amended to ensure higher attendance can be achieved and the best value can be obtained from the meetings.

The proposed objectives of the LEMC are as follows:

- Develop local emergency management arrangements that are practical to all stakeholders and service agencies.
- Ensure that arrangements are contemporary and relevant to the community and addresses all possible risks and scenarios.
- Participate in inter-local government relations to further emergency management cooperation within the Wheatbelt District.
- Engage the community through safety and awareness campaigns, and by disseminating information

through social media, media outlets, and public events.

- Participate in interagency training exercises that improve the capabilities and knowledge of the committee, local stakeholders and hazard management agencies.
- Exercise the emergency management arrangements to test their effectiveness in practical applications, and actively strive for continuous improvement.
- Share meeting minutes, committee member experiences and proposed actions with local government elected members, State agencies and the local community.
- Strategise on ways to mitigate potential emergencies and to improve recovery arrangements

Consultation Summary

Local

Local Emergency Management Committee

State

Nil

Legislative Implications

State

- Local Government Act 1995, s5.12 and s5.13
- Emergency Management Act 2005

38. Local emergency management committees

(1) A local government is to establish one or more local emergency management committees for the local government's district.

(2) If more than one local emergency management committee is established, the local government is to specify the area in respect of which the committee is to exercise its functions.

(3) A local emergency management committee consists of—

(a) a chairman and other members appointed by the relevant local government in accordance with subsection (4); and

(b) if the local emergency coordinator is not appointed as chairman of the committee, the local emergency coordinator for the local government district.

(4) Subject to this section, the constitution and procedures of a local emergency management committee, and the terms and conditions of appointment of members, are to be determined by the SEMC.

39. Functions of local emergency management committees

The functions of a local emergency management committee are, in relation to its district or the area for which it is established—

(a) to advise and assist the local government in ensuring that local emergency management arrangements are established for its district; and

(b) to liaise with public authorities and other persons in the development, review and testing of local emergency management arrangements; and

(c) to carry out other emergency management activities as directed by the SEMC or prescribed by the regulations.

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Assessment / ImplicationsLocal

- Strategic Community Plan 2022-2032

Focus area: Our natural environment

Objective: S2.2 Protection of life and property

Strategy: S2.3.1 Protection of wildlife and nature from pests, weeds, destruction and contamination

State

Nil

Site Inspection

Not applicable

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Natural Environment: Making sure the natural environment of the Shire is protected as much as possible	Possible	Minor	Moderate	Ensuring requirements are met through holding the scheduled meetings
Opportunity: Nil				

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Reputation: The Shire's reputation in the community being impacted because we are not prioritising emergency management efforts	Possible	Minor	Moderate	More regular LEMC meetings with meaningful membership and valuable information shared at meetings.
Opportunity: Committee members building rapport with each other and understanding each other's specific needs should an emergency occur				

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Compliance: Unable to meet obligations relating to Emergency Management	Possible	Minor	Moderate	Ensuring requirements are met through holding the scheduled meetings
Opportunity: Valuable information being shared amongst the membership on a more regular basis				

Officer Comment/Details

It is recommended that Council adopt the updated Terms of Reference for the Local Emergency Management Committee.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 100922

Moved Cr Hughes, seconded Cr Ross

That Council adopt the updated Terms of Reference for the Local Emergency Management Committee.

CARRIED UNANIMOUSLY 6 / 0

TIME: 8.57PM

COM02 – 09/22 CEO Recruitment Committee Minutes

Applicant	Shire of Chittering
File ref	22/02/83
Author	Executive Assistant
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. CEO Recruitment Committee Minutes 290822

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input checked="" type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to receive the CEO Recruitment Committee Minutes of Monday 29 August 2022 as attached.

Background

The first CEO Recruitment Committee was held on Monday 29 August 2022 to review quotes received for an external HR Consultant to conduct the CEO Recruitment process. The Committee resolved to accept the submission from Mills Recruitment.

