



# MINUTES

## ORDINARY COUNCIL MEETING

Wednesday 15 December 2021

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## AGENDA

### 1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at 3:00pm.

#### **Affirmation of Civic Duty and Responsibility as Read**

***I make this Affirmation in good faith on behalf of Councillors and Officers of the Shire of Nungarin. We collectively declare we will duly, faithfully, honestly and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgment and ability.***

#### **Acknowledgement of Traditional Custodians**

**We wish to acknowledge the Traditional Custodians of the land we are meeting on, the Njaki Njaki Nyoongar people, and recognise the contribution of Elders past, present and future.**

### 2. ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

#### 2.1 ATTENDANCE

##### **Councillors**

Shire President	Cr P de Lacy
Deputy Shire President	Cr G Coumbe
Elected Member	Cr RE O'Connell
Elected Member	Cr J Davis
Elected Member	Cr W Lee
Elected Member	Cr M Caughey

##### **Council Officers**

Chief Executive Officer	Mr L Long
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##### **Observers / Visitors**

#### 2.2 APOLOGIES

Elected Member	Cr K Dayman
Manager Works & Services	Mr C Large

#### 2.3 REQUEST FOR LEAVE OF ABSENCE

Nil

### 3. DEPUTATIONS AND PETITIONS

#### 3.1 DEPUTATIONS

Nil

**3.2 PETITIONS**  
Nil

**4. PUBLIC QUESTION TIME**

**4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**  
Nil

**4.2 PUBLIC QUESTION TIME**  
Nil

**5. DECLARATIONS OF INTEREST**

**5.1 FINANCIAL AND PROXIMITY INTEREST**

**5.2 DISCLOSURES OF INTEREST THAT MAY CAUSE A CONFLICT**

- Cr Coumbe declared disclosure of Interest Affecting Impartiality – Being the nominator of one of the nominees for the Adult Australian Citizenship Award. (Cr Coumbe left the Chambers)
- Cr O’Connell declared disclosure of Interest Affecting Impartiality – Being a close friend to one of the nominees and work colleague of the other nominees for the Adult Australian Citizenship Award.

**6. ANNOUNCEMENT BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)**

**7. PREVIOUS COUNCIL MEETING MINUTES**

**7.1 ORDINARY COUNCIL MEETING – 17 November 2021**

**COUNCIL RESOLUTION 6783/12/21:**

That the Minutes of the Ordinary Council Meeting held on 17 November 2021 be confirmed as being a true and accurate record.

Moved: Cr J Davis

Seconded: Cr W Lee

**CARRIED 6/0**

**8. OFFICER REPORTS**

<b>8.1 COUNCIL MEETING DATES FOR 2022</b>	
<b>File Ref:</b>	41001
<b>Previous Item Ref:</b>	Council Resolution 6664 – 17 February 2021
<b>Applicant:</b>	Nil
<b>Author and Title:</b>	Leonard Long, Chief Executive Officer
<b>Declaration of Interest:</b>	Nil
<b>Voting Requirements</b>	Simple Majority
<b>Appendix Number:</b>	Nil

**COUNCIL RESOLUTION 6784/12/21:**

That Council Resolves to:

1. Approve the 2022 Ordinary Council Meetings to be held on the third Wednesday of every month with the exception of the December meeting, and commencing at 3pm to be held in the Council Chambers.

- 16 February 2022
- 16 March 2022
- 20 April 2022
- 18 May 2022
- 15 June 2022
- 20 July 2022
- 17 August 2022
- 21 September 2022
- 19 October 2021
- 16 November 2022
- 14 December 2022

2. Requests the Chief Executive Officer to advertise the above dates accordingly.

Moved: Cr M Caughey  
 Seconded: Cr RE O'Connell

**CARRIED 6/0**

**IN BRIEF**

Council is requested to consider the recommended dates for the Ordinary Council Meetings to be held in 2022.

**BACKGROUND**

Ordinary Council Meetings have traditionally been held on the third Wednesday of the month, with the exception of the December meeting which is proposed to be held on second Wednesday.

**REPORT DETAIL**

Councils are generally required to meet on a monthly basis to consider matters that have not been delegated to the Chief Executive Officer.

**SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023**

<b>Focus Area</b>	Civic Leadership
<b>Aspiration</b>	A strong local democracy with an actively engaged community and effective partnership.
<b>Objective</b>	A Shire that prospers through partnerships and good governance.

**OTHER STRATEGIC LINKS**

Nil

**STATUTORY ENVIRONMENT**

- *Local Government Act 1995*  
s.5.25 Regulations about council and committee meetings and committees
- *Local Government (Administration) Regulations 1996*  
r.12 Publication of meeting details

**SUSTAINABILITY AND RISK CONSIDERATIONS****Economic – (Impact on the Economy of the Shire and Region)**

The timeous consideration of Council matters may have a positive impact on the local economy.

**Social – (Quality of life to community and / or affected land owners)**

Nil

**Policy Implications**

Nil

**Risk Management Implications**

<b>Risk Level</b>	<b>Comment</b>
Medium	For the Shire to operate efficiently it is important to set dates for Ordinary Council Meetings.

