



AGENDA FOR THE SPECIAL COUNCIL MEETING

20 NOVEMBER 2019



Ordinary Council Meeting Notice Paper

20 November 2019

A Special Meeting of Council is called for Wednesday, 20 November 2019, in the Council Chambers, Victoria Street, Mingenew, commencing at 3.15 pm. Members of the public are most welcome to attend.

Nils Hay
Chief Executive Officer
14 November 2019

DISCLAIMER

The purpose of Council Meetings is to discuss, and where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25 (e)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The Shire of Mingenew expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

PROCEDURE FOR PUBLIC QUESTION TIME, DEPUTATIONS, PRESENTATIONS AND PETITIONS AT COUNCIL MEETINGS

Council thanks you for your participation in Council Meetings and trusts that your input will be beneficial to all parties. Council has a high regard for community input where possible, in its decision making processes.

<p>Petitions A formal process where members of the community present a written request to the Council.</p>	<p>Deputations A formal process where members of the community request permission to address Council or Committee on an issue.</p>	<p>Presentations An occasion where awards/gifts may be accepted by the Council on behalf of the community, when the Council makes a presentation to a worthy recipient or when agencies may present a proposal that will impact on the Local Government</p>
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PROCEDURE FOR DEPUTATIONS

The Council allows for members of the public to make a deputation to Council on an issue related to Local Government business. Any person or group wishing to be received as a deputation by the Council shall send to the CEO an application:

- I. Setting out the agenda item to which the deputation relates;
- II. Whether the deputation is supporting or opposing the officer's or Committee's recommendation; and
- III. Include sufficient detail to enable a general understanding of the purpose of the deputation.

Notice of deputations need to be received by 5pm on the day before the meeting and agreed to by the Presiding Member. Please contact the Shire via telephone on 99281192 or email governance@mingenew.wa.gov.au to arrange your deputation.

Where a deputation has been agreed to, during the meeting the Presiding Member will call upon the relevant person(s) to come forward and address Council.

A Deputation invited to attend a Council meeting:

- I. is not to exceed five (5) persons, only two (2) of whom may address the Council, although others may respond to specific questions from Members;
- II. is not to address the Council for a period exceeding ten (10) minutes without the agreement of the Council; and
- III. additional members of the deputation may be allowed to speak with the agreement of the Presiding Member.

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

PROCEDURE FOR PRESENTATION

Notice of presentations being accepted by Council on behalf of the community, or agencies presenting a proposal, need to be received by 5pm on the day before the meeting and agreed to by the Presiding Member. Please contact the Shire via telephone on 99281102 or email governance@mingenew.wa.gov.au to arrange your presentation.

Where the Council is making a presentation to a worthy recipient, the recipient will be advised in advance and asked to attend the Council meeting to receive the award.

All presentations will be received / awarded by the Shire President or an appropriate Councillor.

PROCEDURE FOR PETITIONS

Please note the following protocol for submissions of petitions. Petitions must:

- be addressed to the Shire President.
- be made by electors of the district.
- state the request on each page of the petition.
- contain the names, addresses and signatures of the elector(s) making the request, and the date each elector signed.
- contain a summary of the reasons for the request.
- state the name and address of the person whom arranged the petition for correspondence to be delivered to, as correspondence is not sent to all the signatures on the petition.

Where a petition does not relate to or conform to the above it may be treated as an 'informal' petition and the Chief Executive Officer may at his discretion forward the petition to Council accompanied by an officer report.

PROCEDURE FOR PUBLIC QUESTION TIME

The Council extends a warm welcome to you in attending any meeting of the Council. Council is committed to involving the public in its decision-making processes whenever possible, and the ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective.

Council (as required by the Local Government Act 1995) sets aside a period of 'Public Question Time' to enable a member of the public to put up to two (2) questions to Council. Questions should only relate to the business of Council and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Shire President may either answer the question or direct it to a Councillor or an Officer to answer, or it will be taken on notice.

