



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

**HELD:** Wednesday 19 February 2020

**LOCATION:** Kaniva Council Chamber

**COMMENCEMENT:** 2.00pm

---

IN ATTENDANCE:	
Councillors	Senior Management Group
Bruce Meyer, Mayor Jodie Pretlove, Deputy Mayor Trevor Domaschenz Richard Hicks	David Leahy Chief Executive Officer (CEO)
	Ashley Roberts Director Corporate & Community Services (DCCS)
	Mark Marziale Director Infrastructure Development & Works (DIDW)
	<b>Officers</b>
	Elizabeth Matuschka, Governance Manager Melanie Jordan, Finance Coordinator

---

***Vision Statement:***

*Our Wimmera Shire communities are healthy, thriving, diverse, harmonious, prosperous and self-sustaining, with regional and global connectivity*



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### TABLE OF CONTENTS

<b>1.0</b>	<b>WELCOME .....</b>	<b>4</b>
<b>2.0</b>	<b>OPENING PRAYER.....</b>	<b>4</b>
<b>3.0</b>	<b>APOLOGIES, LEAVE OF ABSENCE / SUSPENSION, DECLARATION OF CONFLICT OF INTEREST .....</b>	<b>4</b>
3.1	APOLOGIES	4
3.2	LEAVE OF ABSENCE / SUSPENSION	4
3.3	DECLARATION OF CONFLICT OF INTEREST	4
<b>4.0</b>	<b>QUESTIONS FROM THE GALLERY (maximum of 30 minutes) .....</b>	<b>4</b>
4.1	WRITTEN QUESTIONS ON NOTICE	4
4.2	VERBAL QUESTIONS WITHOUT NOTICE	5
<b>5.0</b>	<b>DELEGATES REPORTS (FOR INFORMATION ONLY) AS PROVIDED BY COUNCILLORS PRIOR TO AGENDA BEING ISSUED .....</b>	<b>6</b>
5.1	COUNCILLOR BRUCE MEYER (MAYOR)	6
5.2	COUNCILLOR JODIE PRETLOVE (DEPUTY MAYOR)	6
5.3	COUNCILLOR TREVOR DOMASCHENZ	7
5.4	COUNCILLOR RICHARD HICKS	7
5.5	COUNCILLOR TOM HOULIHAN	7
5.6	GENERAL DELEGATES' REPORTS	7
<b>6.0</b>	<b>CONDOLENCES .....</b>	<b>8</b>
6.1	COUNCILLOR BARRY DONALD WILLIAMS	8
<b>7.0</b>	<b>CONFIRMATION OF MINUTES FROM PREVIOUS MEETING – 18 DECEMBER 2019.....</b>	<b>8</b>
<b>8.0</b>	<b>BUSINESS ARISING FROM PREVIOUS MINUTES .....</b>	<b>9</b>
<b>9.0</b>	<b>NOTICES OF MOTION .....</b>	<b>9</b>
<b>10.0</b>	<b>ASSEMBLY OF COUNCILLORS RECORD – 5 FEBRUARY 2020 .....</b>	<b>9</b>
<b>11.0</b>	<b>DEPUTATIONS AND PETITIONS.....</b>	<b>9</b>



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

<b>12.0</b>	<b>CHIEF EXECUTIVE OFFICER AND GOVERNANCE .....</b>	<b>10</b>
12.1	REVIEW OF INFORMATION PRIVACY POLICY	10
12.2	REVIEW OF ADVOCACY POLICY	13
<b>13.0</b>	<b>INFRASTRUCTURE DEVELOPMENT AND WORKS .....</b>	<b>16</b>
<b>14.0</b>	<b>CORPORATE AND COMMUNITY SERVICES .....</b>	<b>17</b>
14.1	COUNCILLOR CODE OF CONDUCT PANEL OUTCOME	17
14.2	COMPLAINTS HANDLING POLICY	21
14.3	FINANCIAL PERFORMANCE REPORT AS AT 31 DECEMBER 2019	25
<b>15.0</b>	<b>LATE ITEMS OF BUSINESS .....</b>	<b>28</b>
15.1	SPONSORSHIP REQUEST FROM HARROW BALMORAL FOOTBALL NETBALL CLUB	28
<b>16.0</b>	<b>SEALING SCHEDULE.....</b>	<b>29</b>
<b>17.0</b>	<b>CONFIDENTIAL (PURSUANT TO SECTION 89 LGA 89) .....</b>	<b>29</b>
17.1	MAINTENANCE OF GRASS AT KANIVA CM0509	30
17.2	CEO ANNUAL PERFORMANCE REVIEW	31



