



# **AGENDA**

Ordinary Council Meeting

Thursday 22 April 2021

@ 12.30pm

To be held in the Council Chambers, Hack St Sandstone

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**SHIRE OF SANDSTONE**  
S E R V E T H E P E O P L E

**ORDINARY COUNCIL MEETING NOTICE PAPER**

**Thursday 22 April 2021 – 12.30pm**

Dear President and Councillors,

An Ordinary Meeting of Council is called for Thursday 22 April 2021, in the Council Chambers, Hack Street, Sandstone, commencing at 12.30 pm.

**Councillors please note:**

A Briefing Session will be held prior to the Council Meeting.

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*Charlie Brown*

Chief Executive Officer

16 April 2021

**PUBLIC QUESTION TIME**

A 15 minute public question time is available to allow members of the public the opportunity of submitting questions to Council on matters concerning them. Questions should be submitted in writing prior to the meeting. The questions will be addressed by the President or their nominated person. Where an answer cannot be given at the meeting, a reply will be given in writing subsequent to the meeting.

Discussion will not be allowed.



**DISCLAIMER**

*No responsibility whatsoever is implied or accepted by the Sandstone Shire Council for any act, omission, statement or intimation occurring during Council/Committee meetings or during formal/informal conversations with staff. The Sandstone Shire Council disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, statement, intimation or otherwise occurring during Council/Committee Meetings or discussions. Any person or legal entity that acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.*

*In particular but without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence or permit, any statement or limitation of approval made by an Elected Member or by a Staff Member of Sandstone Shire Council during the course of any Meeting is not intended to be and is not to be taken as notice of approval from the Sandstone Shire Council. The Sandstone Shire Council warns that anyone who has an application lodged with the Sandstone Shire Council must obtain and only should rely on **WRITTEN CONFIRMATION** of the outcome of the application including any conditions attaching to the decision made by the Sandstone Shire Council in respect of the application.*

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**Charlie Brown**

**Chief Executive Officer**

16 April 2021

Hack Street, SANDSTONE WA 6639

Tel (08) 9963 5802 Fax (08) 9963 5852

E-mail: [ceo@sandstone.wa.gov.au](mailto:ceo@sandstone.wa.gov.au)

WRITTEN DECLARATION OF INTEREST IN MATTER BEFORE COUNCIL

**NOTE: USE ONE FORM PER DECLARATION**

I, (1) \_\_\_\_\_ hereby declare an interest in the following item to be considered by Council at its Meeting to be held on (2) \_\_\_\_\_ and regarding

Agenda item (3) \_\_\_\_\_

The type of interest I wish to declare is (4)

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

The nature of my interest is (5)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The extent of my interest is (6)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand that the above information will be recorded in the Minutes of the Meeting and recorded by the Chief Executive Officer in an appropriate Register.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

RECEIVED BY: \_\_\_\_\_

(Chief Executive Officer)

(Date)

- (1) Insert your name.
- (2) Insert the date of the Council Meeting at which the item it to be considered.
- (3) Insert the Agenda Item Number and Title.
- (4) Tick the box(es) to indicate the type of interest (for explanation, see the extracts overleaf from the Act.
- (5) Describe the nature of your interest.
- (6) Describe the extent of your interest (if seeking to participate in the matter under the s.5.68 of the Act)

***Financial pursuant to Section 5.60A of the Local Government Act 1995***

**s5.60A Financial Interest**

For the purpose of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

*[Section 5.60A inserted by No. 64 of 1998 s. 30; amended by No. 49 of 2004 s. 50.]*

***Proximity pursuant to Section 5.60B of the Local Government Act 1995***

**s5.60B Proximity Interest**

- (1). For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns –
  - (a). a proposed change to a planning scheme affecting land that adjoins the person’s land;
  - (b). a proposed change to zoning or use of land that adjoins that person’s land; or
  - (c). a proposed development (as defined in section 5.63 (5)) of land that adjoins the person’s land.
  
- (2). In this section, land (“**the proposal land**”) adjoins a person’s land if –
  - (a). the proposal land, not being a thoroughfare, has a common boundary with the person’s land;
  - (b). the proposal land, or any part of it, is directly across a thoroughfare from, the person’s land; or
  - (c). the proposal land is that part of a thoroughfare that has a common boundary with the person’s land.
  
- (3). In this section a reference to a person’s land is a reference to any land owned by the person or in which the person has any estate or interest.

*[Section 5.60B inserted by No 64 of 1998 s. 30.]*

***Indirect Financial pursuant to Section 5.61 of the Local Government Act 1995***

**s5.61 Indirect Financial Interest**

A reference in this Subdivision to an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who requires a local government decision in relation to the matter.

***Impartiality pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulation 2007***

**reg 11 Disclosure of Interest**

- (1). In this regulation –  
Interest means an interest that could or could reasonably be perceived to; adversely affect the impartiality of the person having the interest arising from kinship, friendship or membership of an association.