**CONSULTATION**

Nil

**RESOURCE IMPLICATIONS****Financial**

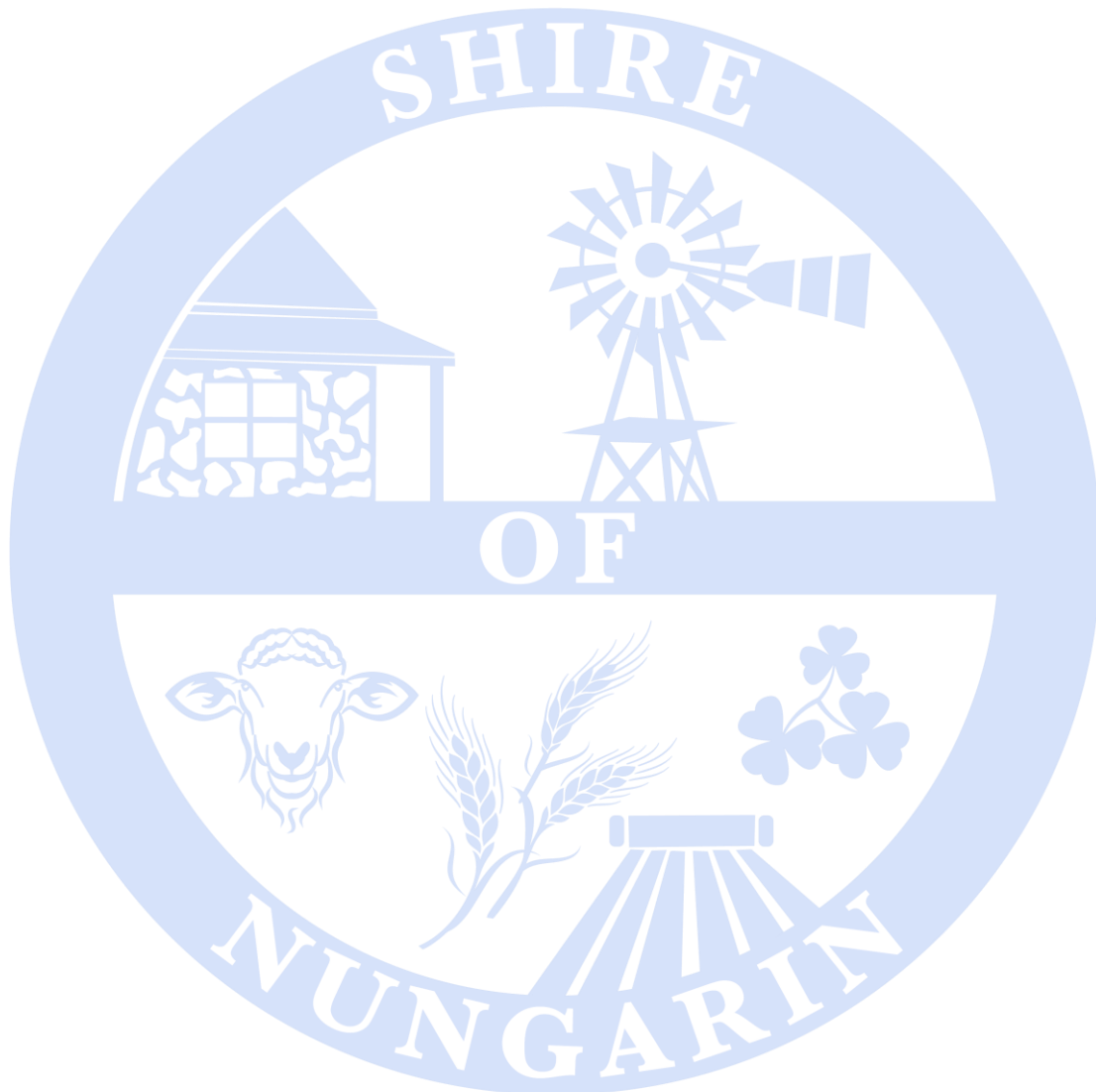
Nil

**Workforce**

Nil

**CONCLUSION**

It is important for the community as well as Councillors and staff to know when Ordinary Council Meetings are to be held. This will ensure matters requiring Council approval can be dealt with timeously.





<b>8.2 ANNUAL REVIEW OF THE DELEGATION OF AUTHORITY REGISTER 2021/22</b>	
<b>File Ref:</b>	41076
<b>Previous Items:</b>	Council Resolution 6649 & 6650 of 16 December
<b>Applicant:</b>	Nil
<b>Author and Title:</b>	Leonard Long, Chief Executive Officer
<b>Declaration of Interest:</b>	Nil
<b>Voting Requirements:</b>	Absolute Majority
<b>Appendix Number</b>	Appendix 8.2(A)

**COUNCIL RESOLUTION 6785/12/21:**

That Council Resolves to:

1. As Delegator, accept the annual statutory review of the Delegations of Authority Register for the 2021/22 financial year, in accordance with sections 5.18 and 5.46 of the Local Government Act 1995, section 47(2) of the Cat Act 2011 and section 10AB of the Dog Act 1976.

Moved: Cr J Davis  
 Seconded: Cr G Coumbe

**CARRIED BY ABSOLUTE MAJORITY 6/0**

**IN BRIEF**

- Each year Council must review the Shire of Nungarin Delegation of Authority Register.
- This year a major review of the delegations has been undertaken to ensure the delegation register is up to date and references the correct legislation.

**BACKGROUND**

The *Local Government Act 1995* requires local governments to review their delegation of powers and authority to the Chief Executive Officer at least once in every twelve months, and for the Chief Executive Officer to review their delegation of authority within the same review period. The last review of the Delegation of Authority Register was endorsed at the Ordinary Council Meeting held in December 2020. The aim and purpose of delegated authority is to assist with the efficiency of the local government activities by way of quicker decisions.

Under the *Local Government Act 1995* and other legislation, Council may delegate its functions, duties and powers to the Chief Executive Officer to assist with efficient and timely decision making. The Chief Executive Officer may then sub delegate functions, duties and powers to other staff and sub-delegated functions are also reviewed annually as a separate process. Delegations are a proven effective organisational tool that enhances productivity and support effective customer service and timely decision making.

**REPORT DETAIL**

A comprehensive review of the Delegation of Authority Register has been done and the following has been amended:



Audit and Risk Committee	<p><b>New</b></p> <ol style="list-style-type: none"> <li>1. Authority to meet with the Shire's Auditor at least once every year on behalf of the Council [s.7.12A(2)].</li> <li>2. Authority to examine the report of the Auditor and determine matters that require action to be taken by the Shire of Nungarin; and ensure that appropriate action is taken in respect to those matters [s.7.12A(3)].</li> <li>3. Authority to review and endorse the Shire of Nungarin's report on any actions taken in response to an Auditor's report, prior to it being forwarded to the Minister [s.7.12A(4)].</li> </ol>
<b>Building Act 2011</b>	
Uncertified Application to be considered by Building Surveyor	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Building Permits	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Demolition Permit	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Occupancy Permits or Building Approval Certificates	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Designate Employees as Authorised Persons	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Building Orders	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Inspections & copies of Building Records	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Referrals & Issuing Certificates	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Private Pool Barrier – Alternative & Performance Solutions	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Smoke Alarms – Alternative Solution	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Appointment of Approved Officers & Authorised Officers	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
<b>Bush Fires Act 1954</b>	
Make request to FES Commissioner – Control of Fire	<b>New</b> Authority to request on behalf of the Shire of Nungarin that the FES Commissioner authorise the Bush Fire

	Liaison Officer or another person to take control of fire operations [s.13(4)]. Subject to liaison with the CBFCO and Shire President.
Prohibited Burning Times – Vary	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Prohibited Burning Times – Control Activities	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Restricted Burning Times – Vary & Control Activities	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Control of operations likely to Create Bush Fire Danger	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Burning Garden Refuse / Open Air Fires	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Firebreaks	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Appoint Bush Fire Control Officer/s and Fire Weather Officer	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Control and Extinguishment of Bush Fires	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Apply for Declaration as an Approved Area	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Prosecution of Offences	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
<b>Cat Act 2011</b>	
Cat Registration	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Cat Control Notices	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Recovery of Costs – Destruction of Cats	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
<b>Dog Act 1976</b>	
Registration of Dogs	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Refuse or Cancel Registration	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Kennel Establishment	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.

