

## 16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

### 16.1 CR STEWART - COUNCILLOR ACCESS TO INFORMATION AND RESPONSE TIMES

File	GOV/20-1
Reporting Officer	James Bayliss - Acting Chief Executive Officer
Refer	Nil
Appendices	Nil

#### PURPOSE

To address a Notice of Motion submitted by Cr Stewart in relation to Councillor access to information and response times.

#### COUNCILLOR MOTION

*That Council directs the Chief Executive Officer to provide Elected Members with timely access to information, documents, reports, records, advice and responses required for the performance of their statutory functions under the Local Government Act 1995, including:*

- *Responses to Councillor communications or questions relating to current Council or Committee agenda items to be provided within 24 hours where practicable; and*
- *Responses to Councillor communications or requests relating to non-current agenda matters to be provided within 3 working days where practicable.*
- *Responses to councillor communications titled: TIME CRITICAL COMMUNICATIONS to be provided within 24 hours.*

*This direction is made pursuant to the Local Government Act 1995, including:*

- *section 2.7 and 2.10.*
- *section 5.21(2), which provides that, subject to section 5.67, each Council Member who is present at a meeting of Council or a Committee to which a local government power or duty has been delegated is to vote;*
- *section 5.41(2)(e), which provides that the CEO's executive role includes ensuring that records and documents of the local government are properly kept for the purposes of the Act and any other written law;*
- *section 5.41(3)(a), which provides that the CEO, as Council's principal advisor, advises and procures advice for Council in relations to the local government's affairs and the performance of the local government's functions;*
- *section 5.41(3)(b), which provides that the CEO ensures Council has the information and advice it needs to make informed and timely decisions;*
- *section 5.91, which provides the interpretation framework for Council Member access to information under Division 7 of Part 5;*

- *section 5.92(1), which provides that a Council Member can have access to any information held by the local government that is relevant to the performance by the Council Member of any of the person's functions under the Act or any other written law;*
- *section 5.92(2), which provides that, without limiting section 5.92(1), a Council Member can have access to all written contracts entered into by the local government and all documents relating to written contracts proposed to be entered into by the local government;*

## **COUNCILLOR REASON FOR MOTION**

*Elected Members are legally required to consider and vote on matters presented to Council and must be provided with timely access to information and responses to properly perform their statutory functions, review agenda items, participate in informed debate, and make lawful, evidence-based and informed decisions under the Local Government Act 1995.*

*Councillors are required under section 2.10(c) of the Local Government Act 1995 to facilitate communication between the community and the Council. Timely access to information is necessary to allow Elected Members to accurately respond to community enquiries, submit notices of motions, communicate Council decisions, and properly perform their statutory representative functions under the Act.*

## **OFFICER COMMENT**

This motion may be a reaction to the Acting CEO setting clear boundaries as part of an Information Paper dated 5 May 2026. To assist with communication and information sharing between the Administration and Council, a Policy titled 'Elected Member and Administration Communication' is currently in draft format and will be distributed to Council in the coming weeks.

The Acting CEO receives a high volume of individual Councillor-related correspondence. This volume of correspondence presents a scenario where individual Councillor queries are determining the allocation of administrative resources. It also leads to a situation where individual Councillors are requesting and receiving information that is not being made available to all other Elected Members. In response to this situation and to ensure transparency, consistency and the equitable distribution of information, all substantive queries from Elected Members are now being addressed through the scheduled strategic discussion sessions (first Tuesday of the month) and information sessions (third Tuesday of the month).

This approach reflects the collective decision-making role of Council under the *Local Government Act 1995 (WA)* (the Act) and ensures that all Councillors have access to the same information at the same time, rather than information being provided on an individual and ad hoc basis.

It also supports the efficient and coordinated use of administrative resources, noting that the current volume of individual Councillor enquiries is placing a material demand on staff time and organisational capacity. It should be noted that the ACEO is not a research service for elected members. In some instances, the frequency and scope of queries from individual Councillors is disproportionate and extends beyond the typical role of an Elected Member.

Councillors remain able to submit questions at any time, however responses will be provided in a manner that maintains fairness, transparency and sound governance practices. It also ensures that administrative resources are not disproportionately directed toward individual Councillor interests, but are applied in a coordinated manner to support the strategic priorities and collective decision-making role of Council as a whole.

It is important to note that the role of the Council is separate from the CEO's executive role under section 5.41 of the Act. The Act now stresses the importance of respecting that separation.

As Acting CEO, my role under section 5.41 includes:

- causing Council decisions to be implemented;
- determining the Shire's systems and procedures for managing the Shire's administration and operations; and
- managing the Shire's employees.

As Acting CEO, I act as the Council's principal advisor. It is not the CEO's role to advise individual councillors. Rather, the CEO is required to liaise with the President about the Shire's affairs and the performance of its functions (Section 2.8 of the Act refers).

Section 2.10 of the Act describes the role of other Councillors. That role includes participating in the Shire's deliberation and decision-making at council meetings. It does not include liaising with the administration on the Shire's affairs or performance of administrative functions.