Having regard for the requirements and principles of Council, the following procedures will be applied in accordance with the Shire of Mingenew Standing Orders Local Law 2017:

1. Public Questions Time will be limited to fifteen (15) minutes.
2. Public Question Time will be conducted at an Ordinary Meeting of Council immediately following "Responses to Previous Public Questions Taken on Notice".
3. Each member of the public asking a question will be limited to two (2) minutes to ask their question(s).
4. Questions will be limited to two (2) per person.
5. Please state your name and address, and then ask your question.
6. Questions should be submitted to the Chief Executive Officer in writing by 5pm on the day before the meeting and be signed by the author. This allows for an informed response to be given at the meeting.
7. Questions that have not been submitted in writing by 5pm on the day before the meeting will be responded to if they are straightforward.
8. If any question requires further research prior to an answer being given, the Presiding Member will indicate that the "question will be taken on notice" and a response will be forwarded to the member of the public following the necessary research being undertaken.
9. Where a member of the public provided written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
10. A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.

- **During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation.**
- **Members of the public shall ensure that their mobile telephone and/or audible pager is not switched on or used during any meeting of the Council.**
- **Members of the public are hereby advised that use of any electronic, visual or audio recording device or instrument to record proceedings of the Council is not permitted without the permission of the Presiding Member.**

TABLE OF CONTENTS

1.0	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	6
2.0	RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	6
3.0	ELECTION OF SHIRE PRESIDENT	6
4.0	ELECTION OF THE DEPUTY SHIRE PRESIDENT	6
5.0	COUNCILLOR SEATING ALLOCATION	6
6.0	PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME	6
7.0	APPLICATIONS FOR LEAVE OF ABSENCE	6
8.0	DECLARATIONS OF INTEREST	6
9.0	REPORTS BY THE CHIEF EXECUTIVE OFFICER	7
	9.1 APPOINTMENTS FOR SHIRE OF MINGENEW AUDIT & RISK COMMITTEE.....	7
10.0	CLOSURE	10



**AGENDA FOR THE SPECIAL MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS ON
20 NOVEMBER 2019 COMMENCING AT 3.15PM**

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

3.0 ELECTION OF SHIRE PRESIDENT

Nominations are to be lodged in writing, indicating consent of the nominee, prior to, or submitted at the meeting prior to the Election being held. A nomination form will be issued with this Agenda.

4.0 ELECTION OF THE DEPUTY SHIRE PRESIDENT

Nominations are to be lodged in writing, indicating consent of the nominee, prior to, or submitted at the meeting prior to the Election being held. A nomination form will be issued with this Agenda.

5.0 COUNCILLOR SEATING ALLOCATION

The Councillor seating allocation will be in accordance with Clause 7.2 of the Shire of Mingenew Standing Orders Local Law 2017 which states "When present in the meeting room, a member will occupy the seating position allocated to him or her for each specific Council or Committee meeting." In order to determine the seating arrangements for Council meetings, seating positions will be allotted by random draw, conducted by the CEO. The Shire President and Deputy President seating positions will be fixed.

6.0 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME

7.0 APPLICATIONS FOR LEAVE OF ABSENCE

8.0 DECLARATIONS OF INTEREST

9.0 REPORTS BY THE CHIEF EXECUTIVE OFFICER

9.1 APPOINTMENTS FOR SHIRE OF MINGENEW AUDIT & RISK COMMITTEE

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	ADM0303
Disclosure of Interest:	Nil
Date:	4 November 2019
Author:	Erin Greaves
Authorising Officer:	Nils Hay, Chief Executive Officer
Voting Requirements:	Absolute Majority

Summary

Following the recent ordinary local government elections, Council are required to review and appoint Council representatives to the various Council, industry and community Committees. Whilst it is proposed that these appointments will be put to Council at the November Ordinary meeting, the appointments to the Audit & Risk Committee are required in order for a meeting of the Committee to be convened prior to the Ordinary meeting.