Recovery of Monies Due Under this Act	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Dispose or Sell Dogs Liable to be Destroyed	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
<b>Food Act 2008</b>	
Prohibition Orders	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Food Business Registration	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Appoint Authorised Officers and Delegated Officer	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Debt Recovery and Prosecutions	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
<b>Graffiti Vandalism Act 2016</b>	
Giving Notice Requiring Obliteration of Graffiti	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
<b>Liquor Control Act 1988</b>	
Enforcement of Liquor Control Act 1988 and Liquor Licencing Act 1988	<b>New</b> <ol style="list-style-type: none"> <li>1. Authority to enforce all local authority responsibilities under the <i>Liquor Control Act 1988</i> and <i>Liquor Licensing Act 1988</i>.</li> <li>2. To issue certificates of Local Health Authority and Local Planning Authority.</li> </ol>
<b>Local Government Act 1995</b>	
Performing Functions Outside the District	<b>New</b> Authority to determine the circumstances where it is appropriate for the Local Government's functions to be performed outside the District and prior to implementing such a decision, obtain the consent of the landowner/s and occupier/s and any other person that has control or management of the land impacted by the performance of that function [s.3.20(1)].
Compensation for Damage Incurred when Performing Executive Functions	<b>New</b> <ol style="list-style-type: none"> <li>1. In accordance with the s.3.22 procedures, assess and determine the extent of damage to private property arising directly from performance of executive functions and make payment of compensation [s.3.22(1)].</li> <li>2. Where compensation is unable to be determined and agreed between parties, give effect to arbitration in accordance with s.3.23.</li> </ol>
Notice Requiring Certain Things to be done by Owner or Occupier of Land and Additional Powers when Notice is Given	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.

Powers of Entry	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Declare Vehicle is Abandoned Vehicle Wreck	<b>New</b> Authority to declare that an impounded vehicle is an abandoned vehicle wreck [s.3.40A(4)].
Confiscated or Uncollected Goods	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Disposal of Sick or Injured Animals	<b>New</b> <ol style="list-style-type: none"> <li>1. Authority to determine when an impounded animal is ill or injured, that treating it is not practicable, and to humanely destroy the animal and dispose of the carcass [s.3.47A(1)].</li> <li>2. Authority to recover expenses incurred for removing, impounding, and disposing of sick or injured animals [s.3.48].</li> </ol>
Close Thoroughfares to Vehicles	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Obstruction of Footpaths and Thoroughfares	<b>New</b> <ol style="list-style-type: none"> <li>1. Authority to determine, by written notice served on a person who is carrying out plastering, painting or decorating operations (the work) over or near a footpath on land that is local government property, to require the person to cover the footpath during the period specified in the notice so as to: <ol style="list-style-type: none"> <li>a. prevent damage to the footpath; or</li> <li>b. prevent inconvenience to the public or danger from falling materials [ULP r.5(2)].</li> </ol> </li> <li>2. Authority to provide permission including imposing appropriate conditions or to refuse to provide permission, for a person to place on a specified part of a public thoroughfare one or more specified things that may obstruct the public thoroughfare. [ULP r.6(2) and (4)].</li> <li>3. Authority to renew permission to obstruct a thoroughfare and to vary any condition imposed on the permission effective at the time written notice is given to the person to whom permission is granted [ULP r.6(6)].</li> <li>4. Authority to require an owner or occupier of land to remove any thing that has fallen from the land or from anything on the land, which is obstructing a public thoroughfare [ULP r.7A].</li> <li>5. Authority to require an owner occupier of land to remove any part of a structure, tree or plant that is encroaching, without lawful authority on a public thoroughfare [ULP r.7].</li> </ol>
Expression of Interest for Goods & Services	<b>New</b>

	<ol style="list-style-type: none"> <li>1. Authority to determine when to seek Expressions of Interest and to invite Expressions of Interest for the supply of goods or services [F&amp;G r.21].</li> <li>2. Authority to consider Expressions of Interest which have not been rejected and determine those which are capable of satisfactorily providing the goods or services, for listing as acceptable tenderers [F&amp;G r.23].</li> </ol>
Tenders for Goods & Services	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable
Disposing of Property	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Payments from the Municipal or Trust Funds	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Defer, Grant Discounts, Waive or Write Off Debts	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Power to Invest and Manage Investments	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Rate Record Amendment	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Agreement as to payment of Rates and Service Charges	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Determine Due Date for Rates or Service Charges	<b>New</b> Authority to determine the date on which rates or service charges become due and payable to the Shire of Nungarin [s.6.50].
Recovery of Rates or Service Charges	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
Recovery of Rates Debt – Require Lessee to Pay Rent	<b>New</b> <ol style="list-style-type: none"> <li>1. Authority to give notice to a lessee of land in respect of which there is an unpaid rate or service charge, requiring the lessee to pay its rent to the Shire of Nungarin [s.6.60(2)].</li> <li>2. Authority to recover the amount of the rate or service charge as a debt from the lessee if rent is not paid in accordance with a notice [s.6.60(4)].</li> </ol>
Execution of Documents	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable
Appointment of Authorised Person	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable