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### 1.0 WELCOME

The Mayor welcomed everyone to the meeting

### 2.0 OPENING PRAYER

The CEO read the opening prayer

### 3.0 APOLOGIES, LEAVE OF ABSENCE / SUSPENSION, DECLARATION OF CONFLICT OF INTEREST

#### 3.1 APOLOGIES

Nil

#### 3.2 LEAVE OF ABSENCE / SUSPENSION

Cr Tom Houlihan: Absent due to suspension by Local Government Victoria's Councillor Code of Conduct Panel ruling

#### 3.3 DECLARATION OF CONFLICT OF INTEREST

*All Councillors have a personal responsibility to ensure they are aware of the provisions mandated in the Local Government Act 1989 with regard Conflict of Interest disclosures. The Conflict of Interest – A Guide for Councillors (October 2012) has been made available to all Councillors in hard copy form and is available via Docs On Tap.*

None declared

### 4.0 QUESTIONS FROM THE GALLERY (maximum of 30 minutes)

#### 4.1 WRITTEN QUESTIONS ON NOTICE

*Questions on Notice are to be submitted to Council no later than the Monday nine days prior to the relevant Council Meeting. The template for Questions on Notice is available from the Edenhope and Kaniva Council offices, and from the Shire's website.*

None received



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### RECOMMENDATION:

**That Council suspend Standing Orders for the purpose of receiving questions without notice from members of the Gallery.**

**Moved: Cr Richard Hicks**

**Seconded: Cr Jodie Pretlove**

**That Council suspend Standing Orders for the purpose of receiving questions without notice from members of the Gallery.**

**Carried (4/0)**

### 4.2 VERBAL QUESTIONS WITHOUT NOTICE

*Time permitting, this section of the Agenda allows members of gallery to ask verbal questions of Councillors, through the Mayor. At all other times during the meeting, members of the gallery are required to be silent, pursuant to West Wimmera Shire Council Local Law No.7, 2017.*

### RECOMMENDATION:

**That Council resume Standing Orders.**

**Moved: Cr Jodie Pretlove**

**Seconded: Cr Richard Hicks**

**That Council resume Standing Orders.**

**Carried (4/0)**



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### 5.0 DELEGATES REPORTS (FOR INFORMATION ONLY) AS PROVIDED BY COUNCILLORS PRIOR TO AGENDA BEING ISSUED

#### 5.1 COUNCILLOR BRUCE MEYER (MAYOR)

08/01/2020 CEO David Leahy  
17/01/2020 CEO David Leahy  
21/01/2020 Wimmera Mail Times & CEO David Leahy  
22/01/2020 CEO David Leahy  
22/01/2020 Kaniva & District Progress Association  
23/01/2020 Anne Webster MP, Member for Mallee  
25/01/2020 Australia Day Ambassador Debra Bateman  
26/01/2020 Australia Day Event in Goroke  
26/01/2020 Australia Day Event in Harrow  
28/01/2020 CEO Annual Performance Review Meeting  
31/01/2020 CEO David Leahy  
05/02/2020 Councillor Forum, Edenhope  
06/02/2020 CEO David Leahy  
06/02/2020 Wimmera Mail Times & CEO David Leahy  
08/02/2020 Henley on Lake Wallace  
14/02/2020 Wimmera Regional Library Corporation Board Meeting  
19/02/2020 CEO David Leahy  
19/02/2020 Council Meeting, Kaniva

#### 5.2 COUNCILLOR JODIE PRETLOVE (DEPUTY MAYOR)

23/01/2020 Anne Webster MP, Member for Mallee  
25/01/2020 Australia Day Ambassador Debra Bateman  
26/01/2020 Australia Day Event in Edenhope  
28/01/2020 CEO Annual Performance Review Meeting  
30/01/2020 West Grampians Rural Water Pipeline Meeting  
05/02/2020 Councillor Forum, Edenhope  
19/02/2020 Council Meeting, Kaniva

**Moved: Cr Richard Hicks**

**Seconded: Cr Trevor Domaschenz**

**That letters of congratulation be sent from the Shire to Mr George Mulraney and Mr John Naylor, recognising their outstanding contribution to the community and to the running of the Annual Lake Charlegrark Country Music Marathon, for which they have recently been awarded Life Membership.**

**Carried (4/0)**



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### 5.3 COUNCILLOR TREVOR DOMASCHENZ