Section 5.92 contemplates that the CEO will provide Councillors with access to information if it is relevant to the performance of their function as an Elected Member. Section 5.92(4) describes circumstances in which councillors do not enjoy that right. One of those circumstances is if the information requested is not relevant to the functions of a Councillor under the Act or any other written law. There are times when there is no clear nexus between requests and a Councillor-related function.

While Council can have access to certain information, Councillors are not entitled to demand it in any format, volume or timing as they see fit.

Council is reminded that persistent or coercive demands to the Acting CEO and administrative staff may depart from cl. 20(2) of the Code of Conduct, which prohibits councillors from directing, influencing or attempting to direct or influence anyone employed under s. 5.36(1) of the Act, which includes the CEO.

Policy 1.46 – Work Health and Safety details that Council supports the CEO in the provision and maintenance of a safe and healthy work environment in its workplaces in accordance with legislative obligations. Council supports the CEO with the implementation of Work Health and Safety principles, including:

- *Workplace risks, including bullying, harassment, discrimination, and unsafe work practices, are prevented and addressed.*

Persistent instructions and demands of the Acting CEO and administrative staff, notwithstanding clear parameters and separation of powers are known, risks the action as being perceived as workplace bullying and harassment, a clear workplace risk.

The Acting CEO is of the view that not only should the motion fail, but that it should be substituted with the following alternative:

That Council:

1. Support the Acting CEO's position for transparent, consistent and the equitable distribution of information, with all substantive queries from Elected Members to be addressed through the scheduled strategic and information sessions.
2. Support the Acting CEO's position in relation to the separation of powers between the CEO, Shire President and other Councillors.
3. Support the Acting CEO's position that Parts 1 and 2 (above) are critical for the efficient and coordinated use of administrative resources, noting that the current volume of individual Councillor enquiries is placing a material demand on staff time and organisational capacity.
4. Support the Acting CEO's position that persistent or coercive demands from individual Councillors to the Acting CEO does not align with facilitating and maintaining good working relationships with other Councillors, the President and the CEO, a departure from Section 2.10(1)(d) of the *Local Government Act 1995*.
5. Support the Acting CEO's position that persistent or coercive demands from individual Councillors to the Acting CEO represent an organisational risk to workplace health and safety.
6. Acknowledge that an Elected Member and Administration Communication Policy is currently being prepared to set information sharing and communication parameters.

## **RISK IMPLICATIONS**

There is a risk that Cr Stewart's motion will place unachievable timeframes on the administration. This poses a risk in the areas of people (stress to staff), interruption to service (due to officer time being redirected) and reputation (impacts on customer service).

## STATUTORY/LOCAL LAW IMPLICATIONS

*Local Government Act 1995*

Part 2 Constitution of local government

s.2.7 Role of council

s.2.8 Role of mayor or president

s.2.10 Role of councillors

Part 5 Administration

Division 4 Local government employees

s.5.41 Role of CEO

## POLICY IMPLICATIONS

Nil.

## BUDGET IMPLICATIONS

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*If this report relates to unbudgeted expenditure or amendments to the current budget, please check with the Manager Finance to confirm correct budget details.*

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Nil

## STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2024-2034

<b>Aspiration</b>	4. Excellence & Accountability - Deliver Quality Leadership and Business Expertise
<b>Strategic Objective</b>	4.2 Effective Governance - Apply systems of compliance which assists Council to make informed decisions within a transparent, accountable, and principled environment.

## VOTING REQUIREMENTS - SIMPLE MAJORITY

### COUNCILLOR MOTION

That Council directs the Chief Executive Officer to provide Elected Members with timely access to information, documents, reports, records, advice and responses required for the performance of their statutory functions under the *Local Government Act 1995*, including:

- Responses to Councillor communications or questions relating to current Council or Committee agenda items to be provided within 24 hours where practicable; and
- Responses to Councillor communications or requests relating to non-current agenda matters to be provided within 3 working days where practicable.
- Responses to Councillor communications titled: **TIME CRITICAL COMMUNICATIONS** to be provided within 24 hours.

This direction is made pursuant to the *Local Government Act 1995*, including:

- section 2.7 and 2.10.
- section 5.21(2), which provides that, subject to section 5.67, each Council Member who is present at a meeting of Council or a Committee to which a local government power or duty has been delegated is to vote;
- section 5.41(2)(e), which provides that the CEO's executive role includes ensuring that records and documents of the local government are properly kept for the purposes of the Act and any other written law;
- section 5.41(3)(a), which provides that the CEO, as Council's principal advisor, advises and procures advice for Council in relations to the local government's affairs and the performance of the local government's functions;
- section 5.41(3)(b), which provides that the CEO ensures Council has the information and advice it needs to make informed and timely decisions;
- section 5.91, which provides the interpretation framework for Council Member access to information under Division 7 of Part 5;
- section 5.92(1), which provides that a Council Member can have access to any information held by the local government that is relevant to the performance by the Council Member of any of the person's functions under the Act or any other written law;
- section 5.92(2), which provides that, without limiting section 5.92(1), a Council Member can have access to all written contracts entered into by the local government and all documents relating to written contracts proposed to be entered into by the local government.