Local Governments Ability to Receive Revenue & Income	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable
Temporary / Acting or Appointment of CEO	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable
<b>Local Government (Miscellaneous Provisions) Act 1960</b>	
Appointment of Ranger, Pound Keepers & the Establishment of Public Pounds	<b>New</b> Authority to establish and maintain one or more public pounds, and appoint fit and proper persons to be keepers of those pounds and appoint a ranger or rangers.
<b>Planning &amp; Development Act 2005</b>	
Illegal Development	<b>Existing</b> Delegation reformatted and tidied to reflect correct sections of legislation where applicable.
<b>Public Health Act 2016</b>	
Appoint Authorised Officer or Approved Officer (Asbestos Regs)	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Enforcement Agency Reports to the Chief Health Officer	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
Designate Authorised Officers	<b>Existing</b> Delegation has been separated for ease of reference and reformatted.
<b>Proposed Delegations to be revoked</b>	
Building Permit Fees – Refunds & Exemption	<b>Revoke</b> Whilst the act does permit the ability to waive or grant a concession in relation to any amount or write off any amount, the opinion is held, once the applicable permit has been issued a considerable amount of work has already occurred and may also have incurred additional cost for consultants as such it is not considered appropriate to refund any amount.
<b>Obsolete Delegations</b>	
Control of Vehicles (Off-road Areas) Act 1978	Removed once the <i>Local Government Legislation Amendment Act 2019</i> came into effect. Appointments of authorised persons for the <i>Control of Vehicles (Off-road Areas) Act 1978</i> are now done under s.9.10 of the <i>Local Government Act 1995</i> .
Caravan Parks & Camping Grounds Act 1995 - Appointments	Removed once the <i>Local Government Legislation Amendment Act 2019</i> came into effect. Appointments of authorised persons for the <i>Caravan Parks &amp; Camping Grounds Act 1995</i> now done under s.9.10 of the <i>Local Government Act 1995</i> .
Administration of Local Planning Scheme	The Shire of Nungarin does not currently have a Town Planning Scheme.
Legal Matters	In terms of s9.29 of the Local Government Act 1995 the CEO is required to represent local government in court.

**SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023**

<b>Focus Area</b>	Civic Leadership
<b>Aspiration</b>	A strong local democracy with an actively engaged community and effective partnerships
<b>Objective</b>	A Shire that prospers through partnerships and good governance

**OTHER STRATEGIC LINKS**

Nil

**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

**s.5.16 – Delegation of some powers and duties to certain committees**

- (1) Under and subject to section 5.17, a local government may delegate\* to a committee any of its powers and duties other than this power of delegation. \* Absolute majority required.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 -
  - (a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and
  - (b) any decision to amend or revoke a delegation under this section is to be by an absolute majority.
- (4) Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.

**s.5.17 – Limits on delegation of powers and duties to certain committees**

- (1) A local government can delegate —
  - (a) to a committee comprising council members only, any of the council's powers or duties under this Act except —
    - (i) any power or duty that requires a decision of an absolute majority of the council; and
    - (ii) any other power or duty that is prescribed; and
  - (b) to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and
  - (c) to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of —
    - (i) the local government's property; or
    - (ii) an event in which the local government is involved.
- (2) A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).



#### s.5.18 – Register of delegations to committees

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

#### s.5.42 – Delegation of some powers and duties to CEO

- (1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
  - (a) this Act other than those referred to in section 5.43; or
  - (b) the Planning and Development Act 2005 section 214(2), (3) or (5).

\* Absolute majority required.

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

#### s.5.43 – Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority of the council;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (h) any power or duty that requires the approval of the Minister or the Governor;
- (i) such other powers or duties as may be prescribed.

#### s.5.44 – CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —
  - (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
  - (b) the exercise of that power or the discharge of that duty by the CEO's delegate, are subject to any conditions imposed by the local government on its delegation to the CEO.
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.

- (5) In subsections (3) and (4) — conditions includes qualifications, limitations or exceptions.

s.5.45 – Other matters relevant to delegations under this Division

- (1) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —
- (a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and
  - (b) any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.
- (2) Nothing in this Division is to be read as preventing —
- (a) a local government from performing any of its functions by acting through a person other than the CEO; or
  - (b) a CEO from performing any of his or her functions by acting through another person.

s.5.46 – Register of, and records relevant to, delegations to CEO and employees

- (1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
- (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

*Local Government (Administration) Regulations 1996*

r.18G – Delegations to CEOs, limits on (Act s.5.43)

Powers and duties of a local government exercised under the following provisions are prescribed under section 5.43(i) as powers and duties that a local government cannot delegate to a CEO —

- (a) section 7.12A(2), (3)(a) or (4); and
- (b) regulations 18C and 18D.

r.19 – Delegates to keep certain records (Act s.5.46(3))

Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of —

- (a) how the person exercised the power or discharged the duty; and
- (b) when the person exercised the power or discharged the duty; and
- (c) the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.

**SUSTAINABILITY & RISK CONSIDERATIONS**

*Economic - (Impact on the Economy of the Shire and Region)*

Nil

*Social - (Quality of life to community and/or affected landowners)*

Delegated function improve the Shires ability to react to community request by enabling more effective and timeous decision making.

*Policy Implications*

Nil

*Risk Management Implications*

<i>Risk Level</i>	<i>Comment</i>
High	Not reviewing and endorsing the Delegation of Authority Register annually will result in non-compliance with the <i>Local Government Act 1995</i> .

**CONSULTATION**

Nil

**RESOURCE IMPLICATIONS**

*Financial*

Nil

*Workforce*

The annual review will not significantly impact the workforce; however, the amendment of delegations may impact the Chief Executive Officer, and officers that have authority sub-delegated.

**CONCLUSION**

Delegation of Council duties and powers to the Chief Executive Officer and other officers assists with efficient and timely decision making. Delegations are a proven effective organisational tool that enhances productivity and support effective customer service and timely decision making.

<b>8.3 Annual Financial Report and Audit Report for 2020/21</b>	
<b>File Ref:</b>	41001
<b>Previous Item Ref:</b>	Nil
<b>Applicant:</b>	Nil
<b>Author and Title:</b>	Leonard Long, Chief Executive Officer Darren Long, Financial Consultant
<b>Declaration of Interest:</b>	Nil
<b>Voting Requirements</b>	Absolute Majority
<b>Appendix Number:</b>	8.3A – 2020/21 Annual Financial Report 8.3B – 2020/21 Shire Annual Report & Financials

**COUNCIL RESOLUTION 6786/12/21:**

That Council Resolves to:

1. Adopt the Annual Financial Report for the year ended 30 June 2021;
2. Accept the Audit Report for the 2020-2021 financial year;
3. Authorise the CEO to forward the Council report to the Minister outlining the actions to be taken regarding the items raised in the Audit Report for 2021;
4. Receive the Auditors Management Report for the year ended 30 June 2021.
5. Adopts the Shires Annual Report and Financial Statements for the year ending 30 June 2021.
6. Hold an Elector's General Meeting at 4:30pm on Wednesday 2 February 2022.