23/01/2020	Anne Webster MP, Member for Mallee
25/01/2020	Australia Day Ambassador Debra Bateman
26/01/2020	Australia Day Event in Edenhope
28/01/2020	CEO Annual Performance Review Meeting
05/02/2020	Councillor Forum, Edenhope
11/02/2020	Professor Ross Garnaut Presentation in Horsham
11/02/2020	Wimmera Development Association Board Meeting
18/02/2020	Wimmera Mallee Tourism Meeting, Rainbow
19/02/2020	Council Meeting, Kaniva

### 5.4 COUNCILLOR RICHARD HICKS

23/01/2020	Anne Webster MP, Member for Mallee
25/01/2020	Australia Day Ambassador Debra Bateman
26/01/2020	Australia Day Event in Kaniva
28/01/2020	CEO Annual Performance Review Meeting
05/02/2020	Councillor Forum, Edenhope
14/02/2020	Western Highway Action Committee, Melbourne
15/02/2020	Western Highway Action Committee, Melbourne
17/02/2020	Kaniva & District Progress Association Meeting re silo art
19/02/2020	Council Meeting, Kaniva

### 5.5 COUNCILLOR TOM HOULIHAN

Nil

### 5.6 GENERAL DELEGATES' REPORTS

Councillors to provide delegates reports to Council meeting in relation to meetings attended in last month for which they have been appointed as Council representative. Verbal or written delegates' reports.



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### 6.0 CONDOLENCES

#### 6.1 COUNCILLOR BARRY DONALD WILLIAMS

Shire of Kaniva Councillor: 1985 to 1995

Shire of Kaniva President: 1990 to 1991

Mayor Meyer: I served with Barry for almost two years, at the end of the life of the Shire of Kaniva, prior to the Council amalgamations being implemented. He was a very community-centred person, and very genuine in everything he did. Barry was also very interested in irrigation, and served as a member of the Underground Water Board.

Cr Domaschensz: I also knew Barry, and would like to support the Mayor's sentiments.

**Moved: Cr Richard Hicks**

**Seconded: Cr Jodie Pretlove**

**That a letter of condolence be sent to the family of Barry Donald Williams, acknowledging his excellent contribution as a Councillor for the Shire of Kaniva.**

**Carried (4/0)**

### 7.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETING – 18 DECEMBER 2019

#### RECOMMENDATION:

**That the Minutes of the Ordinary Meeting of Council held on Wednesday 18 December 2019, be taken as an accurate record and confirmed.**

**Moved: Cr Richard Hicks**

**Seconded: Cr Jodie Pretlove**

**That the Minutes of the Ordinary Meeting of Council held on Wednesday 18 December 2019, be taken as an accurate record and confirmed.**

**Carried (4/0)**





## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### 8.0 BUSINESS ARISING FROM PREVIOUS MINUTES

Nil

### 9.0 NOTICES OF MOTION

None received

### 10.0 ASSEMBLY OF COUNCILLORS RECORD – 5 FEBRUARY 2020

#### RECOMMENDATION:

**That the Assembly of Councillors Record for the Councillor Forum held Wednesday 5 February 2020 be received and noted.**

**Moved: Cr Richard Hicks**

**Seconded: Cr Jodie Pretlove**

**That the Assembly of Councillors Record for the Councillor Forum held Wednesday 5 February 2020 be received and noted.**

**Carried (4/0)**

### 11.0 DEPUTATIONS AND PETITIONS

Nil



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### 12.0 CHIEF EXECUTIVE OFFICER AND GOVERNANCE

#### 12.1 REVIEW OF INFORMATION PRIVACY POLICY

**FILE NUMBER: AD0186**

**REPORT AUTHOR: DAVID LEAHY - CEO**

#### FOR DECISION

##### Introduction

A review of the Information Privacy Policy of WWSC has been completed and the following report is provided to highlight areas where the policy has been altered.

To ensure that the policy content aligns with appropriate legislation, the Privacy and Data Collection Act 2014 has been utilised as it contains a number of modifications that took effect on 1 January 2020.

##### Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

##### Background

The review of the Information Privacy Policy was undertaken by the CEO and the Director Corporate Community Services. The revised policy was presented to Council at the Assembly of 5 February 2020 for discussion and Councillor input.

When reviewing a policy it is important to ensure that the review aligns with the relevant legislation.

While a number of small changes had been made to the *Privacy and Data Protection Act 2014*, these changes do not affect the policy content. There has also been a number of changes to the *Public Disclosure Act 2012*, all of which are more procedural in their nature and therefore do not affect the policy content in any way.

There is one minor alteration proposed to the policy, which is to include the Public Interest Disclosure Act 2014. The review date for the policy has also been altered and it is proposed to review the policy annually.