## 16.2 CR STEWART - APPOINTMENT OF LOCAL GOVERNMENT MONITOR

File	GOV/20-1
Reporting Officer	James Bayliss - Acting Chief Executive Officer
Refer	Nil
Appendices	Nil

### PURPOSE

To address a Notice of Motion submitted by Cr Stewart in relation to the appointment of a Monitor by the Local Government Inspector.

### COUNCILLOR MOTION

*That council, pursuant to parts 8A and 8B of the Local Government Act 1995, requests the minister for Local Government, through the Local Government Inspector to appoint a Monitor to the Shire of Gingin.*

### COUNCILLOR REASON FOR MOTION

*Council has experienced ongoing dysfunction, governance concerns, operational conflict, and breakdowns in working relationships affecting the effective functioning of the LG, and confidence in decision making processes.*

### OFFICER COMMENT

A more comprehensive motion with the same intent was moved by Cr Stewart at the Ordinary Council meeting on 21 April 2026. The motion was voted on by Council and was lost as the vote for the motion was insufficient to achieve an Absolute Majority.

The comments as part of that report remain the officer's position. Additional comments are as follows:

1. The Shire of Gingin has historically functioned effectively as a local government. The appointment of a monitor, or any request for the appointment of a monitor, is a significant matter and should not be approached lightly, noting the potential reputational and financial implications for a proud organisation.
2. The Acting CEO continues to observe Council and Councillor conduct in the context of the effective functioning, decision-making and governance of the organisation. At times, aspects of Councillor conduct and interactions have raised governance concerns, including matters relating to the distinction between the roles of the CEO, President and Councillors. This is notwithstanding governance training opportunities having been provided to Councillors, together with information papers intended to clarify these respective roles and the distribution of information.

3. The distinction between what a Councillor may be entitled to do and what may constitute good governance practice remains an area requiring ongoing attention. To assist in this regard, the Administration is currently preparing several governance policies, including:
  - Council Member Use of Social Media;
  - Notices of Motion; and
  - Communication between Councillors and the Administration.
4. In the context of points 2 and 3 above, the Acting CEO notes that maintaining constructive working relationships between Councillors, the President and the CEO is an important aspect of the role of an Elected Member and remains an area requiring continued attention.
5. Interpersonal issues between Elected Members are primarily matters for the elected body to manage collectively. The administration's role is generally limited to providing governance advice, procedural support and implementing Council decisions. While the CEO may assist in facilitating appropriate governance processes, responsibility for Councillor conduct ultimately rests with the elected body.
6. The Acting CEO is not aware of any material operational conflict within the administration.
7. Council continues, as a whole, to discharge its statutory responsibilities and make decisions in accordance with its governance obligations.
8. The appointment of a monitor would also have financial implications for the Shire, and Council should consider how any associated costs would be funded.

In view of the above, particularly in relation to point 3, the Administration is developing a policy framework intended to strengthen governance practices and support the effective functioning of the local government. With the support of Council collectively and individual Councillors, the Shire should be well placed to address the current challenges constructively.

Conversely, if current governance practices and behaviours do not improve, there remains a risk that external intervention measures, including the possible appointment of a monitor, may ultimately need to be considered. The Acting CEO does however consider this request to be premature.

## **RISK IMPLICATIONS**

The appointment of a monitor may give rise to adverse public and media perception that the local government is experiencing governance dysfunction. This may impact community confidence, stakeholder relationships and the organisation's standing with State agencies. There is therefore considerable reputational risk associated with the appointment of a monitor.

Costs associated with the appointment (including monitor fees and administrative support) will be incurred depending on the terms of appointment, and will impact the local government's budget, diverting expenditure from other projects.

The involvement of a monitor may place additional demands on the administration, including reporting, meeting attendance and information provision which may affect resourcing and operational priorities in the short term.

## STATUTORY/LOCAL LAW IMPLICATIONS

*Local Government Act 1995*

Part 8B Local Government Inspector, adjudicators and authorised officers  
Division 5 Monitors

## POLICY IMPLICATIONS

Nil

## BUDGET IMPLICATIONS

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*If this report relates to unbudgeted expenditure or amendments to the current budget, please check with the Manager Finance to confirm correct budget details.*

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As addressed in the Officer Comment section of the report.

## STRATEGIC IMPLICATIONS

Shire of Gingin Strategic Community Plan 2024-2034

<b>Aspiration</b>	4. Excellence & Accountability - Deliver Quality Leadership and Business Expertise
<b>Strategic Objective</b>	4.2 Effective Governance - Apply systems of compliance which assists Council to make informed decisions within a transparent, accountable, and principled environment.

## VOTING REQUIREMENTS - ABSOLUTE MAJORITY

### COUNCILLOR MOTION

That Council, pursuant to parts 8A and 8B of the *Local Government Act 1995*, requests the Minister for Local Government, through the Local Government Inspector to appoint a Monitor to the Shire of Gingin.