Consultation SummaryLocal

Nil

State

Nil

Legislative ImplicationsState

Nil

Local

Nil

Policy Implications

State

Nil

Local

- Policy 3.26 Standards for Recruitment of CEO's

Financial Implications

Nil

Strategic Assessment / Implications

Local

- Strategic Community Plan 2022-2032
Focus area: Administration and Governance
Objective: S5.2 Accountable and Transparent Governance
Strategy: S5.2.1 Become a leader in the areas of transparency, disclosure and public accountability

State

Nil

Site Inspection

Not applicable

Risk Assessment / Implications

Nil

Officer Comment/Details

It is recommended to receive the Minutes of the CEO Recruitment Committee Meeting held Monday 29 August 2022.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 110922

Moved Cr Ross, seconded Cr Angus

That Council receive the Minutes of the CEO Recruitment Committee Meeting held Monday 29 August 2022.

CARRIED UNANIMOUSLY 6 / 0

TIME: 8.59PM

ITEM 11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

MOTION 1: Cr Aaron King – Construction of Muchea Recreation Centre – Project Reporting

MOTION / COUNCIL RESOLUTION 120922

Moved Cr King, seconded Cr Dewar

That Council instructs the Chief Executive Officer to:

1. Provide a report (Project Update) to Council at each Ordinary Council meeting summarising the status of the Muchea Recreation Centre project, including the following items:
 - a. Occupational Health and Safety;
 - b. Activities completed this period;
 - c. Activities planned next period;
 - d. Commercial:
 - i. Number of variations to contract issued;
 - ii. Number of variations to contract Approved/Rejected;
 - iii. Variation price;
 - iv. Impact of variation on agreed completion date;
 - v. Total approved contract price; and
 - vi. Progress of work - physical percent complete.
2. Publish a summary of the project update on the Shire website, Chatter and Facebook page.

CARRIED 3 / 3

TIME: 9.21PM

For: Cr King, Cr Dewar, Cr Curtis

Against: Cr Angus, Cr Ross, Cr Hughes

The Presiding Member cast his deciding vote in favour of this motion.

Background:

At an estimated total project cost of \$5,678,608, the Muchea Recreation Centre Redevelopment is a strategically important community project to be funded as follows:

- \$1,878,251 Existing Loan 89 from WATC;
- \$3,301,727 New Loan from WATC;
- \$648,630 Grants and Club Funding as follows:
 - Muchea Hall User Group fundraising of \$68,630;
 - WACA grant of \$30,000;
 - Election promise of \$150,000 from Hon. Darren West MLC;
 - State Government CSRFF grant of \$300,000; and
 - AFL – Australian Football Facilities Fund (FFF) grant of \$100,000.

In receiving monthly project reports, Council and Councillors can communicate more effectively with the community in accordance with the lawful roles and responsibilities prescribed by the Act:

Section 2.7 of the LGA provides that the role of Council is to:

- (a) govern the local government's affairs; and
- (b) be responsible for the performance of the local government's functions

Without limiting the above, the council is to –

- (a) oversee the allocation of the local government's finances and resources; and
- (b) determine the local government's policies.

Section 2.10 of the LGA states that the role of a Councillor is to:

- (a) represent the interests of electors, ratepayers and residents of the district;
- (b) provide leadership and guidance to the community in the district;
- (c) facilitate communication between the community and the council;
- (d) participates in the local government's decision-making processes at council and committee meetings; and
- (e) performs such other functions as are given to a councillor by this Act or any other written law.

Further to section 2.7 and 2.10, the LGA allows a person performing the function of a member of the Council (or Committee as the case may be) access to other documents via Section 5.92 which reads:

- (1) A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.
- (2) Without limiting subsection (1), a council member can have access to —
 - (a) all written contracts entered into by the local government; and
 - (b) all documents relating to written contracts proposed to be entered into by the local government.

Officer Comment:

The *Local Government Act 1995* places a great deal of importance on the distinction between the functions of Council and functions of the Chief Executive Officer. During the second reading speech, the Minister stated "There will be clear specification of the roles of key players, that is council, mayor or president, and councilors. This is designed to promote efficient administration at the local government level at the local government level and to avoid conflicts caused by uncertainty. The lack of role clarity has lead to come mayors/presidents and councilors becoming involved in administrative matters that should be handled by staff. The new Act will provide a clear distinction between the representatives and policy making role of the elected councilors and the administrative and advisory role of the chief executive officer and other staff".

Many key parts of the act reflect the intended legislative objective of the act of having administrative functions handled by the CEO and the local government's employees. The intended objectives of the act would not be promoted where a Council attempted to become involved in administrative matters.