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### Risk Management Implications

Ensuring that policy review is undertaken in the appropriate timeframe.

### Legislative Implications

Public Interest Disclosure Act 2014  
Privacy and Data Protection Act 2014

### Environmental Implications

Nil

### Financial and Budgetary Implications

Nil

### Policy Implications

This report is supported by the following West Wimmera Shire Council Policy:  
Communications Policy  
Councillor Code of Conduct Policy  
Media Relations Policy  
Protected Disclosures Policy

### Council Plan Implications

This report supports the following section/s of the West Wimmera Shire Council Plan 2017-2021:

- Strategic Objective 1: A proactive, well governed, professional and financially sustainable organisation that encourages community participation.
- Strategic Objective 2: Meaningful partnerships to support advocacy priorities and service provision.
- Strategic Objective 3: Quality sustainable community services and infrastructure.
- Strategic Objective 4: Building on our agricultural and business strengths and supporting economic development.
- Strategic Objective 5: Thriving, safe and diverse local communities.
- Strategic Objective 6: Participating in activities that address health and wellbeing issues.
- Strategic Objective 7: Providing access to and promoting the natural environment.



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### Communication Implications

Following the adoption of the reviewed policy document, all staff are notified of the revised document.

### Conclusion

Protected Disclosure and Information Management legislation is regularly reviewed and modified and by undertaking an annual review of this policy, Council will remain up to date and remain compliant with the relevant legislation.

### **OFFICER RECOMMENDATION:**

**That Council adopts the reviewed Information Privacy Policy, including the next review date of February 2021.**

**Moved: Cr Jodie Pretlove**

**Seconded: Cr Richard Hicks**

**That Council adopts the reviewed Information Privacy Policy, including the next review date of February 2021.**

**Carried (4/0)**

### **Attachments:**

No.	Name	RecFind Ref
12.1.1	Reviewed – Council Policy – Information Privacy Feb 2020	AD0186



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### 12.2 REVIEW OF ADVOCACY POLICY

**FILE NUMBER: AD0186**

**REPORT AUTHOR: DAVID LEAHY – CEO**

### FOR DECISION

#### Introduction

West Wimmera Shire Council undertakes regular advocacy campaigns to State Parliament and combines with other Wimmera Councils on a regional delegation to Federal Parliament.

To ensure that the efforts align with community expectation and the direction provided by the Council Plan, a policy was developed in 2017 and is due for review.

#### Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

#### Background

The review of the Advocacy Policy was undertaken by the CEO and is attached for adoption by Council. The reviewed document was provided to the 5 February Council Assembly for discussion and input.

It is important that any advocacy effort aligns with the Council Plan and can clearly demonstrate a community benefit to be derived from the effort. To enable this, some minor adjustments have been proposed to the policy (mainly additions), which reflect the need for the alignment.

Also, listing improved service provision from the state government has been included in the revised policy, as this covers areas of service not necessarily delivered by Local Government. These could include, emergency service improvements, health related services, public transport and education services.

It is also proposed that the policy be reviewed in April 2021, to ensure that the new Council has the opportunity set the standards they wish to achieve with respect to advocacy early in the new Council term.

The attached, revised policy document includes track changes to clearly demonstrate the modifications made to the policy.



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### Risk Management Implications

Ensuring that all documentation and advocacy materials are researched and factual, reduces the risk of inappropriate information or presentations being provided by Council.

### Legislative Implications

The new Local Government Act, will require a number of policies to be developed or adjusted to provide community engagement strategies along with a transparency policy.

### Environmental Implications

Nil

### Financial and Budgetary Implications

The review of the policy has no financial implications. The costs associated with facilitating an advocacy effort to state parliament is between \$2,000 and \$2,500.

### Policy Implications

This report is supported by the following West Wimmera Shire Council Policy:

Advocacy Policy  
Communications Policy  
Community Engagement Policy  
Corporate Credit Card and Purchase Cards Policy  
Councillor Code of Conduct Policy  
Councillor Expense Entitlement & Support Policy  
Media Relations Policy

### Council Plan Implications

This report supports the following section/s of the West Wimmera Shire Council Plan 2017-2021:

- Strategic Objective 1: A proactive, well governed, professional and financially sustainable organisation that encourages community participation.
- Strategic Objective 2: Meaningful partnerships to support advocacy priorities and service provision.
- Strategic Objective 3: Quality sustainable community services and infrastructure.
- Strategic Objective 4: Building on our agricultural and business strengths and supporting economic development.
- Strategic Objective 5: Thriving, safe and diverse local communities.