Moved: Cr W Lee  
Seconded: Cr G Coumbe

**CARRIED BY ABSOLUTE MAJORITY 6/0**

**IN BRIEF**

- Council is required to examine the Annual Financial Report which includes the Audit Report, for the year ending 2020/2021 and to make a recommendation to Council.
- Council is also to consider the Auditors Management Report for the year ended 30 June 2021.
- Council is requested to consider and adopt the Shire of Nungarin Annual Report for the 2020/21 financial year.
- Advertise the annual electors meeting to be held on Wednesday 16 February 2022 at 5:30pm

## **BACKGROUND**

The purpose and responsibilities of the Audit Committee is outlined in Part 7 of the *Local Government Act 1995*.

One of the Audit Committee's responsibilities is to examine the reports of the auditor. The committee would then determine if any matters raised in the reports require action to be taken by the local government and to ensure appropriate action is implemented. The Audit Committee is to receive and authorise a report relating to the audit prepared by the Chief Executive Officer that is subsequently to be sent to the Minister.

This report outlines actions intended to be undertaken in relation to matters identified by the auditor.

## **REPORT DETAIL**

Council's annual audit for 2020/21 has now been finalised by the Council's auditor Audit Partners Australia (draft) and will be signed off by the Auditor General Office in due course.

Details of management issues, suggestions etc. are contained within a separate management report and are addressed on an ongoing basis. A copy of the 2020/2021 Annual Financial Statements can be found at **APPENDIX 8.3A**.

Following adoption of the Annual Report, the Annual Financial Statements and the official audit report the document will be presented to the Electors at the annual electors meeting. It is also a requirement that a copy of the audit report and Financial Statements be forwarded to the Dept. of Local Government.

The Auditor General has raised three items of concern resulting from the audit conducted.

### 1. Asset Renewal Funding Ratio not reported in Annual Financial Report

The Council is required to report on 7 financial ratios in its annual financial statements. These ratios measure trends in the Council's financial performance by a series of benchmarks.

The Auditor General has advised the Shire has not reported the Asset Renewal Funding Ratio for 2021 in the annual financial report, as required by Regulation 50(10(c) of the *Local Government (Financial Management) Regulations 1996*.

This ratio indicates whether the local government has the financial capacity to fund asset renewal as required, and can continue to provide existing levels of services in future, without additional operating income; or reductions in operating expenses. The ratio is calculated from information included in the local government's Long-Term Financial Plan and Asset Management Plans.

The Shire's Long Term Financial Plan and Asset Management Plans are outdated and the data to calculate the ratio was unavailable.

To ensure this ratio can be calculated in future, the Shire will need to prepare a Asset Management Plans that contain at least 10 years of forecast asset renewal



data, and maintain the 10 year renewal forecasts. The Shire will also need to ensure that it maintains an up to date Long Term Financial Plan that contains at least 10 years of planned asset renewal data.

The Shire has begun the preparation of the asset management plans, having prepared a draft plant replacement plan projected for the next 10 years. A draft Road Infrastructure Asset Management Plan has also been prepared and is currently being reviewed by Executive Officers.

In addition, quotations have been requested from contractors to undertake an asset condition audit of building assets.

A draft Long Term Financial Plan is currently being prepared, and will be workshopped with Council in March / April 2022. Once complete, the Shire will be able to calculate the Asset Renewal Funding Ratio for the 2021-22 financial year and for each year thereafter, as long as each of the Plans are reviewed and updated annually.

## 2. Non-Compliance with Purchasing Policy

For approximately 11% of transactions, the Shire did not have a sufficient number of supplier quotations as required under the Shire's purchasing policy, or there was no documentation to explain why other quotations were not sought.

The CEO has implemented an electronic purchase order system, which requires the ordering officer to ensure the relevant number of quotations are sourced, or to seek approval from the CEO detailing why the required number of quotations was unable to be obtained. This approach also requires a copy of all quotation documentation to be submitted with the purchase order, ensuring appropriate records are kept.

## 2. User Access to Shire's Financial Management System

All users of the Shire's financial management system have privileged (super user) access level. This access could be used to undermine the effectiveness of system controls (such as segregation of duties) and diminish accountability.

The Shire administration team is very small. All staff perform a broad range of duties, requiring them to have access to all system modules at all times during work hours, and this makes it impossible to have clear segregation of duties at any level, or impose security restrictions within the financial system.

This risk has been previously identified and steps have been taken to minimise the level of risk exposure. Minimisation strategies include ensuring fortnightly logs are reviewed and signed off by the CEO for those systems considered to be high risk for fraudulent activity, such as payroll and creditors.

The Shire Executive is well aware of the risk, but without the current user access level, it would be impossible to manage and operate the organisation as efficiently as it is. The Executive will continue to monitor user access and review the level of risk on an ongoing basis.

**SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023**

<b>Focus Area</b>	Civic Leadership
<b>Aspiration</b>	A strong local democracy with an actively engaged community and effective partnership.
<b>Objective</b>	16.7 Annually review compliance methods.

**OTHER STRATEGIC LINKS**

Nil

**STATUTORY ENVIRONMENT****Local Government Act 1995, Section 7.9:**

Requires the Auditor to examine the accounts and annual financial report by 31 December following the end of the financial year.

**Local Government Act 1995, Section 7.12A:**

Sets out the requirements for local governments in respect to audits. This includes the need to prepare a report to the Minister within 3 months of receiving the audit report if the auditor identifies any items it considers significant.

**Local Government (Audit) Regulations 1996, section 10:**

Requires the audit report to be forwarded to the Audit Committee within 30 days of completing the audit.

**Local Government (Audit) Regulations 1996, section 16:**

Describes the functions of the audit committee.

**SUSTAINABILITY AND RISK CONSIDERATIONS****Economic – (Impact on the Economy of the Shire and Region)**

Nil

**Social – (Quality of life to community and / or affected land owners)**

Nil

**Policy Implications**

Nil

**Risk Management Implications**

<b>Risk Level</b>	<b>Comment</b>
High	The legislative requirements of the Act are clear on the process required following the receipt of the Auditor General's Audit Report. Failing to meet the requirements exposes the Shire to action by the Department of Local Government, Sport and Cultural Industries.



## **CONSULTATION**

Throughout the preparation of the Annual Financial Report the Shire's Auditors, Audit Partners Australia consulted the Shires' Financial Consultant Darren Long and the Senior Finance Officer.

Early in March 2021 the Auditors, Audit Partners Australia together with the Auditor Generals' Office had an audit exit meeting to present the Annual financial Report and audit report to the Shire's Audit Committee.