Section 2.7 of the *Local Government Act 1995* provides that the role of Council is to:

- (a) govern the local government's affairs; and
- (b) be responsible for the performance of the local government's functions

Without limiting the above, the council is to —

- (a) oversee the allocation of the local government's finances and resources; and
- (b) determine the local government's policies.

Section 2.7 of the *Local Government Act 1995* was amended in 2009 to replace 'directs and controls' with 'governs' to try and further remove uncertainty about the distinction between governance and administration in the act.

The CEO's functions are set out in section 5.41 of the *Local Government Act 1995* and include:

- (c) cause council decisions to be implemented; and
- (d) manage the day to day operations of the local government.

When both of the roles are compared to each other, it is plain to see that Council's role is to provide the necessary resources for a project, which they do through the budget process, and the CEO's role is then to implement the project, which would include monitoring the project and receiving detailed reporting on the project.

Section 5.92(1) of the *Local Government Act 1995* allows:

A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.

For this motion, the important part of this section is that the information must be relevant to the performance of the function. As the function of Council is a high level Governance functions that has a high level oversight, which is very distinct from the administrative role of the CEO, the information received by Council would only need to be at a high level to be relevant for the performance of their function. Detailed information would be considered relevant to the function of the CEO, not of Council.

Under the current reporting structures, Council currently receive project reports via:

- Monthly Council Decision and Project Updates;
- Weekly President and CEO Meeting Minutes;
- Monthly Financial Reports.

Project updates are also provided to the public via the shire's website, Northern Valley News, Facebook, Newsletters, Project Newsletters and Community Advisory Forums.

By voting for this motion, it will be a move away from the separation of duties and efficient administration that is envisioned by the act. Due to the continual increase in information requirements, it is likely that additional administrative resources would be required for the increased reporting requirements, resulting in further rate increases.

MOTION 2: Cr Aaron King – Construction of Bindoon Mountain Bike Park Stage 1 Trails and Access – Project Reporting

MOTION / COUNCIL RESOLUTION 130922

Moved Cr King, seconded Cr Dewar

That Council instruct the Chief Executive Officer to provide a Project Update to Council at each Ordinary Council meeting summarising the status of the Construction of Bindoon Mountain Bike Park Stage 1 Trails and Access project (Project Update), including the following elements:

1. Occupational Health and Safety;
2. Activities completed this period;
3. Activities planned next period;
4. Commercial:
 - a. Number of variations to contract issued;
 - b. Number of variations to contract Approved/Rejected;
 - c. Variation price;
 - d. Impact of variation on the agreed completion date;
 - e. Total approved contract price; and
 - f. Progress of works - physical percent complete.
5. Publish a summary of the project report on the Shire website, Chatter and Facebook page.

CARRIED 3 / 3

TIME: 9.35PM

For: Cr King, Cr Dewar, Cr Curtis

Against: Cr Angus, Cr Ross, Cr Hughes

The Presiding Member cast his deciding vote in favour of this motion.

PROCEDURAL MOTION

Moved Cr Angus, seconded Cr Hughes

That the motion be now put.

LOST 3 / 3

TIME: 9.34PM

For: Cr Angus, Cr Hughes, Cr Ross

Against: Cr King, Cr Dewar, Cr Curtis

The Presiding Member cast his deciding vote against this motion.

Background:

At an estimated total project cost of \$616,884 inclusive of club funding pledges of \$105,000, the Bindoon Mountain Bike Park Stage 1 is a strategically important community project that will be observed with keen interest.

In receiving monthly project reports, Council and Councillors can communicate more effectively with the community in accordance with the roles and responsibilities prescribed by the Act:

Section 2.7 of the LGA provides that the role of Council is to:

- (a) govern the local government's affairs; and
- (b) be responsible for the performance of the local government's functions

Without limiting the above, the council is to –

- (a) oversee the allocation of the local government's finances and resources; and

- (b) determine the local government's policies.

Section 2.10 of the LGA states that the role of a Councillor is to:

- (a) represent the interests of electors, ratepayers and residents of the district;
- (b) provide leadership and guidance to the community in the district;
- (c) facilitate communication between the community and the council;
- (d) participates in the local government's decision-making processes at council and committee meetings; and
- (e) performs such other functions as are given to a councillor by this Act or any other written law.