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

- Strategic Objective 6: Participating in activities that address health and wellbeing issues.
- Strategic Objective 7: Providing access to and promoting the natural environment.

### Communication Implications

Following the adoption of the reviewed policy, all staff will be notified of the revised document.

### Conclusion

West Wimmera has achieved a number of successes through its advocacy campaigns in recent years, such as, the extension of the VicRoads maintenance contract, improved road maintenance practices on arterial roads and funding for mental health outreach.

These efforts have also assisted in developing stronger relationships with Ministers and promoting the municipality to ensure that we are not overlooked by government agencies.

### OFFICER RECOMMENDATION:

**That Council adopts the reviewed Advocacy Policy, including a next review date of no later than April 2021.**

**Moved: Cr Trevor Domaschenz**

**Seconded: Cr Richard Hicks**

**That Council adopts the reviewed Advocacy Policy, including a next review date of no later than April 2021.**

**Carried (4/0)**

### **Attachments:**

No.	Name	RecFind Ref
12.2.1	Reviewed – Council Policy – Advocacy Jan 2020	AD0186



## **ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL**

### **13.0 INFRASTRUCTURE DEVELOPMENT AND WORKS**





## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### 14.0 CORPORATE AND COMMUNITY SERVICES

#### 14.1 COUNCILLOR CODE OF CONDUCT PANEL OUTCOME

**FILE NUMBER: AD0037**

**REPORT AUTHOR: ASHLEY ROBERTS, DIRECTOR CORPORATE AND COMMUNITY SERVICES, PRINCIPAL CONDUCT OFFICER**

#### **FOR DECISION**

##### Introduction

West Wimmera Shire Council (Council) was subject to a Councillor Code of Conduct Panel hearing ('the panel') held on 25 November 2019. The panel was convened to hear and adjudicate on allegation of serious misconduct against Cr Tom Houlihan as outlined in an application made by Council dated 3 July 2019 and revised on 27 October 2019.

The panel handed down its decision on 19 December 2019.

This report officially provides those findings to Councillors and requests that Council formally receive and acknowledge the findings.

##### Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

##### Background

Pursuant to division 1B of the *Local Government Act 1989* ('the Act'), Council made an application to the Principle Councillor Conduct Registrar alleging serious misconduct on behalf of Cr. Houlihan and requesting a Code of Conduct Panel be established to review Cr Houlihan's behaviour.

This application was made after the resolution process contained within Council's own Councillor Code of Conduct was exhausted and deemed ineffective. This process included internal dispute resolution processes and a mediation session facilitated with an external mediator.

The panel held a directions hearing on 22 October 2019, after which Council, as represented by Cr Domaschenz, was given the opportunity to slightly amend the



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

application to aid with the alignment of the complaints against the Councillor Conduct Principles. Both parties (Council and Cr Houlihan) were given the opportunity to provide relevant written evidence to assist their respective cases. Both parties were also asked to provide a list of anticipated witnesses.

The panel hearing was heard on 25 November 2019 in the Edenhope Council Chamber. After the completion of the hearing the panel considered their ruling, handing down a decision on 19 December 2019 which made a finding of one count of serious misconduct pursuant to s.81J(1)(b) of the Act and one count of misconduct pursuant to s.81J(1)(a) of the Act against Cr Houlihan.

Consequently the panel ruled that under s.81J(2A)(b)(iv) of the Act, Councillor Houlihan was to serve a period of suspension from Council for a period of two months from the date of the ruling. On the count of misconduct the panel ruled that pursuant to s.81J(2)(c) Cr Houlihan was to take leave of absence from Council for a period of two months effective from the date of the decision, to be served concurrently with the period of suspension.

Cr Houlihan surrendered his Council mobile telephone and iPad to Council Officers on the day the ruling was handed down. Cr Houlihan's Council email address was also disabled.

Cr Houlihan had the right to appeal to VCAT within 28 days of the ruling. This period has since expired. Neither Council nor the independent Principal Councillor Conduct Panel Registrar have received any notification of an appeal being lodged at the time of writing this report.

### Risk Management Implications

Council is at severe strategic risk if Councillors cannot cooperate and make decisions based on the general good for Council's residents.

Council is also at serious reputational risk from a divided and dysfunctional Council.

### Legislative Implications

The Councillor Code of Conduct Panel process is run in line with the provisions contained within Division 1B of the *Local Government Act 1989*.

### Environmental Implications

Not commented on



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### Financial and Budgetary Implications

There is a cost to Council in convening a Councillor Code of Conduct Panel. Council has not yet received an official invoice of the costs from the Registrar's office, but have received advice of the cost being \$12,790.12. Additional to this Council incurred \$545.00 (excl. GST) accommodation costs for the panel members, plus \$6,982.84 (excl. GST) in transcript service costs for both the panel hearing and directions hearing.