Key Points

- Appointments of Elected Members expire after each ordinary election or as per s5.11 of the Local Government Act 1995
- The Shire of Mingenew Audit & Risk Committee Terms of Reference require that the Committee consists of at least four members (three elected members and one external person)
- The CEO and employees are not to be members but may attend to provide information/advice/guidance to the Committee
- A quorum shall consist of at least 50% of the number of offices of committee members, unless a reduction is approved by Council under s5.15 of the *Local Government Act 1995*
- External persons appointed to the Committee will have business or financial management/reporting knowledge and experience and be conversant with financial and other reporting requirements.
- Appointments of external independent persons will be made following a public advertisement and be for a maximum term of two years. The evaluation of potential members will be reviewed by the CEO and appointments will be approved by Council.
- This Committee does not have delegated authority to make decisions on behalf of Council but it may make recommendations to Council.
- A presiding member for the Committee may be elected by members of the Committee at a Committee meeting

OFFICER RECOMMENDATION – ITEM 6.1

**That Council appoints the following members to the Shire of Mingenew Audit & Risk Committee:
Cr _____, Cr _____, Cr _____ and confirms Mr Maurice Battilana's appointment as an independent member (appointed by Council 20 March 2019 Resolution 20031910).**

Attachments

6.1.1 Audit & Risk Committee Terms of Reference

Background

Traditionally, Committee appointments are made at the first ordinary meeting of Council following a Local Government Ordinary Election. However, this year the next meeting is not scheduled until a month after the elections.

Comment

In order to consider the Shire's Annual Report, Annual Financial Report and results of the Regulation 17 Audit, the Audit & Risk Committee is meeting just prior to the 20 November 2019 Ordinary Council meeting, at which it may make recommendations to Council for consideration at that meeting later in the day. Therefore, the appointment of elected members must be made before holding this meeting.

Statutory Environment

Local Government Act 1995

5.8. Establishment of committees

A local government may establish committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

** Absolute majority required.*

5.9. Committees, types of

(1) *In this section —*

other person means a person who is not a council member or an employee.

(2) *A committee is to comprise —*

- (a) *council members only; or*
- (b) *council members and employees; or*
- (c) *council members, employees and other persons; or*
- (d) *council members and other persons; or*
- (e) *employees and other persons; or*
- (f) *other persons only.*

5.10. Committee members, appointment of

(1) *A committee is to have as its members —*

- (a) *persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
- (b) *persons who are appointed to be members of the committee under subsection (4) or (5).*

** Absolute majority required.*

(2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*

(3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.*

(4) *If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*

(5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish*

—

- (a) *to be a member of the committee; or*

(b) *that a representative of the CEO be a member of the committee, the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.*

5.12. Presiding members and deputies, election of

- (1) *The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule —*
- (a) *to "office" were references to "office of presiding member"; and*
 - (b) *to "council" were references to "committee"; and*
 - (c) *to "councillors" were references to "committee members".*
- (2) *The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule —*
- (a) *to "office" were references to "office of deputy presiding member"; and*
 - (b) *to "council" were references to "committee"; and*
 - (c) *to "councillors" were references to "committee members"; and*
 - (d) *to "mayor or president" were references to "presiding member".*

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Community Strategic Plan:

Strategy 1.2.2 Enhance open and trusting communication between Council and the community, and deliver high quality services in partnership with external stakeholders



TERMS OF REFERENCE

Audit and Risk Committee

1.0.1

Title:	1.0.1 – AUDIT AND RISK COMMITTEE TERMS OF REFERENCE
Adopted:	19 December 2018
Last Reviewed:	-
Associated Legislation:	Sections 7.1A, of the Local Government Act A1995. Regulations 16 of the Local Government (Audit) Regulations 1996
Associated Documents:	Shire of Mingenew Standing Orders Local Law 2017 1.2.2 Risk Management Policy v1 Risk Management Framework & Procedures v1 Shire of Mingenew Risk Profile 1.2.8 Code of Conduct
Review Responsibility:	Audit & Risk Committee
Delegation:	-

OBJECTIVES

The primary objective of the Audit and Risk Committee “the Committee” is to accept responsibility for the annual external audit and liaise with the local government’s auditor so that Council can be satisfied with the performance of the local government in managing its statutory and fiscal affairs.

Reports from the Committee will assist Council in discharging its legislative responsibilities of controlling the local government’s affairs, determining the local government’s policies and overseeing the allocation of the local government’s finances and resources. The Committee will ensure transparency in the Local Government’s reporting and will liaise with the CEO to ensure the effective and efficient management of the local government’s systems and processes.