- (2). A person who is a council member and who has an interest in any matter to be discussed at a council or committee meeting attended by the member must disclose the nature of the interest –
  - (a). in a written notice given to the CEO before the meeting;  
or
  - (b). at the meeting immediately before the matter is discussed.
- (3). Sub-regulation (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4). Sub-regulation (2) does not apply if –
  - (a). A person who is a council member fails to disclose an interest because the person did not know he or she has an interest in the matter; or
  - (b). A person who is a council member fails to disclose an interest because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person disclosed the interest as soon as possible after the discussion began.
- (5). If, under sub-regulation (2)(a), a person who is a council member discloses an interest in a written notice given to the CEO before a meeting then –
  - (a). Before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
  - (b). At the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before a matter to which the disclosure related is discussed.
- (6). If –
  - (a). Under sub-regulation (2)(b) or (4)(b) a person’s interest in a matter is disclosed at a meeting; or
  - (b). Under sub-regulation (5) (b) notice of a person’s interest in a matter is brought to the attention of the persons present at a meeting.

The nature of the interest is to be recorded in the minutes of the meeting.

***Describe the extent of your interest (If seeking to participate in the matter under s.5.68 of the Act)***

**s5.68 Councils and Committees may allow Members disclosing interests to participate etc. in Meetings**

- (1). If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter
  - (a). may allow the disclosing member to be present during any discussion or decision-making procedure relating to the matter; and
  - (b). may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision-making procedures relating to the matter if –
    - (i) the disclosing member also discloses the extent of the interest; and

(ii) those members decide that the interest –

- (I) is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter; or
- (II) is common to a significant number of electors or ratepayers

- (2). A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the council or committee.
- (3). This section does not prevent the disclosing member from discussing, or participating in the decision-making process on, the question on whether an application should be made to the Minister under section 5.69.



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**SHIRE OF SANDSTONE**  
**ELECTED MEMBER'S REQUEST FORM**

Councillor's Name: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/2021

**Urgency:** Low / Medium / High / Strategic

Road / Public Building / Area: \_\_\_\_\_

Request: \_\_\_\_\_

Description: \_\_\_\_\_

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**OFFICE USE ONLY:**

Action Taken: \_\_\_\_\_

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Comment: \_\_\_\_\_

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Completed: \_\_\_\_/\_\_\_\_/2021

Signature: \_\_\_\_\_

Inspected and/or authorised by: \_\_\_\_\_

(Chief Executive Officer)

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# Councilor's Claim for Sitting Fees and Travel

Councilor \_\_\_\_\_

Creditor No \_\_\_\_\_

<i><b>Date</b></i>	<i><b>Meeting</b></i>	<i><b>Sitting Fees</b></i>	<i><b>Travel Km's</b></i>	<i><b>Amount</b></i> <small>.7087 cents per km</small>
Date of Meeting	Type of Meeting	\$175/ \$350	No of km's	Office Use
22/04/2021	Full Council			

Fees payable are in accordance with the Local Government Act (5.98) – Administration Regulations (30)

Total	Total
04109	04100
Line Item 370	

TOTAL:

## OTHER MEETINGS ATTENDED IN THE MONTH

Date	Meeting	Km's	Vehicle supplied?

If this form is not filled out correctly with all information the claim for payment will be rejected.

\_\_\_\_\_                      \_\_\_\_\_  
(Signature)                      (Date)

**Calculations Checked** \_\_\_\_\_ **Date** \_\_\_\_\_

**Goods Received / Payment Approved** \_\_\_\_\_

**ORDINARY COUNCIL MEETING TO BE HELD ON  
THURSDAY 22 APRIL 2021  
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## **AGENDA and STAFF REPORTS**

### **ORDINARY COUNCIL MEETING TO BE HELD IN COUNCIL CHAMBERS, SANDSTONE ON THURSDAY 22 APRIL 2021**

#### **1 DECLARATION OF OPENING AND ANNOUNCEMENT OF ANY VISITORS**

The Presiding Member, Cr Bethel Walton (Shire President) to declare the Meeting open at 12.30pm.

#### **2 ANNOUNCEMENTS FROM THE PRESIDING MEMBER AND/OR COUNCILLORS (without discussion unless otherwise determined)**

Nil

#### **3 ATTENDANCE**

##### **3.1 Present**

###### **Elected Members**

Cr B (Beth) Walton            Shire President (and Presiding member of this Meeting)

Cr C (Carol) Hodshon    Deputy Shire President

Cr F (Freda) May

Cr D (David) Lefroy

Cr K (Kerry) Key

Cr V (Vicki) McQuie

###### **Staff Members**

Mr Charlie Brown            Chief Executive Officer

Mr Norbert Marwick        Works Supervisor

###### **Visitors**

##### **3.2 Apologies**

##### **3.3 Approved Leave of Absence**

Nil

#### **4 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**5 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**6 DECLARATIONS OF INTEREST**

**6.1 Declarations of Financial Interest**

**6.2 Declarations of Proximity Interest**

**6.3 Declarations of Indirect Financial Interest**

**6.4 Declarations of Impartiality Interest**

**7 PUBLIC QUESTION TIME**

Nil

**8 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS**

8.1 The ordinary meeting held on the 25 March 2021

**STAFF RECOMMENDATION**

**MOVED: Cr**

**SECONDED: Cr**

That the Minutes of the Ordinary Meeting of Council held on 25 March 2021 are confirmed as a true and accurate record of proceedings.