This cost is on top of the costs incurred during the failed mediation process which cost Council \$9,900.00 (excl. GST).

### Policy Implications

This report is supported by the following West Wimmera Shire Council Policy:  
Councillor Code of Conduct Policy

### Council Plan Implications

This report supports the following section/s of the West Wimmera Shire Council Plan 2017-2021:

- Strategic Objective 1: A proactive, well governed, professional and financially sustainable organisation that encourages community participation.

### Communication Implications

The panel ruling is publicly available on the Local Government Victoria Website  
<https://www.localgovernment.vic.gov.au/council-governance/councillor-conduct-framework-and-councillor-conduct-panels>

As the ruling is external to Council, it is not appropriate for Councillors or Council Officers to make comment on the process or the outcome. Council has received a small number of media enquiries concerning the ruling and have directed these to the Local Government Victoria website. Council has listed the findings of the panel on its website.

A copy of the panel decision is provided for Councillors information.

### Conclusion

As a result of a complaint made by Council, the independent Councillor Code of Conduct Panel has ruled that Cr Houlihan has committed one count of serious misconduct and one count of misconduct. The panel has ruled that Cr Houlihan be suspended for a period of two months on the serious misconduct finding and also that Cr Houlihan be made to take a leave of absence from Council for a period of two months on the misconduct finding,



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

these periods to be served concurrently. Council is required to formally receive the panel ruling.

### **OFFICER RECOMMENDATION:**

**That Council formally receive and acknowledge the Councillor Code of Conduct findings in the matter of West Wimmera Shire Council and Houlihan as attached.**

**Moved: Cr Trevor Domaschenz**

**Seconded: Cr Richard Hicks**

**That Council formally receive and acknowledge the Councillor Code of Conduct findings in the matter of West Wimmera Shire Council and Houlihan as attached.**

**Carried (4/0)**

### **Attachments:**

<b>No.</b>	<b>Name</b>	<b>RecFind Ref</b>
14.1.1	Councillor Conduct Panel Determination	C20/000613



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### 14.2 COMPLAINTS HANDLING POLICY

**FILE NUMBER: AD0041**

**REPORT AUTHOR: ASHLEY ROBERTS, DIRECTOR CORPORATE AND  
COMMUNITY SERVICES**

#### **FOR DECISION**

##### Introduction

West Wimmera Shire Council (Council) at times receives complaints from various sources concerning Council services or the actions of Councillors and/or Council Officers.

A Complaints Handling Policy provides Council with a framework to:

- Recognise what is a complaint
- Identify what is not a complaint (ie: difference between a complaint and a request for service)
- Undertake a satisfactory investigation into a complaint
- Use complaints as a driver of business and service development and improvement

A draft updated Complaints Handling Policy is provided for Council's information. The policy has been revised to better align with the Victorian Ombudsman's good practice guide to complaint handling. This report seeks formal adoption of the revised Complaints Handling Policy by Council.

##### Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

##### Background

Council adopted its Complaints Handling Policy at its February 2020 Ordinary Council Meeting. A review of the policy has led to a number of alterations which keep the policy aligned with Victorian Ombudsman's publication *Councils and complaints – A good practice guide*.



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

The changes include:

- Acknowledgment of the right of members of the public to make a complaint added to the ‘Introduction and Background’ section of the policy
- Insertion of the phrase ‘timely and fair’ in the ‘Purpose and Objectives’ section of the policy
- Listing of the seven guiding principles of complaints handling from the Ombudsman’s good practice guide
- Insertion of the methods of contact Council offers the public in the ‘Making a Complaint’ section of the policy
- Updated reference to *Public Interest Disclosures Act 2012* from *Protected Disclosures Act 2012* in the ‘Confidentiality’ section of the document to reflect the change in name of the legislation
- Insertion of a section on dealing with complaints about contractors engaged by Council
- Insertion of a section on Redress if a complaint outcome is overturned upon review
- Insertion of a section on reporting of complaint handling performance

### Risk Management Implications

Council is at risk in multiple areas if complaints are not received and handled effectively:

- Reputational Risk – Council may face severe reputational risk if it is seen to not respond and act on complaints made
- Operational Risk – without a strong process for responding to complaints Council may not be able to learn from them and may continue to repeat the same actions which may not result in the best allocation of resources
- Financial Risk – Council may face financial loss from legal action taken against it or Councillors or Officers as a result of not responding appropriately to a complaint. Council may also suffer financial loss from not learning to allocate resources more efficiently as a result of not handling complaints effectively.