## **RESOURCE IMPLICATIONS**

### **Financial**

Nil

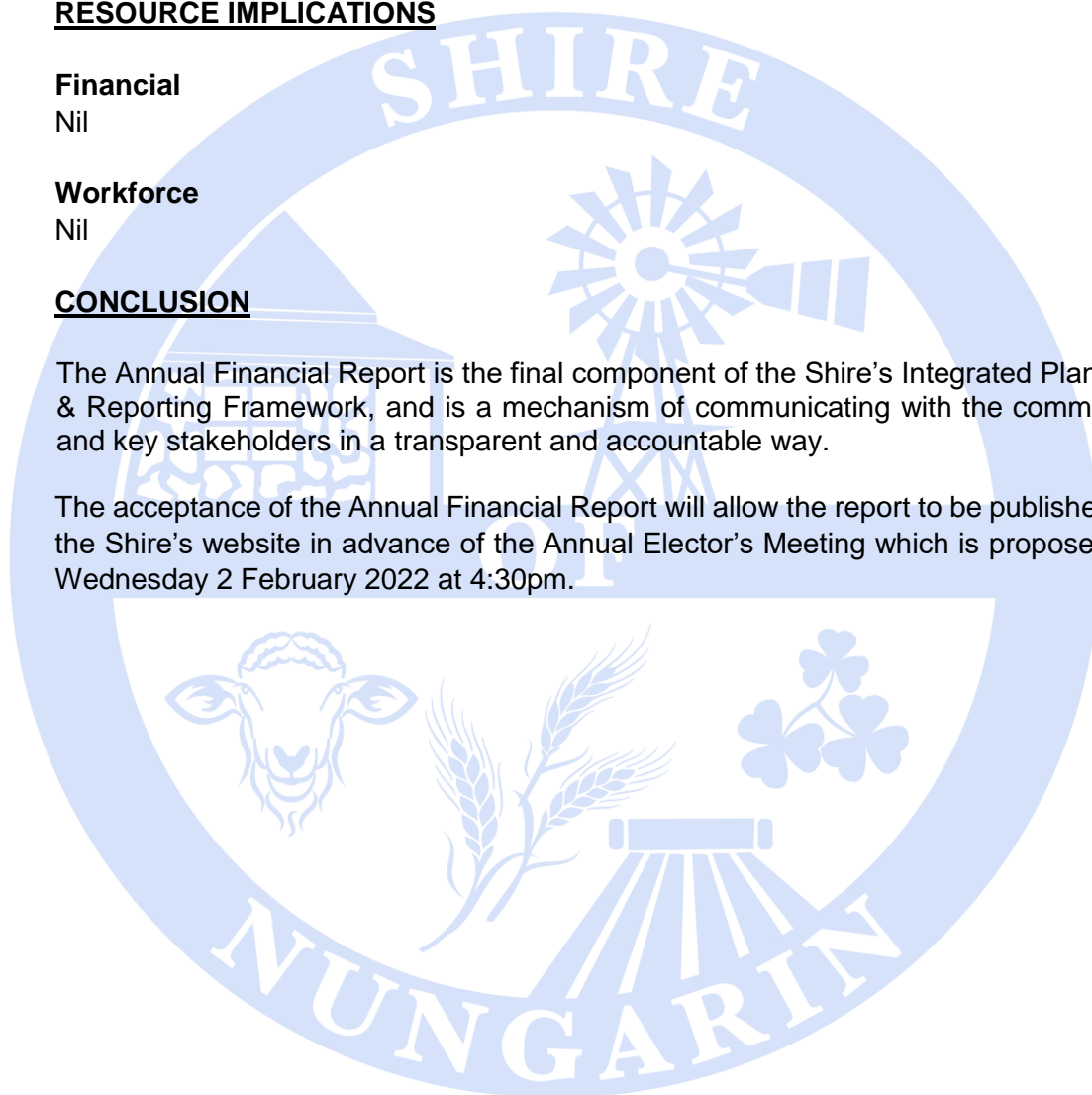
### **Workforce**

Nil

## **CONCLUSION**

The Annual Financial Report is the final component of the Shire's Integrated Planning & Reporting Framework, and is a mechanism of communicating with the community and key stakeholders in a transparent and accountable way.

The acceptance of the Annual Financial Report will allow the report to be published on the Shire's website in advance of the Annual Elector's Meeting which is proposed for Wednesday 2 February 2022 at 4:30pm.



<b>8.4 LISTING OF PAYMENTS FOR THE MONTH OF NOVEMBER 2021</b>	
<b>File Ref:</b>	161001
<b>Previous Item Ref:</b>	Nil
<b>Applicant:</b>	Nil
<b>Author and Title:</b>	Vanessa Seward, Customer Service and Records Officer
<b>Declaration of Interest:</b>	Nil
<b>Voting Requirements</b>	Simple Majority
<b>Attachment Number:</b>	Attachment 8.4A – Payment List

#### **COUNCIL RESOLUTION 6787/12/21:**

That Council Resolves to:

1. Receives the following payments made throughout the month of November 2021:

<b>Municipal</b>	<b>Cheque</b>	<b>\$ 6,774.52</b>
	<b>EFT</b>	<b>\$ 354,063.31</b>
	<b>Direct Debit</b>	<b>\$ 35,752.64</b>
		<b>\$ 396,590.47</b>

<b>Trust</b>	<b>Cheque – Nil</b>	<b>\$ 0.00</b>
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	<b>Grand Total</b>	<b>\$ 396,590.47</b>
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**Moved:** Cr R Mizia

**Seconded:** Cr RE O'Connell

**CARRIED 6/0**

#### **IN BRIEF**

The purpose of this report is to present the listing of payments made from the Shire's Municipal and Trust funds throughout the month of November 2021.

#### **BACKGROUND**

The attached appendix lists the payments from Council Municipal and Trust funds for the month applicable as per requirements of the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996*.

As per Regulation 13 of the *Local Government (Financial Management) Regulations 1996* the following information is required to be presented to Council.

- The Payee's name.
- The amount of the payment.
- The date of the Payment; and
- Sufficient information to identify the transaction.

**REPORT DETAIL**

As Council has delegated authority to the Chief Executive Officer to execute payments from the municipal fund and the trust fund a list of accounts paid are required to be submitted to Council showing the prescribe information.

**SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023**

<b>Focus Area</b>	Civic Leadership
<b>Aspiration</b>	A strong local democracy with an actively engaged community and effective partnership.
<b>Objective</b>	16.7 Annually review compliance methods.