The committee is to facilitate –

- the enhancement of the credibility and objectivity of internal and external financial reporting;
- effective management of financial and other risks and the protection of Council assets;
- compliance with laws and regulations as well as use of best practice guidelines relative to audit, risk management, internal control and legislative compliance;
- the coordination of the internal audit function with the external audit; and
- the provision of an effective means of communication between the external auditor, any internal auditor/s, the CEO and the Council.

POWERS OF THE AUDIT AND RISK COMMITTEE

The Audit and Risk Committee is to report to Council and provide appropriate advice and recommendations on matters relevant to its term of reference. This is in order to facilitate informed decision-making by Council in relation to the legislative functions and duties of the local government that have not been delegated to the CEO.

The Committee is a formally appointed committee of Council and is responsible to that body. The Committee does not have executive powers or authority to implement actions in areas over which the



CEO has legislative responsibility and does not have any delegated financial responsibility. The Committee does not have any management functions and cannot involve itself in management processes or procedures.

MEMBERSHIP

The Committee will consist of <at least four> members with <three elected and one external> person. All members shall have full voting rights.

The CEO and employees are not members of the committee.

The CEO or his/her nominee is to be available to attend meetings to provide advice and guidance to the Committee.

The local government shall provide secretarial and administrative support to the committee.

QUORUM

A quorum shall consist of at least 50% of the number of offices of committee members, unless a reduction is approved by the local government under s5.15 of the Local Government Act 1995.

INDEPENDENT MEMBERS

External persons appointed to the Committee will have business or financial management/reporting knowledge and experience and be conversant with financial and other reporting requirements.

Appointments of external independent persons will be made following a public advertisement and be for a maximum term of two years. The evaluation of potential members will be reviewed by the CEO and appointments will be approved by Council.

Council may terminate the appointment any member prior to the expiry of his/her term, if:

- The Chairperson considers that the member is not making a positive contribution to the committee; or
- The member is found to be in breach of the Shire of Mingenew Code of Conduct or a serious contravention of the Local Government Act 1995; or
- A member's conduct, action or comments brings the Shire of Mingenew into disrepute.

The terms of the appointment should be arranged to ensure an orderly rotation and continuity of membership despite changes to Council's elected representatives.

Reimbursement of approved expenses will be paid to each external person who is a member of the committee.

CHAIRPERSON

The position of Chairperson shall be appointed by a vote of the Committee following a call for nominations for the position. The Chairperson shall be appointed for a period of not more than 12 months, after which a new process of appointment shall occur. A Chairperson may be reappointed.

MEETINGS

The Committee shall meet at least four times per year.

Additional meetings shall be convened at the discretion of the presiding person.

REPORTING

Reports and recommendations of each committee meeting shall be presented to the next ordinary meeting of the Council.



The Committee shall report annually to the Council summarising its activities during the previous financial year.

DUTIES AND RESPONSIBILITIES

The duties and responsibilities of the committee will be -

- a. Provide guidance and assistance to Council as to the carrying out the functions of the local government in relation to audits;
- b. Meet with the auditor once in each year and provide a report to Council on the matters discussed and outcome of those discussions;
- c. Liaise with the CEO to ensure that the local government does everything in its power to –
 - o assist the auditor to conduct the audit and carry out his or her other duties under the *Local Government Act 1995*; and
 - o ensure that audits are conducted successfully and expeditiously;
- d. Examine the reports of the auditor after receiving a report from the CEO on the matters to –
 - o determine if any matters raised require action to be taken by the local government; and
 - o ensure that appropriate action is taken in respect of those matters;
- e. Review the report prepared by the CEO on any actions taken in respect of any matters raised in the report of the auditor and presenting the report to Council for adoption prior to the end of the next financial year or 6 months after the last report prepared by the auditor is received, whichever is the latest in time;
- f. Review the scope of the audit plan and program and its effectiveness;
- g. Review the appropriateness of special internal audit assignments undertaken by an external auditor at the request of Council or Chief Executive Officer;
- h. Review allocation of risk and audit resources in conjunction with the Shire's Risk Profile;
- i. Review the level of resources allocated to internal audit and the scope of its authority;
- j. Review risk management policies, procedures and guidelines;
- k. Review reports of internal audits, external audits and control assurance reviews, monitor the implementation of recommendations made by the audit and review the extent to which Council and management reacts to matters raised;
- l. Facilitate liaison between the internal and external auditor to promote compatibility, to the extent appropriate, between their audit programs;
- m. Review the local government's draft annual financial report, focusing on –
 - o accounting policies and practices;
 - o changes to accounting policies and practices;
 - o the process used in making significant accounting estimates;
 - o significant adjustments to the financial report (if any) arising from the audit process;
 - o compliance with accounting standards and other reporting requirements; and
 - o significant variances from prior years;
- n. Consider and recommend adoption of the annual financial report to Council. Review any significant changes that may arise subsequent to any such recommendation but before the annual financial report is signed;
- o. Address issues brought to the attention of the committee, including responding to requests from Council for advice that are within the parameters of the committee's terms of reference;
- p. Seek information or obtain expert advice through the CEO on matters of concern within the scope of the committee's terms of reference following authorisation from the Council;
- q. Review the annual Compliance Audit Return and report to the council the results of that review, and