**NOT/CARRIED (??)**

**9 PRESENTATIONS**

**9.1 Petitions**

Nil

**9.2 Presentations**

Nil

**9.3 Deputations**

Nil

**9.4 Delegates/Councillor's Reports**

Nil



## 10 OFFICERS REPORTS

### 10.1 CHIEF EXECUTIVE OFFICER'S REPORTS

#### 10.1.1 Code of Conduct for Council Members, Committee Members and Candidates, and Chief Executive Officer (CEO) Standards

<b>Agenda Reference:</b>	CEO 04/21-01
<b>Location/Address:</b>	Shire of Sandstone
<b>Name of Applicant:</b>	Shire of Sandstone
<b>Disclosure of Interest:</b>	None
<b>Date of Report:</b>	22 April 2021
<b>Previous References:</b>	03/21-04
<b>Author:</b>	Charlie Brown, Chief Executive Officer

#### Summary

This report seeks to inform the council on recent changes made to legislation and enact some of the mandatory changes in accordance with the guidelines provided by the State Government.

#### Attachments

Attachments 10.1.1 (1) Model Code of Conduct for Council Members, Committee Members and Candidates.

Attachment 10.1.1 (2) Standards for CEO Recruitment, Performance and Termination.

Attachment 10.1.1 (3) Local Government regulations Amendments 2021 Guidance Note.

#### Background

Following the gazettal of new regulations on 2<sup>nd</sup> February 2021 and coming into effect on 3<sup>rd</sup> February 2021, the Department of Local Government, Sport and Cultural Industries, (DLGSCI) has issued instructions to all local governments that the Local Government (Model Code of Conduct) Regulations 2021 amendments must be implemented by the 3<sup>rd</sup> May 2021.

As of 3 February 2021, the following regulations took effect implementing the remaining of the *Local Government Legislation Act, 2019*;

- *Local Government (Administration) Amendment Regulation 2021 (Model Standards)*
- *Local Government (Model Code of Conduct) Regulations 2021 (Model Code)*; and
- *Local Government Regulation Amendment (Employee Code of Conduct) Regulations 2021 (Employee Code Regulations)*

Therefore, council is required to adopt a new Code of Conduct for Council members, Committee members and election candidates that is compliant with the mandatory Model Code of Conduct in the regulations.

The employee code of conduct will be addressed independently at the May 2021 Ordinary Council Meeting.

#### Model Standards – CEO Employment

The Model Standards for the recruitment, selection, performance review and termination of Local Government CEO's includes requirements to:

- Establish a selection panel comprised of Council Members and at least one independent person to conduct the recruitment and selection process (clause 8);
- Re-advertise the CEO position and conduct a recruitment and selection process where a current CEO has held the position for ten consecutive years or more on expiry of the CEO's contract (clause 13); and
- By agreement between the CEO and Council, establish a performance review process (clause 16).

#### Model Code Council Members, Committee Members and Election Candidates

This model repeals and replaces the Local Government (Rules of Conduct) Regulation, 2007 and provides:

- A set of overarching principles to guide behaviour of Council Members, Committee Members and Election Candidates;
- Specified the standards of behaviour which reflects the principles; and
- The rules of conduct that relate to the principles and behaviour
- An understanding to what matters might constitute a breach and how such matters are to be investigated.

By the 3<sup>rd</sup> May 2021, council must prepare and adopt a code of conduct that aligns to the new legislation. The regulation states that amendments cannot be made to Division 2 (Principles) or Division 4 (Rules of Conduct) of the Model Code. However, if appropriate, additional behavioural requirements can be included in the new Code of Conduct provided such additions are consistent with the Model Code.

The following provides brief explanation to the legislative changes;

#### Local Government (Model Code of Conduct) Regulations 2021

The *Local Government (Model Code of Conduct) Regulations 2021* (Model Code Regulations) introduced a mandatory code of conduct for council members, committee members and candidates. The Model Code of Conduct Regulations repeals and replaces the *Local Government (Rules of Conduct) Regulations, 2007* and also replaces the previous statutory requirement to develop and implement an individual code of conduct for council members and committee members.

The Model Code Regulations are now in effect and Elected Members and Committee Members should familiarise themselves with the principles, behaviours and complaints required to be managed by Council and the rules of conduct, contraventions of which are considered by the independent Local Government Standards Panel (Standards Panel) where appropriate. Further information and guidelines are available on the DLGSCI website. Elected Members must comply with the provisions of the Model Code Regulations in fulfilling their roles and responsibilities, as set out in the Act. The purpose of the Model Code is to guide the decisions, actions, and behaviours of members, both in Council and on Council committees, and of candidates running for election as a Council Member. One of the key changes to the Model Code Regulations is their application to individuals who have nominated as a candidate in a local government election, as they are also required to demonstrate professional and ethical behaviour during their election campaign.

Local governments are required to adopt a Code of Conduct that incorporates the Model Code Regulations within three months, in accordance with the new section 5.104 of the Act.

An overview of the Model Code Regulations and immediate actions for Council is set out below:

- **General Principles – Division 2:** The principles outline the overarching approach that members and candidates should demonstrate in their role as public representatives, or potential public representatives. Individuals should consider all behaviours in light of these principles, including any behaviour and conduct that is not covered specifically in Division 3 and 4. The principles are grouped into three key areas: personal integrity; relationships with others and accountability.
- **Behaviour – Division 3:** This section of the Model Code Regulations sets the standards of behaviour which reflects the general principles outlined in Division 2. It is the individual responsibility of members and candidates to demonstrate, promote and support professional and ethical behaviour as provided in the Model Code. The behaviours include personal integrity, relationships with others and conduct at council or committee members.
- **Rules of Conduct – Division 4:** Under section 5.105(1) of the Act, if a Council Member commits a minor breach, this is deemed a contravention of the Rule of Conduct. This also extends to an election candidate, however, will only come into force if the candidate is successful in being elected. For the most part, a minor breach is dealt with by the Standards Panel under section 5.110 of the Act, and can include misuse of local government resources, securing personal advantage or disadvantaging others, prohibition against involvement in administration, relationship with local government employees, disclosure of information, disclosure of interests and compliance.