**OTHER STRATEGIC LINKS**

Nil

**STATUTORY ENVIRONMENT**

As per Regulation 13 of the *Local Government (Financial Management) Regulations 1996* the following is required;

- (1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared*
  - (a) *the payee's name;*
  - (b) *the amount of the payment;*
  - (c) *the date of the payment; and*
  - (d) *sufficient information to identify the transaction.*
- (2) *A list of accounts for approval to be paid is to be prepared each month showing*
  - (a) *for each account which requires council authorisation in that month*
    - (i) *the payee's name;*
    - (ii) *the amount of the payment; and*
    - (iii) *sufficient information to identify the transaction.*
  - (b) *the date of the meeting of the council to which the list is to be presented.*
- (3) *A list prepared under sub regulation (1) or (2) is to be —*
  - (a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and*
  - (b) *recorded in the minutes of that meeting.*

**SUSTAINABILITY AND RISK CONSIDERATIONS****Economic – (Impact on the Economy of the Shire and Region)**

Nil

**Social – (Quality of life to community and / or affected land owners)**

Nil

**Policy Implications**

Nil

### **Risk Management Implications**

<b>Risk Level</b>	<b>Comment</b>
Moderate	If the required information is not presented to Council in accordance with the Local Government (Financial Management) Regulation 1996 it may result in a qualified audit report and an unclear compliance return submitted to the Department of Local Government, Sport & Cultural Industries.

### **CONSULTATION**

Nil

### **RESOURCE IMPLICATIONS**

#### **Financial**

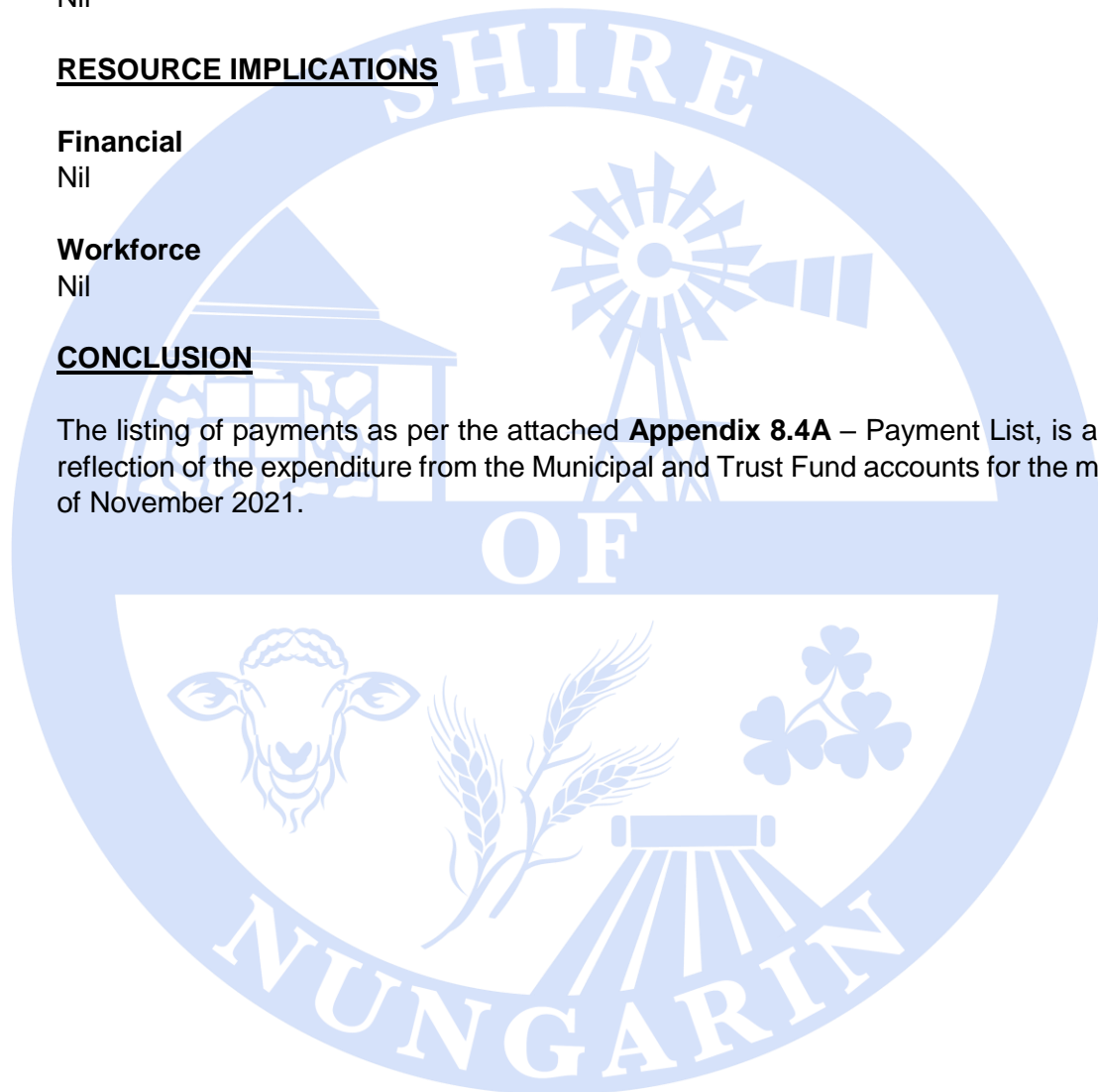
Nil

#### **Workforce**

Nil

### **CONCLUSION**

The listing of payments as per the attached **Appendix 8.4A** – Payment List, is a true reflection of the expenditure from the Municipal and Trust Fund accounts for the month of November 2021.



<b>8.5 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 30 NOVEMBER 2021</b>	
<b>File Ref:</b>	1/1 Annual Statements
<b>Previous Item Ref:</b>	Nil
<b>Applicant:</b>	Nil
<b>Author and Title:</b>	Leonard Long, Chief Executive Officer Darren Long, Financial Consultant
<b>Declaration of Interest:</b>	Nil
<b>Voting Requirements</b>	Simple Majority
<b>Attachment Number:</b>	Attachment 8.5A – Monthly Statement

**COUNCIL RESOLUTION 6788/12/21:**

That Council Resolves to:

1. **Receives the monthly financial activity statement for the period ending 30 November 2021.**

**Moved: Cr G Coumbe**

**Seconded: Cr J Davis**

**CARRIED 6/0****IN BRIEF**

The purpose of this report is to present the financial position of Council as at the reporting date as per requirements of the *Local Government Act 1995* and the *Local Government (Financial Management) Regulation 1996*.