Further to section 2.7 and 2.10, the LGA allows a person performing the function of a member of the Council (or Committee as the case may be) access to other documents via Section 5.92 which reads:

- (1) A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.
- (2) Without limiting subsection (1), a council member can have access to —
 - (a) all written contracts entered into by the local government; and
 - (b) all documents relating to written contracts proposed to be entered into by the local government.

Officer Comment:

The *Local Government Act 1995* places a great deal of importance on the distinction between the functions of Council and functions of the Chief Executive Officer. During the second reading speech, the Minister stated "There will be clear specification of the roles of key players, that is council, mayor or president, and councilors. This is designed to promote efficient administration at the local government level at the local government level and to avoid conflicts caused by uncertainty. The lack of role clarity has led to come mayors/presidents and councilors becoming involved in administrative matters that should be handled by staff. The new Act will provide a clear distinction between the representatives and policy making role of the elected councilors and the administrative and advisory role of the chief executive officer and other staff".

Many key parts of the act reflect the intended legislative objective of the act of having administrative functions handled by the CEO and the local government's employees. The intended objectives of the act would not be promoted where a Council attempted to become involved in administrative matters.

Section 2.7 of the *Local Government Act 1995* provides that the role of Council is to:

- (a) govern the local government's affairs; and
- (b) be responsible for the performance of the local government's functions

Without limiting the above, the council is to –

- (a) oversee the allocation of the local government's finances and resources; and
- (b) determine the local government's policies.

Section 2.7 of the *Local Government Act 1995* was amended in 2009 to replace 'directs and controls' with 'governs' to try and further remove uncertainty about the distinction between governance and administration in the act.

The CEO's functions are set out in section 5.41 of the *Local Government Act 1995* and include:

- (c) cause council decisions to be implemented; and
- (d) manage the day to day operations of the local government.

When both of the roles are compared to each other, it is plain to see that Council's role is to provide the necessary resources for a project, which they do through the budget process, and the CEO's role is then to

implement the project, which would include monitoring the project and receiving detailed reporting on the project.

Section 5.92(1) of the *Local Government Act 1995* allows:

A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.

For this motion, the important part of this section is that the information must be relevant to the performance of the function. As the function of Council is a high level Governance functions that has a high level oversight, which is very distinct from the administrative role of the CEO, the information received by Council would only need to be at a high level to be relevant for the performance of their function. Detailed information would be considered relevant to the function of the CEO, not of Council.

Under the current reporting structures, Council currently receive project reports via:

- Monthly Council Decision and Project Updates;
- Weekly President and CEO Meeting Minutes;
- Monthly Financial Reports.

Project updates are also provided to the public via the shire's website, Northern Valley News, Facebook, Newsletters, Project Newsletters and Community Advisory Forums.

By voting for this motion, it will be a move away from the separation of duties and efficient administration that is envisioned by the act. Due to the continual increase in information requirements, it is likely that additional administrative resources would be required for the increased reporting requirements, resulting in further rate increases.

MOTION 3: Cr Aaron King – Council Concept and Agenda Forums

MOTION / COUNCIL RESOLUTION 140922

Moved Cr King, seconded Cr Curtis

That Council instruct the Chief Executive Officer to workshop with Council the incorporation of both Concept and Agenda items into a single forum open to the public. This workshop is to be undertaken and a report/officer recommendation to be tabled at the February 2023 Ordinary Council Meeting.

CARRIED 3 / 3

TIME: 9.44PM

For: Cr King, Cr Dewar, Cr Curtis

Against: Cr Angus, Cr Ross, Cr Hughes

The Presiding Member cast his deciding vote in favour of this motion.

Background:

Closed Concept Forums generate a perception by the community of secret meetings where the decisions are made beyond public scrutiny.

In accordance with Council Resolution 1611121 position statement: *“the Shire of Chittering is committed to being a leader in the areas of transparency, disclosure and public accountability. In line with this commitment, we will continually be looking for relevant new opportunities to adopt best practice.”*; the incorporation of Concept and Agenda Forums open to the public will make a significant contribution to the community perception of an open, transparent and accountable Council.