Therefore, in part this report promotes Council adopt the new Code of Conduct (as contained in **Attachment 10.1.1 (1)**) that will enable the Council to meet its statutory requirements. Enhancements to the Code of Conduct may be considered by Council over time.

#### Local Government (Administration) Amendment Regulations 2021

SHIRE OF SANDSTONE

The *Local Government Legislation Amendment Act 2019* includes a requirement for model standards covering the recruitment and selection, performance review and termination of employment of local government Chief Executive Officers (CEOs). These reforms are intended to ensure best practices and greater consistency in these processes across the local governments sector. Further information and guidelines on the Model CEO Standards are available on the DLGSCI website.

In summary, the CEO Standards amend the *Local Government (Administration) Regulations 1996* (Admin Regulations) to prescribe model standards under Section 2 of the Admin Regulations. Under section 5.39B(2) of the Act, the Council must adopt standards that incorporate the model standards within three months and until this time, the model standards are taken to be the adopted standards. Shire Officers are recommending that Council adopt the CEO Standards for Recruitment, Performance and Termination (as contained in **Attachment 10.1.1.(2)**) as taken in the Admin Regulations. At a later time, Council may consider additional provisions that are consistent with the model standards. This is the same approach as recommended in the adoption of the Code of Conduct for Elected Members, Committee Members and Candidates.

An overview of the Model standards for CEO recruitment, performance and termination as set out in section 5.39A(1) of the Act and Schedule 2 of the regulations is presented below:

#### ➤ **Recruitment and Selection**

The most notable change is the requirement for local government is to re-advertise the CEO position and undertake a recruitment and selection process after each instance where the person has occupied the position for ten consecutive years.

Division 2 sets out the process for establishing the selection criteria, position description and the advertising process. The key change is that State-wide notice advertising the position must also include a website address where a position description for the position can be accessed. Local governments are also required to convene a selection panel to conduct the recruitment and selection process. The selection panel must consist of Elected Members and a new requirement under clause 8, Division 2, is that the selection panel must include one independent person who is not a current Elected Member, human resources person employed by the Local Government, or another employee of the local government. The DLGSCI has recommended that the independent person should have experience in the recruitment and selection of CEO's and/or senior executives.

It is the role of the selection panel to recommend one or more suitable applicants based on the selection criteria. The selection panel provides an advisory role with the ultimate decision-making authority remaining with Council. The DLGSCI has recommended that local governments develop a policy or terms of reference to facilitate this process that incorporates Division 2 of the Admin Regulations that includes:

- The primary functions of the panel;
- Roles and Responsibilities of panel members;
- Composition of the panel;
- Duration of term;

- Desirable criteria for appointment to the panel;
- A requirement that panel members sign a confidentially agreement and agree to the duties and responsibilities of their role; and
- Any other information the local government deems necessary for the panel to effectively carry out their role.

#### ➤ **Performance**

The standards regarding the CEO performance review are based on the principles of fairness, integrity, and impartiality. Section 5.38 of the Act provides that, for a CEO who is employed for a term of more than one year, the performance of a CEO is to be reviewed formally at least once in every year of their employment. In addition to this minimum requirement, it is recommended that Council engage in regular discussions with the CEO regarding their performance against the performance criteria, including progress and ways that the CEO can be supported. Any changes to the CEO's performance agreement, such as changes to the performance criteria, should also be discussed and agreed to between Council and the CEO, as the matter arises. Council must ensure that the process for a performance review is appropriately documented.

#### ➤ **Termination**

The requirements of the CEO Standards regarding termination of employment are based on the principles of procedural fairness. Any decision to terminate a CEO's contract of employment must be compliant with the CEO Standards and consistent with employment and contract law.

The CEO Standards provide that before a decision is made to terminate the employment of a CEO, the Council must have conducted a CEO performance review within the preceding twelve months (in accordance with section 5.38 of the Act). As a part of that process, the performance review must have identified any relevant performance issues that needed to be addressed by the CEO, informed the CEO of the issues, and provided the CEO with a reasonable opportunity to address those issues in accordance with a performance management plan.

#### ➤ **Appointing of a Temporary CEO**

In accordance with Section 5.39C of the Act, Council is required to develop and implement a policy that outlines the arrangements to temporarily replace a CEO for any period less than twelve months, for example, when a CEO is on planned or unplanned leave. The policy must include the process for appointing an acting CEO.

As noted above, the CEO Standards and Code of Conduct must incorporate the terms of the Model Standards and Model Code (respectively) with only limited complimentary amendments permitted to each document.

#### Code of Conduct – Employees and Contractors

A new Employee and Contractor Code of Conduct is required to be developed in accordance with the Employee Code Regulations and approved and implemented by the CEO. The CEO is also bound by this new Employee and Contractor Code of Conduct, as well as additional provisions in the Local Government Act and associated Regulations. A new consistent Code based on the WALGA template will be presented for adoption in the coming month.