The provision of the Complaints Handling Policy assists in the mitigation of these risks.

### Legislative Implications

While there is no direct legislative requirement for Council to have a Complaints Handling Policy, it is clearly good practice to do so. Councillors and Officers have fiduciary duties,



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

both by statute (i.e under multiple sections of the *Local Government Act 1989*) and common law to act in ‘good faith’ and in the best interest of Council in alignment with the goals of the organisation (i.e Council Plan).

A Complaint Handling Policy assists Council in acting in accordance with those fiduciary duties and, just as importantly, to be transparent in doing so and to ‘be seen’ to be acting in good faith.

### Environmental Implications

Not commented on

### Financial and Budgetary Implications

While investigating complaints may consume Council time and will most likely incur some costs, it is possible that being able to effectively resolve complaints may actually lead to a revision of practices and processes.

This may have a positive effect on productivity and resource allocation, and over time actually saving Council money.

### Policy Implications

This report is supported by the following West Wimmera Shire Council Policy:

Advocacy Policy  
Community Engagement Policy  
Customer Service Policy  
Human Rights Policy  
Protected Disclosures Policy

### Council Plan Implications

This report supports the following section/s of the West Wimmera Shire Council Plan 2017-2021:

- Strategic Objective 1: A proactive, well governed, professional and financially sustainable organisation that encourages community participation.
- Strategic Objective 2: Meaningful partnerships to support advocacy priorities and service provision.
- Strategic Objective 3: Quality sustainable community services and infrastructure.
- Strategic Objective 5: Thriving, safe and diverse local communities.



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

- Strategic Objective 6: Participating in activities that address health and wellbeing issues.
- Strategic Objective 7: Providing access to and promoting the natural environment.

### Communication Implications

The Complaints Handling Policy, once adopted, is freely available to anyone who wishes to peruse it. It will be placed on Council's website and copies will be on display at Council's Customer Service Centres. All staff will be provided with a copy.

### Conclusion

The Complaints Handling Policy provides Council with an overarching guide to effective resolution of complaints made against it. It mitigates Council's risk and provides Council with an opportunity to improve services by utilising complaints to potentially drive improvements.

### **OFFICER RECOMMENDATION:**

**That Council formally adopt the revised Complaints Handling Policy.**

**Moved: Cr Richard Hicks**

**Seconded: Cr Jodie Pretlove**

**That Council formally adopt the revised Complaints Handling Policy.**

**Carried (4/0)**

### **Attachments:**

No.	Name	RecFind Ref
14.2.1	Draft 2020 Complaints Handling Policy	20/000142





## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### 14.3 FINANCIAL PERFORMANCE REPORT AS AT 31 DECEMBER 2019

**FILE NUMBER: FM0068**

**REPORT AUTHOR: MELANIE JORDAN, FINANCE COORDINATOR**

#### **FOR DECISION**

##### Introduction

This report presents West Wimmera Shire Council (Council) with the half yearly Financial Performance Report for the period ended 31 December 2019.

##### Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

##### Background

The *Local Government Act 1989* ('the Act') requires Council to implement the principles of sound financial management (s.136 (1)). Section 138(1) of the Act requires that Council be presented with a statement comparing actual to budgeted revenue and expenditure for the financial year to date at least every three months.

The financial reports show an analysis of the actuals to budget forecasts at 31 December 2019. Where significant variances exist between actual amounts and budgeted figures, a note is included to provide an explanation for the variance. The financial reports include a Comprehensive Income Statement, Balance Sheet and Capital Works Statement to give a true indication of Council's operations, capital works program and financial position.

##### Risk Management Implications

Financial risks exist where officers are not adhering to budgets.

##### Legislative Implications

Section 138(1) of the *Local Government Act 1989* requires that Council is provided with financial reports a minimum of every three months comparing the budgeted revenue and expenditure with actual revenue and expenditure.

##### Environmental Implications

Nil



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### Financial and Budgetary Implications

Financial and budgetary performance reporting and oversight form the fundamental building blocks of sound financial management. Without oversight of financial and budgetary performance Council may find itself unable to meet its obligations and desired community outcomes.

### Policy Implications

Nil

### Council Plan Implications

This report supports the following section/s of the West Wimmera Shire Council Plan 2017-2021:

- Strategic Objective 1: A proactive, well governed, professional and financially sustainable organisation that encourages community participation.

### Communication Implications

The Finance Coordinator will continue to work with officers and managers to educate and enable financial management of their department.