Officer Comment:

The shire recently conducted a survey on Transparency and the results would indicate that the vast majority of residents do not consider it to be an issue but instead there is an extremely small section of the community that is intent of trying to bring the shire into disrepute by continually spreading rumours such as “secret decisions are being made behind closed doors.”

A review however can be conducted though in order to show the commitment to being a leader in transparency, it may be better that an investigation be completed and the results be taken to the February 2023 rather than having a behind closed doors workshop.

The review should also be expanded to include the role of other forums and areas that could influence the same perception of ‘secret decisions’ including:

- President and CEO meeting;
- Councillor emails, particular where they may be used in place of avenues that are open to the public;
- Advisory Groups;
- Other Workshops that may be held by Council.

While a review and change in procedures may assist in the extreme minority perception, this should also be balanced with the effective and efficient running of the local government for the majority of the community and to achieve this, there must be times that allow for the free discussion of staff and Councillors.

MOTION 4: Cr Aaron King – Live Streaming of Council Meetings

MOTION

Moved Cr King, seconded Cr Curtis

That Council instruct the Chief Executive Officer to workshop with Council the live-streaming of Agenda Forum Sessions, Ordinary and Special Council Meetings. This workshop is to be undertaken and a report/officer recommendation to be tabled at the February 2023 Ordinary Council Meeting.

AMENDMENT

Moved Cr Ross , seconded Cr Angus

That the motion be amended to change the word February to April.

CARRIED UNANIMOUSLY 6 / 0

TIME: 9.51PM

SUBSTANTIVE MOTION / COUNCIL RESOLUTION 150922

Moved Cr King, seconded Cr Curtis

That Council instruct the Chief Executive Officer to workshop with Council the live-streaming of Agenda Forum Sessions, Ordinary and Special Council Meetings. This workshop is to be undertaken and a report/officer recommendation to be tabled at the April 2023 Ordinary Council Meeting.

CARRIED UNANIMOUSLY 6 / 0

TIME: 9.53PM

Background:

Live streaming gives the public greater access to Council decisions, debates and discussions by eliminating geographic and personal barriers that may prevent physical attendance at a Council Meeting.

Live streaming also helps demystify the workings of local government and encourage more people to participate in the local decision-making process.

Live streaming Council Meetings is key to delivering on Council's Resolution 611121 position statement: *"the Shire of Chittering is committed to being a leader in the areas of transparency, disclosure and public accountability. In line with this commitment, we will continually be looking for relevant new opportunities to adopt best practice."*

Officer Comment:

Amendments are currently being proposed to the Local Government Act that would make live-streaming of Council Meetings compulsory for Band 1 and Band 2 Local Governments. This would not apply to Chittering as it is a Band 3 Local Government, however, it does not prevent Council undertaking the live-streaming of Council Meetings.

Staff investigations have determined that it is likely to cost around \$20,000 to fit-out the chambers for live streaming and there may be additional costs such as additional staff during Council Meetings to ensure the smooth working of the system. The Budget Review that is to be conducted in early 2023 will give Council the opportunity to include this additional expense in the budget.

ITEM 12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Cr Aaron King

1. Given the resignation of the Chief Executive Officer, will the Chief Executive Officer compile a chronological handover report of all Shire correspondence (in/out) with Mr. Bill Nobes regarding the 'Yacht Monument' Lot 89 Koomal Street, Bindoon?

The Chief Executive Officer advised that all correspondence is stored in the Shire's record management system in accordance with the State Records Act 2000, the Shire's record keeping plan, which was approved by the State Records Office, and the Shire's Record Keeping Policy which was also approved by the State Records Office.

2. Is all correspondence sent to the Shire and marked to the attention of the Chief Executive Officer and Council distributed to Council?

The Chief Executive Officer advised that it is not.

- a. If not why?

The Act is specifically designed to have distinctions between the functions of the Chief Executive Officer and Council to promote the efficient running of the local government. Under Section 5.41 of the Local Government Act, the Chief Executive Officer is given the function of the day to day operations of the local government. The vast majority of the correspondence would relate to areas within this function. On the other hand Council's role is to govern the local government's affairs. When correspondence is received that relates to this function, no matter who it is addressed to, it is forwarded to Council. Conversely when Council receive correspondence that fits under the function of the CEO they forward it to the CEO. It is important that the different functions between Council and the Chief Executive Officer are understood and respected. It is often when investigations are launched following issues of local governments, that the breakdown in governance of the local government, including poor understanding of the roles and responsibilities, Council, Councillors and Administration, that this breakdown in governance is the starting point to a whole raft of different issues. It is essential that strict adherence to the principals of governance and good corporate governance are followed.