## Comments

While the Council is requested to adopt the recommendations in this report to ensure compliance with the Act and new regulations, there remains issues and concerns with this legislation, as summarised below:

### Elected Member Code of Conduct

The conduct of internal investigations in relation of Elected Member complaints, as required by these new Regulations, is considered problematic with:

1. An expected impost on most Local Governments that are not adequately trained nor resourced to conduct investigations and pass judgement in consideration of the principles of procedural fairness and natural justice.
2. An internal investigation having the potential to incite further conflict and possible retaliation that could generate a heightened level of disharmony and discord contrary of the primary objective of providing good governance for residents of the district.
3. An inconsistent approach to investigations under the Regulations being administered without appropriate guidelines and stated penalties for specific offences. It is viewed these should be developed by the LGSCI in consultation with WALGA to ensure consistency and fairness can be applied across the Local Government sector.

### Permanent CEO Position - Recruitment, Performance Assessment, and Termination

The appointment of a suitably credentialed and experienced independent person to assist Council in the recruitment, performance assessment, and termination of a CEO comes with considered challenge in selecting the best person. Council needs to mindful the DLGSCI guidelines state:

*Examples of who the independent person could be include:*

- *Former elected members or staff members of the local government*
- *Former or current elected members (such as Mayor or Pesident) or staff members of another local government*
- *A prominent or highly regarded member of the community; or*
- *A person with experience in the recruitment of CEO's and senior executives.*

*The panel are responsible for assessing applicants and making a recommendation to Council regarding the most suitable applicant or applicants. The essence of the role of an independent panel member is to bring an impartial perspective to the process and reduce any perception of bias or nepotism."*

This role should not be confused with the engagement of an Independent Human Resources Consultant, also required to be engaged to assist the Council (or recruitment panel) in facilitating the respective CEO process. In this regard the Department's guidance note states:

***“Independent human resources consultant***

*A local government should seek independent advice from a human resources consultant where the Council lacks the capacity or expertise to facilitate the recruitment and selection process (or any aspect of it). A member of the human resources team within a local government must not be involved in the recruitment of a new CEO.*

*The consultant should not be associated with the local government or any of its Council members. The consultant can be an independent human resources professional, recruitment consultant, or recruitment agency.*

*An independent human resources consultant can provide advice to the selection panel on how to conduct the recruitment process, or a local government may engage a consultant to support it in undertaking certain aspects of the recruitment process, such as one or more of the following:*

- development or review of the JDF;*
- development of selection criteria;*
- development of assessment methods in relation to the selection criteria;*
- drafting of the advertisement;*
- executive search;*
- preliminary assessment of the applications;*
- shortlisting;*
- drafting questions for interview;*
- coordinating interviews;*
- preparing the selection summary assessment and recommendation;*
- arranging for an integrity check and/or police clearance; and*
- assisting the council in preparing the employment contract.*

*The consultant is not to be directly involved in determining which applicant should be recommended for the position, their role is not one of decision-maker.”*

Therefore, understanding the distinct difference of these positions in the recruitment, performance and termination of a CEO position is paramount, with the appointment of independent representation needing to be conducted with a high level of diligence, and without confusion over the respective functions of each role in assisting the Council to meet its statutory obligations.

### Temporary/Acting CEO Appointment

It is important Council's Policy clearly details the criteria upon which another person/employee may be appointed to perform the CEO position on a casual basis. Council needs to be cognisant of the responsibilities for this position and needs to ensure (as the employer) the policy reflects that selected/appointed person can perform the role with a diverse level of knowledge and has sufficient experience required to maintain continued management and operations of the Local Government in the absence of a permanent CEO.

### **Consultation**

Nil

### **Statutory Environment**

The *Local Government Act 1995* stipulates under Sections 5.103, 5.104 and 5.105:

#### **5.103. Model code of conduct for council members, committee members and candidates**

- (1) *Regulations must prescribe a model code of conduct for council members, committee members and candidates.*
- (2) *The model code of conduct must include —*
  - (a) *general principles to guide behaviour; and*
  - (b) *requirements relating to behaviour; and*
  - (c) *provisions specified to be rules of conduct.*
- (3) *The model code of conduct may include provisions about how the following are to be dealt with —*
  - (a) *alleged breaches of the requirements referred to in subsection (2)(b);*
  - (b) *alleged breaches of the rules of conduct by committee members.*
- (4) *The model code of conduct cannot include a rule of conduct if contravention of the rule would, in addition to being a minor breach under section 5.105(1)(a), also be a serious breach under section 5.105(3).*
- (5) *Regulations may amend the model code of conduct.*

#### **5.104. Adoption of model code of conduct**

- (1) *Within 3 months after the day on which regulations prescribing the model code come into operation, a local government must prepare and adopt\* a code of conduct to be observed by council members, committee members and candidates that incorporates the model code.*

*\* Absolute majority required.*

- (2) *Within 3 months after the day on which regulations amending the model code come into operation, the local government must amend\* the adopted code of conduct to incorporate the amendments made to the model code.*

*\* Absolute majority required.*



- (3) *A local government may include in the adopted code of conduct requirements in addition to the requirements referred to in section 5.103(2)(b), but any additional requirements —*
  - (a) *can only be expressed to apply to council members or committee members; and*
  - (b) *are of no effect to the extent that they are inconsistent with the model code.*
- (4) *A local government cannot include in the adopted code of conduct provisions in addition to the principles referred to in section 5.103(2)(a) or the rules of conduct.*
- (5) *The model code is taken to be a local government’s adopted code of conduct until the local government adopts a code of conduct.*
- (6) *An alleged breach of a local government’s adopted code of conduct by a candidate cannot be dealt with under this Division or the adopted code of conduct unless the candidate has been elected as a council member.*
- (7) *The CEO must publish an up-to-date version of a local government’s adopted code of conduct on the local government’s official website.*