### Conclusion

Council's financial performance at 31 December 2019 is attached for Council's information, in accordance with the requirements of S.138 (1) of the Act.

### **OFFICER RECOMMENDATION:**

**That the Financial Performance Report as at 31 December 2019 be received and noted.**

**Moved: Cr Richard Hicks**

**Seconded: Cr Jodie Pretlove**

**That the Financial Performance Report as at 31 December 2019 be received and noted.**

**Carried (4/0)**



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### Attachments:

No.	Name	RecFind Ref
14.3.1	Financial Performance Report as at 31 December 2019	E20/000003



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### 15.0 LATE ITEMS OF BUSINESS

Pursuant to Local Law No.7 (2017), Meeting Procedure and Common Seal Local Law 2017, West Wimmera Shire Council:

#### 28. *Urgent Business*

*Business must not be admitted as urgent business unless it:*

- i. Relates to or arises out of a matter which has arisen since distribution of the agenda; and*
- ii. Cannot safely or conveniently be deferred until the next Ordinary Meeting.*

**Moved: Cr Richard Hicks**

**Seconded: Cr Jodie Pretlove**

**That Council consider the following late item of business:**

#### **15.1 SPONSORSHIP REQUEST FROM HARROW BALMORAL FOOTBALL NETBALL CLUB**

**Carried (4/0)**

#### **15.1 SPONSORSHIP REQUEST FROM HARROW BALMORAL FOOTBALL NETBALL CLUB**

**Moved: Cr Richard Hicks**

**Seconded: Cr Jodie Pretlove**

**That in response to the letter received from the Harrow Balmoral Football Netball Club, Council resolves to provide \$1000 in funding towards the Harrow Balmoral Football Netball Club group's participation in the Kangaroo Island Post-Fire Reconstruction Project.**

**Carried (4/0)**



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

### 16.0 SEALING SCHEDULE

Nil

### 17.0 CONFIDENTIAL (PURSUANT TO SECTION 89 LGA 89)

#### RECOMMENDATION

That Council pursuant to section 89(2) (d) Contractual Matters and (f) Legal Advice of the Local Government Act 1989 close the meeting to members of the public at ..... pm to resolve on matters pertaining to the following items:

#### 17.1 MAINTENANCE OF GRASS AT KANIVA CM0509

#### 17.2 CEO ANNUAL PERFORMANCE REVIEW

**Moved:** Cr Jodie Pretlove

**Seconded:** Cr Trevor Domaschenz

That Council pursuant to section 89(2) (d) Contractual Matters and (f) Legal Advice of the Local Government Act 1989 close the meeting to members of the public at 3.28pm to resolve on matters pertaining to the following items:

#### 17.1 MAINTENANCE OF GRASS AT KANIVA CM0509

#### 17.2 CEO ANNUAL PERFORMANCE REVIEW

Carried (4/0)

#### RECOMMENDATION

That the resolutions pertaining to Confidential / In-Camera items be adopted and made public (except where the resolution restricts publication) and that the reports for those items remain In-camera and that Council open the meeting to the public at ..... pm.



## ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL

**Moved:** Cr Richard Hicks

**Seconded:** Cr Jodie Pretlove

**That the resolutions pertaining to Confidential / In-Camera items be adopted and made public (except where the resolution restricts publication) and that the reports for those items remain In-camera and that Council open the meeting to the public at 4.10pm.**

**Carried (4/0)**

### **17.1 MAINTENANCE OF GRASS AT KANIVA CM0509**

- 1. That Council accepts the tender submitted by West Wimmera Shire for Contract CM0509 “Maintenance of Grass Kaniva” in accordance with the specifications of Contract CM0509 for the lump sum of \$76,340.00 excluding GST.**
- 2. That the Formal In House Agreement Documents for Contract CM0509 “Maintenance of Grass Kaniva” be signed and sealed by Council following their preparation.**

**That an independent annual review be undertaken for the duration of the contract to ensure the successful bidder abides by all terms and conditions of the contract, and that the levels of service have not diminished from that provided by previous contractors.**



## **ORDINARY COUNCIL MEETING MINUTES – 19 FEBRUARY 2020 WEST WIMMERA SHIRE COUNCIL**

### **17.2 CEO ANNUAL PERFORMANCE REVIEW**

**That all resolutions regarding the CEO Annual Performance Review remain confidential, and be suppressed from publication in the Ordinary Council Meeting Minutes of 19 February 2020.**

**MEETING CONCLUDED: 4.10 PM**

**NEXT MEETING: WEDNESDAY 18 MARCH 2020  
EDENHOPE COUNCIL CHAMBER**