3. Has the contract with Three Chillies Design for the Construction of Bindoon Mountain Bike Park Stage 1 Trails and Access been executed by the Shire of Chittering?

Yes

- a. What date was the contract signed and formally executed?

6 September 2022.

- b. Is there any variation to the contract price of \$535,761.42 ex-GST previously endorsed by Council? If so what were the changes and reasons?

No

- c. When does work start on site?

No specific date has been set.

- d. Did the works schedule take into consideration delays due to weather conditions such as extreme heat, total fire ban days etc?

Yes

- e. What are the planned dates for practical completion and handover to the Shire?

No specific date has been set.

- f. When and how will the Shire receive the money pledged to the Chittering Mountain Bike Club totalling \$105,000 towards the construction costs;

- i. Namely the following:

- \$55,000 pledged from Chalice Mining, Bendigo Bank and Caspin Resources
- \$48,000 Chittering Tourist Association
- \$2,000 Tronox

This will occur during the project and it is likely that the money will be via a bank transfer.

- ii. Should any amount pledged not be remitted to the Shire, how will the Shire fund the construction cost shortfall?

This will need to be considered on Budget Review.

4. Has the contract with Geared Construction Pty Ltd (WA) of 29 Fortitude Bvd, Gnangara WA 6077 for the Construction of Muchea Recreation Centre at Muchea WA been executed?

No.

- a. When does work start on site?

No specific date has been set.

- b. Will practical completion and hand over of the facility be staged, i.e. change rooms first followed by the club rooms?

We are waiting on clarification as the tender process included so many potential options of how the build would be staged. The builder is reviewing the particular staging for the options selected.

- c. When and how will the Shire take receipt of club fundraising and grants totalling \$648,630 towards the construction costs;

- i. Namely the following amounts;

- Muchea Hall User Group fundraising of \$68,630;
- WACA grant of \$30,000;
- Election promises of \$150,000 from Hon. Darren West MLC;

- State Government CSRFF grant of \$300,000; and
- AFL – Australian Football Facilities Fund (FFF) grant of \$100,000.

Muchea Hall User Group fundraising it is likely that that will be via a bank transfer, whether they require an invoice or not will be separate.

WACA Grant is also likely to be via a bank transfer. Whether an invoice is required or not will be determined.

The election promise, there is currently a process being undertaken for the grant agreement to be changed into the Shire's name. This is currently waiting on approval from the Minister.

State Government CSRFF Grant, this grant was applied for and granted directly to the Shire. CSRFF Grants are paid in stages in accordance with the grant agreement. The Shire provides monthly reports to the Department of Local Government Sport and Culture to update them.

The AFL Australian Football Facilities Fund (FFF) Grant was prepared by the Shire, the grant agreement is in the Shire's name and funding will be received in line with the grant funding agreement.

- Should any amount of the club funding or grants not be remitted to the Shire, how will the Shire fund the construction cost shortfall?

This would need to be considered as part of the Budget Review.

- Has the Shire finalised the new loan from WATC for the Construction of the Muchea Recreational Centre?

Yes

- What is the expected or agreed borrowed amount?

\$ 3,301,727.00

- What is the interest rate?

4.5971%

Over the lifetime of the loan but not taking into account the time value of money this will be an additional \$922,000 in interest. Then if the officer recommendation regarding tendering was followed, on top of the additional \$300,000 increase in the price of construction.

- What are the annual principal and interest repayments?

\$ 254,210.78

Cr Kylie Hughes

On a number of occasions Mr Bill Nobes has made comment of being in receipt of correspondence containing agreements that were made between himself and the Chief Executive Officer and we have asked for him to forward copies of this correspondence to provide clarity. Has this correspondence ever been received by the Shire?