**5.105. Breaches by council members**

- (1) *A council member commits a minor breach if the council member —*
  - (a) *contravenes a rule of conduct; or*
  - (b) *contravenes a local law under this Act, contravention of which the regulations specify to be a minor breach.*
- (1A) *Subsection (1) extends to the contravention of a rule of conduct that occurred when the council member was a candidate.*
- (1B) *Regulations cannot specify that contravention of a local law under this Act is a minor breach if contravention of the local law would, in addition to being a minor breach under subsection (1), also be a serious breach under subsection (3).*
- (2) *A minor breach is a recurrent breach if it occurs after the council member has been found under this Division to have committed 2 or more other minor breaches.*
- (3) *A council member who commits any offence under a written law, other than a local law made under this Act, of which it is an element that the offender is a council member or is a person of a description that specifically includes a council member commits a serious breach.*

**Policy Implications**

The adoption of this policy will replace council’s existing Code of Conduct.

**Financial Implications**

Nil

**Strategic Implications**

Nil

## **Voting Requirements**

Absolute Majority

## **Officer Recommendation**

Resolution No

Moved Cr

Seconded Cr

*That Council:*

**1. Pursuant to:**

***a) Section 5.103(5) of the Local Government Act, 1995 revokes the Shire of Sandstone Code of Conduct for Elected Members.***

***b) Section 5.104(1) of the Local Government Act, 1995 adopts the Model Code of Conduct for Elected Members, Committee Members, and Candidates as per Attachment 10.1.1.(1) to this report.***

***c) Section 5.39B(2) of the Local Government Act, 1995 adopts the Model CEO Standards on Recruitment, Performance as per Attachment 10.1.1.(2) to this report.***

**2. Notes:**

***The Model CEO Standards on Recruitment, Performance and Termination and Code of Conduct for Elected Members, Committee Members and Candidates will be published on the Shire of Sandstone website.***

**CARRIED by Absolute Majority/ NOT  
CARRIED X/X**

## 10.1.2 Offer to Purchase Lot 10 Oroya Street Sandstone

<b>Agenda Reference:</b>	CEO 01/21 - 01
<b>Location/Address:</b>	Shire of Sandstone
<b>Name of Applicant:</b>	Shire of Sandstone
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	22 <sup>th</sup> April 2021
<b>Author:</b>	Charlie Brown. Chief Executive Officer

### Summary

Council needs to consider any submissions lodged with the Chief Executive Officer in relation to the disposal of lot 10 Oroya Street Sandstone

### Attachments

Nil

### Background

The Shire at its Ordinary Council Meeting held on 25<sup>th</sup> March 2021 resolved to accept the offer to purchase lot 10 Oroya Street Sandstone from Weston Holdings Pty Ltd of \$49,500.00.

The detail of the lot are:

1. Lot 10 on Deposited Plan 406602 Volume 2930 Folio 85

Council holds Duplicate Certificates of Title dated 14/07/201 for this lot.

### Comment

Council, in accordance with the Local Government Act 1995 sec 3.58, advertised the proposed disposition in the Bush Telegraph, on council's web site and on the Shire notice boards calling for any submissions in relation to the proposed disposition. Receipt of submissions close on 16<sup>th</sup> April 2021.

The Chief Executive Officer can report that no submissions have been received.

### Consultation

Nil

### Statutory Environment

Local Government Act 1995 Section 3.58

#### 3.58. Disposing of property

- (1) In this section —

**dispose** includes to sell, lease, or otherwise dispose of, whether absolutely or not;

SHIRE OF SANDSTONE

**property** includes the whole or any part of the interest of a local government in property, but does not include money.

- (2) Except as stated in this section, a local government can only dispose of property to —
  - (a) the highest bidder at public auction; or
  - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
  - (a) it gives local public notice of the proposed disposition —
    - (i) describing the property concerned; and
    - (ii) giving details of the proposed disposition; and
    - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;and
  - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
  - (a) the names of all other parties concerned; and
  - (b) the consideration to be received by the local government for the disposition; and
  - (c) the market value of the disposition —
    - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
    - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (5) This section does not apply to —
  - (a) a disposition of an interest in land under the *Land Administration Act 1997* section 189 or 190; or
  - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
  - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
  - (d) any other disposition that is excluded by regulations from the application of this section.

[Section 3.58 amended: No. 49 of 2004 s. 27; No. 17 of 2009 s. 10.]

## Policy Implications

Nil

**Financial Implications**

A disposal will generate cash flow and increase the rate base of the Shire of Sandstone

**Strategic Implications**

Nil

**Voting Requirements**

Simple Majority

**Officer Recommendation****Resolution No****MOVED:****SECONDED:**

That Council receive the advice of the Chief Executive Officer that no submissions were received by the closing date on the disposition of Lot 10 Oroya Street, Sandstone for \$49,500.00 and that the Chief Executive Officer negotiate a settlement date with Weston Holdings Pty Ltd.