**BACKGROUND**

The *Local Government Act 1995* in conjunction with regulation 34(1) of the *Local Government (Financial Management) Regulations 1996* requires a monthly Statement of Financial Activity to be presented to Council detailing the prescribed information within 2 months after the end of the month to which the statement relates.

**REPORT DETAIL**

The Shire prepares the monthly financial statements in the statutory format along with other supplementary financial reports consisting of:

- (a) Statement of Comprehensive Income by Function/Program;
- (b) Statement of Comprehensive Income by Nature/Type;
- (c) Statement of Financial Activity;
- (d) Summary of Net Current Asset Position;
- (e) Statement of Explanation of Material Variances;
- (f) Statement of Financial Position;
- (g) Statement of Cash Flows;
- (h) Detailed Operating and Non-Operating Schedules;
- (i) Statement of Cash Back Reserves;
- (j) Loan Borrowings Statement; and
- (k) Trust Statement.

## **MATERIAL VARIANCE COMMENTARY ON YEAR TO DATE**

Regulation 34 of the *Local Government (Financial Management) Regulations 1996* require local governments to prepare annual budget estimates and month by month budget estimates so that comparatives can be made to Year to Date (YTD) Actual amounts of expenditure, revenue and income.

At its budget meeting, Council adopted a material variance threshold of \$5,000 or 10%. For interpretation purposes, this means any variance at Function/Program level that is greater than 10% and exceeds \$5,000 in value is reported on and commentary is provided to explain the YTD budget estimate to YTD actual variance. The material variance is shown on the Statement of Financial Activity, in accordance with the Local Government (Financial Management) Regulations 1996. The material variance commentary is now provided in a separate statement, called the Statement of Explanation of Material Variances.

The Statement of Financial Activity as at 30 November 2021 shows a closing surplus of \$1,556,618.

### **SHIRE OF NUNGARIN COMMUNITY STRATEGIC PLAN 2023**

<b>Focus Area</b>	Civic Leadership
<b>Aspiration</b>	A strong local democracy with an actively engaged community and effective partnership.
<b>Objective</b>	16.7 Annually review compliance methods.

### **OTHER STRATEGIC LINKS**

Shire of Nungarin 2021/22 Annual Budget

### **STATUTORY ENVIRONMENT**

Section 6.4 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Finance) Regulations 1996*.

*Local Government (Financial Management) Regulations 1996*:  
Regulation 34 states:

- (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d) for that month in the following detail:
  - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
  - (b) budget estimates to the end of month to which the statement relates;
  - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
  - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c);
  - (e) the net current assets at the end of the month to which the statement relates.



Sub regulations 2, 3, 4, 5, and 6 prescribe further details of information to be included in the monthly statement of financial activity.

### **SUSTAINABILITY AND RISK CONSIDERATIONS**

#### **Economic – (Impact on the Economy of the Shire and Region)**

Nil

#### **Social – (Quality of life to community and / or affected land owners)**

Nil

#### **Policy Implications**

Nil

#### **Risk Management Implications**

<b>Risk Level</b>	<b>Comment</b>
Medium	Inadequate financial performance monitoring could lead to over/under budget expenditure which could affect council's financial position and/or financial ratios.

### **CONSULTATION**

Shires Financial Consultant

### **RESOURCE IMPLICATIONS**

#### **Financial**

Nil

#### **Workforce**

Nil

### **CONCLUSION**

The financial activity statement provides current status of the Shires financial position and is required in accordance with the *Local Government Act 6.4* and *Local Government (Financial Management) Regulations 1996, r.34*

## **9. DELEGATES REPORTS**

(Elected member who are delegates to other Forums may present a verbal or written report)

### **9.1 Cr O'Connell (APPENDIX 9.1A)**

#### **9.2 Cr Lee**

- Museum Meeting

#### **9.3 Cr Coumbe**

- Great Eastern Country Zone

#### **9.4 Cr De Lacy**

- Kunonunopin Hospital meeting
- NEWROC meeting



**10. NEW BUSINESS OF AN URGENT NATURE**

Nil

**11. CONFIDENTIAL ITEMS OF BUSINESS****COUNCIL RESOLUTION 6789/12/21:**

That Council proceeds behind closed doors as per Section 5.23(2) of the Local Government Act for considering item 11.1 and 11.2, the time being 3:49pm

Moved: Cr RE O'Connell

Seconded: Cr J Davis

CARRIED 6/0

<b>11.1 CONFIDENTIAL ITEM: DEFAULT RATE PAYERS</b>	
<b>File Ref:</b>	41081
<b>Previous Item Ref:</b>	OCM6746/08/21
<b>Applicant:</b>	Nil
<b>Author and Title:</b>	Leonard Long, Chief Executive Officer
<b>Declaration of Interest:</b>	Nil
<b>Voting Requirements</b>	Simple Majority
<b>Attachment Number:</b>	Nil

Note: Council Resolution for item 11.1 (**COUNCIL RESOLUTION 6790/12/21**) remain confidential in accordance with Regulation 14(2) of the Local Government (Administration) Regulations 1996.

<b>11.2 CONFIDENTIAL ITEM: AUSTRALIA DAY COUNCIL OF WA CITIZEN OF THE YEAR AWARD 2022</b>	
<b>File Ref:</b>	41001
<b>Previous Item Ref:</b>	OCM6656/12/21
<b>Applicant:</b>	Nil
<b>Author and Title:</b>	Leonard Long, Chief Executive Officer
<b>Declaration of Interest:</b>	Nil
<b>Voting Requirements</b>	Simple Majority
<b>Attachment Number:</b>	11.2A – Citizen of the year (adult nomination) 11.2B – Citizen of the year (adult nomination) 11.2C – Citizen of the year (Community Group or Event)

Note: Council Resolution for item 11.2 (**COUNCIL RESOLUTION 6791/12/21**) remain confidential in accordance with Regulation 14(2) of the Local Government (Administration) Regulations 1996.

**COUNCIL RESOLUTION 6792/12/21:**

That the meeting proceeds in public, the time being 4:12pm

Moved: Cr RE O'Connell

Seconded: Cr J Davis

CARRIED 5/0

Cr Coumbe returned to Chambers 4:13pm

**12. CLOSURE**

The being no further business the meeting closed at 4:14pm

\_\_\_\_\_  
Presiding Member

\_\_\_\_\_  
Date