The Chief Executive Officer advised that Mr Nobes has not forwarded any of the said correspondence, however, all correspondence that is sent and received by the Shire is stored in our record management system so we have copies of all of that and I have copies of all the emails that were sent as well as notes from all the meetings that were held with Mr Nobes including dates and what was discussed. The claims that there are agreements cannot be backed with any of our records and ultimately it is the written correspondence and the Council decisions that have an effect.

ITEM 13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil

ITEM 14. MEETING CLOSED TO THE PUBLIC

Matters for which the meeting may be closed

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 160922

Moved Cr Ross, seconded Cr Angus

That Council moves into a confidential session to discuss the following items:

- CON01 – 09/22 Acting Chief Executive Officer

Under the terms of the *Local Government Act 1995, Section 5.23(2)(c)(e)*:

“(2) If a meeting is being held by a council or a committee, the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:

(a) a matter affecting an employee or employees.

CARRIED UNANIMOUSLY 6 / 0

TIME: 10.06PM

CON01 – 09/22 Acting Chief Executive Officer

Applicant	N/A
File ref	22/10/168
Author	Chief Executive Officer
Authorising Officer	N/A
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Absolute Majority (per local government act)
Attachments	Nil

Reason for Confidentiality:**Local Government Act 1995, Section 5.23(2)(c) and (e)(ii) Meetings generally open to public**

“(2) If a meeting is being held by a council or a committee, the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:

(a) a matter affecting an employee or employees.

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/>	Executive	The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/>	Legislative	When Council initiates or adopts a policy position, or a local law
<input type="checkbox"/>	Quasi-Judicial	When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal
<input type="checkbox"/>	Information	Includes items for information purposes only and do not require a decision of Council (to 'note' only)

MOTION / COUNCIL RESOLUTION 170922

Moved Cr King, seconded Cr Hughes

That Council:

1. Appoint Mrs Melinda Prinsloo as Acting Chief Executive Officer for the period from 31 October 2022 to 2 April 2023;
2. By resolution, may terminate for any reason the appointment of Mrs Melinda Prinsloo as Acting Chief Executive Officer within the period from 31 October 2022 to 2 April 2023; and
3. By resolution and with mutual agreement with Mrs Melinda Prinsloo, may extend the appointment of Acting Chief Executive Officer beyond 2 April 2023 to align with the commencement date of the new Chief Executive Officer.

CARRIED UNANIMOUSLY BY ABSOLUTE MAJORITY 6 / 0

TIME: 10.10PM

CON02 – 09/22 Chief Executive Officer Performance Review

Applicant	N/A
File ref	22/10/153
Author	Chief Executive Officer
Authorising Officer	N/A
Disclosure of interest	The CEO has a Financial Interest as the matter affects his employment
Voting requirements	Absolute Majority (per local government act)
Attachments	1. Price Consulting Summary Report to Council 2. Final Performance Review Report

Reason for Confidentiality:**Local Government Act 1995, Section 5.23(2)(c) and (e)(ii) Meetings generally open to public**

“(2) If a meeting is being held by a council or a committee, the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:

(a) a matter affecting an employee or employees.

	Authority / Discretion	Definition
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<input type="checkbox"/>	Information	Includes items for information purposes only and do not require a decision of Council (to 'note' only)

SUBSTANTIVE MOTION / COUNCIL RESOLUTION 180922

Moved Cr King, seconded Cr Ross

That Council:

1. Notes that the appraisal of Mr Matthew Gilfellon, Chief Executive Officer, has been completed for the period of 1 July 2021 to 30 June 2022;
2. Endorses the findings of the 2021/22 Annual Performance Review Report as presented by Price Consulting, that Mr Gilfellon met the requirements of the role to a high level for the review period, and thanks Mr Gilfellon for his efforts; and
3. Approves a 2.5% increase to the CEO's Total Remuneration Package, effective 1 July 2022.

CARRIED UNANIMOUSLY BY ABSOLUTE MAJORITY 6 / 0

TIME: 10.22PM

PROCEDURAL MOTION / COUNCIL RESOLUTION 190922

Moved Cr Curtis , seconded Cr Hughes

That Council come out from behind closed doors.

CARRIED UNANIMOUSLY 6 / 0

TIME: 10.22PM

Public reading of resolution that may be made public

There were no public present so the resolutions were not read aloud.

ITEM 15. CLOSURE

The Presiding Member declared the meeting closed at 10.22pm.