CARRIED (0/0)

<b>10.1.3</b>	<b>APA Licence Agreement Laydown Area &amp; Campsite</b>
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**Agenda Reference:** CEO 03/21-04  
**Location/Address:** Shire of Sandstone  
**Name of Applicant:** Shire of Sandstone  
**Disclosure of Interest:** None

**Date of Report:** 22 April 2021  
**Previous References:** Nil  
**Author:** Charlie Brown, Chief Executive Officer

### **Summary**

APA have approached Council regarding an area that they wish to utilise as a Laydown area for pipes and a camp site of approximately 400 persons

### **Attachments**

- 10.1.3 (1) License Agreement
- 10.1.3 (2) Proposed Sandstone Camp & Pipe stockpile Area
- 10.1.3 (3) Sandstone (Including Proposed Camp)

### **Background**

APA are constructing the pipeline from the Dampier Bunbury Pipeline at about Compressor Station 7 to the Inlet flange at Wildara delivery station, supplying gas to the Goldfields Gas Pipeline at the Weebo Inlet station

### **Comments**

APA initially contacted council in late 2020 enquiring about a lay down area and a campsite, initially looking at an area around "Hacks Beach".

An on ground inspection it was found that this area is not suited to their requirements so further sites including the Sports Ground were investigated before settling on an area some 4 kilometres east of sandstone.

The area in question is in the town common on an old gravel pit site. Some Levelling and clearing would be required.

The area required that was originally discussed was, 400 meters by 400 meters for the campsite, to an area that is approximately 32hectares to accommodate both the campsite and laydown area.

In agreeing to general term, APA forwarded a License Agreement to council.

On receipt of the License agreement contact was made with APA expressing concern, that the area involved had increased substantially and may need to be reflected in the License Fee and that there was no mention of Rehabilitation of the site.

*Their reply stated that they did not think rehabilitation was necessary as the site is a gravel pit.*

I believe that due to the size of the area, rehabilitation is required and needs to be factored into a license agreement.

**Consultation**

Dave Hadden EHO Shire of Sandstone.

**Statutory Environment**

Nil

**Policy Implications**

Nil

**Financial Implications**

Significant income received from the proposed license agreement

**Strategic Implications**

Nil

**Voting Requirements**

Simple Majority

**Officer Recommendation**

**Resolution No**

**Moved Cr**

**Seconded Cr**

**That Council:**

- 1 agree in principle with the License agreement as prepared; and
- 2 that the Shire President and Chief Executive Officer be authorise to negotiate a licence fee and rehabilitation of the site on completion of the project.

**CARRIED / NOT CARRIED X/X**

## 10.2 FINANCIAL REPORTS

### 10.2.1 Financial Statement for the month of March 2021

<b>Agenda Reference:</b>	F 04/21 – 01
<b>Location:</b>	Shire of Sandstone
<b>Applicant:</b>	Shire of Sandstone
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	22 March 2021
<b>Author:</b>	Charlie Brown Chief Executive Officer

#### Summary

The Statement of Financial Activity report for the month ending 31 March 2021 is presented to Council in accordance with *Regulations 34 of the Local Government (Financial Management) Regulations 1996*.

#### Attachments

Financial Statements for March 2021

#### Comments

Income reports a 10.57% variance on anticipated budget expectations, largely due to Road Grants Income, whilst Operating Expenditure shows a 6.04% Increase on anticipated expenditure. A large portion of this related to underbudget on Depreciation, which will be corrected by the 30<sup>th</sup> April.

#### Capital Expenditure

A detailed look at capital expenditure can be found in note 8, as well as attachment 10.2.1 (1) showing levels of expenditure.

#### Others

Attachment 10.2.1 (2) reports variances by Sub Program, making it easier to drill down on variances to a greater degree.

#### Summary of Funds – Shire of Sandstone as at: 31 March 2021

Municipal Cheque Account - On-line (BWA)	\$419,421.03
Municipal Investment Account – On-line (BWA)	\$520,069.92
Trust Fund (Bankwest)	\$5,600
Reserve Term Deposits (Bankwest)	\$ 3,961,304.46



Muni Term Deposits x 1	\$ 804,445.35
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### **Consultation**

Finance Officer

### **Statutory Environment**

*Local Government (Financial Management) Regulations 1996 - Regulations 34 (1A) and 17.*

The Regulations require a Local Government to prepare each month a statement of financial activity, accompanied by relevant documents and that this information must be presented to Council at an ordinary meeting within 2 months after the end of the month.

### **Policy Implications**

Nil

### **Financial Implications**

Nil

### **Strategic Implications**

Nil

### **Risk Implications**

The Financial Activity report is presented monthly and provides a retrospective picture of the activities at the Shire. Contained within the report is information pertaining to the financial cost and delivery of strategic initiatives and key projects.

To mitigate the risk of budget over-runs or non-delivery of projects, the Chief Executive Officer has implemented internal control measures such as regular Council and management reporting and a quarterly process to monitor financial performance against budget estimates. Materiality reporting thresholds have been established at half the adopted Council levels, which equate to \$10,000 for operating budget line items and \$10,000 for capital items, to alert management prior to there being irreversible impacts.

It should also be noted that there is an inherent level of risk of misrepresentation of the financials through either human error or potential fraud. The establishment of control measures through a series of efficient systems, policies and procedures, which fall under the responsibility of the CEO as laid out in the Local Government (Financial Management Regulations) 1996 regulation 5, seek to mitigate the possibility of this occurring. These controls are set in place to provide daily, weekly, and monthly checks to ensure that the integrity of the data provided is reasonably assured.

### **Voting Requirements**

Simple Majority

### **STAFF RECOMMENDATION**

SHIRE OF SANDSTONE

**Resolution No**

**MOVED:** Cr

**SECONDED:** Cr

That in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996, the Statement of Financial Activity and the Investment Report for the period ending 31 March 2021 be received.