- r. Consider the CEO's reviews of the appropriateness and effectiveness of the local government's systems and procedures in regard to risk management, internal control and legislative compliance, required to be provided to the committee, and report to the council the results of those reviews.

INTERNAL AUDIT

Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

The scope of an internal audit would be determined by the Audit committee, with input from the Chief Executive Officer and senior staff, based on the size of the local government's internal operations and the level of compliance to be achieved. The role differs from that of the external auditor who is appointed to report independently on the annual financial statements. The external auditor's primary role is to decide whether the annual financial statements of a local government are free of material misstatement.

There are certain functions of the internal audit that complement the external auditor's role. As the external auditor plans for an effective audit they need to assess and determine whether to include the scope, procedures and outcomes of the internal audit. The CEO must refer all internal audit reports to the Audit Committee for consideration.

An internal auditor's activities should typically include the following:

- a. review of the internal control structure, monitoring the operations of the information system and internal controls and providing recommendations for improvements;
- b. review relevant internal systems and processes, providing recommendations for efficiency or productivity gains;
- c. a risk assessment with the intention of minimising exposure to all forms of risk on the local government;
- d. examination of financial and operating information that includes detailed testing of transactions, balances and procedures;
- e. a review of the efficiency and effectiveness of operations and services including non-financial controls of a local government;
- f. a review of compliance with management policies and directives and any other internal requirements;
- g. review of the annual Compliance Audit Return;
- h. assist in the CEO's triennial reviews of the appropriateness and effectiveness of the local government's systems and procedures regarding risk management, internal control and legislative compliance; and
- i. specific tasks requested by management.

For local government, an internal auditor should report functionally to the audit committee and administratively to the CEO. It should be remembered that pursuant to section 5.41 of the Act, the CEO is responsible for the day-to-day management of council activities including the direction of staff and implicitly the internal audit function. The CEO may choose to delegate this responsibility provided always that the delegation does not directly or indirectly interfere with the ability of the Internal Auditor to conduct an internal audit function free from interference.



A clear and properly defined reporting relationship ensures that the internal auditor is empowered to perform their role working with management. The direct reporting line to the audit committee also acts as an adequate safeguard in the event of a serious breakdown in internal controls or internal control culture at senior levels in the organisation.

While it is recognised that smaller councils may not be able to justify a full-time internal auditor, a small size of operation does not justify forgoing internal audit altogether. If audit committee or management is of the view that the employment of an independent internal auditor either full-time or part-time is not warranted, it may request the council to have the internal audit function undertaken as necessary by an external contractor or expand the role of its external auditor.

The internal auditor or his or her professional company should only undertake internal audit functions that complement the internal audit and do not cloud the objectivity and independence of the external audit. An external auditor must not audit information prepared by them or their accounting practice, as this is considered incompatible with the standard of independence.

Local governments that do not establish an internal audit process but require a review of the financial management systems and procedures, may decide to use the services of the external auditor for that purpose. Such reviews are to be undertaken every four years in accordance with regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996*.

The review of financial management systems and procedures provides the external auditor with greater assurance of systems and procedures used to prepare the annual financial statements, and whether they provide information free of material misstatement.

10.0 CLOSURE

These minutes were confirmed at an Ordinary Council meeting on 18 December 2019.

Signed _____
Presiding Officer

Date: _____