**CARRIED / NOTCARRIED 0/0**

## 10.2.2 ACCOUNTS UPDATE FOR THE MONTHS OF MARCH 2021

(Includes Credit Cards, the Caravan Park, Fuel Sales and Rates report)

<b>Agenda Reference:</b>	F 04/21 – 02
<b>Location:</b>	Shire of Sandstone
<b>Applicant:</b>	Shire of Sandstone
<b>Disclosure of Interest:</b>	Nil
<b>Date of Report:</b>	18 March 2021
<b>Author:</b>	Rhonda Miles – Finance Officer
<b>Senior Officer:</b>	Charlie Brown – Chief Executive Officer

### Summary

Presented for Council's information is the list of accounts paid in the month from the Municipal Fund and Trust Fund in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996*. Payments made through the corporate credit cards as well as income from the Caravan Park and Fuel Sales are included as attachments.

### Attachments

10.2.2A to C: The list of accounts (EFT and cheque payments) is attached which will enable Council to see the payments made to the Shire's creditors.

10.2.2D to F: Payments via Credit Cards (CEO and Works Supervisor), Caravan Park Income and Fuel Sales Income.

### Background

Council has delegated to the CEO the exercise of its power under Financial Management Regulation 12 to make payments from Municipal Fund and Trust Fund.

The *Financial Management Regulations (Regulation 13 (3))* requires a schedule of payments made through the Shire's bank accounts to be presented to Council.

The lists include details for each payment made incorporating the payee's name, amount of payment, date of payment and a brief transaction description.

### Comment

Invoices supporting all payments are available for inspection. Queries regarding any payment should be made through the CEO to the staff member who handles the financial transactions prior to this meeting.

All invoices and vouchers presented to Council have been certified as to receipt of the goods or services and that the amounts shown were due for payment.

### Consultation

Nil

## **Statutory Environment**

*Local Government Act 1995*

*Financial Management (Local Government) Regulations 1996 – Regulation 12*

## **Policy Implications**

Payments have been made under Council delegation.

## **Financial Implications**

None, funds were available to meet the expenditure.

## **Strategic Implications**

Nil

## **Voting Requirements**

Simple majority

## **Staff Recommendation**

**MOVED: Cr**

**SECONDED: Cr**

That Council endorses the March 2021 accounts paid as presented:

### Municipal Fund March 2021

- Municipal cheque numbers 105469 – 105475 totalling \$2579.67
- EFT payment numbers 8114 – 8169 totalling \$226,374.89
- Superannuation \$8,261.43; \$7,735.96; \$7,786.52 totalling \$23,783.91

### Trust Fund March 2021

- Trust cheque numbers 205131 – 205132 totalling \$1,000.00

### Payroll EFT March 2021:

\$34,509.00; \$33,867.00; \$36,489.34 totalling \$104,865.34

### Credit Cards March 2021

DD 4929.1 totalling \$1637.07

**CARRIED /NOT CARRIED (?/?)**

## 10.4 WORKS and SERVICES

### 10.4.1 WORKS SUPERVISOR'S REPORT April 2021

**Agenda Reference:** WS 04/21 – 01  
**Location/Address:** Shire of Sandstone  
**Name of Applicant:** Shire of Sandstone  
**Disclosure of Interest:** None  
**Date of Report:** 14 April 2021  
**Previous References:** Nil  
**Author:** Norbert Marwick, Works Supervisor

#### Summary

##### 1. Crew Movements

The crew have finished on the Menzies Rd apart from some drainage which is still wet from recent rains, this will be remedied when the maintenance grader comes through. The crew are currently on Meekatharra Rd.

##### 2. Maintenance Grader

The maintenance grader is on the Meekatharra RD clearing back regrowth, opening drains, and grading the road pavement.

##### 3. Contract Maintenance Grader

The grader is still on the Paynes Find Rd clearing back regrowth, opening drains, and grading the road pavement.

##### 4. Plant

Smith and Broughton Auctioneers Sold PC016 "A" side trailer with the cracked main frame for \$35,000

##### 5. Training

Prompt Safety Solutions recently had a workshop with all outside staff to help implement a safety management system and information on new and upcoming OHS requirements

#### Consultation

All Staff

#### Consultation

All outside staff

#### Statutory Environment

Local Government Act 1995

#### Policy Implications

Nil

**Financial Implications**

Nil

**Strategic Implications**

Nil

**Voting Requirements**

Simple majority

**Officer Recommendation**

**Moved Cr**

**Seconded Cr**

That Council receive the Works Supervisor's Report for March 2021.

**CARRIED/NOT CARRIED (??)**

**11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**12 QUESTIONS FROM MEMBERS WITHOUT NOTICE**

Nil

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

Nil

**14 MEETING ITEMS CLOSED TO THE PUBLIC**

**14.1 Meeting Closed to the Public**

**CONFIDENTIAL ITEMS**

**14.2 Public Reading of Resolution**

**TIME and DATE of NEXT MEETING**

The next scheduled Ordinary Council Meeting will be held on Thursday 27 May 2021.

**15 CLOSURE OF MEETING**

There being no further business, the Shire President closed the meeting at \_\_\_\_\_pm.

**CERTIFICATION**

I, \_\_\_\_\_, certify that the Minutes of the Meeting held on 25 March 2021, as shown, were confirmed as a true and accurate record at the Meeting held on 22 April 2021.

\_\_\_\_\_  
**(Presiding Member)**