



AGENDA FOR THE SPECIAL COUNCIL MEETING

20 MARCH 2024



Special Council Meeting Notice Paper

20 MARCH 2024

A Special Meeting of Council is called for Wednesday, 20 March 2024 in the Council Chambers, Victoria Street, Mingenew, commencing at 5. 00 pm. Members of the public are most welcome to attend.

Matt Fanning
Chief Executive Officer
15 March 2024

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.

Petitions A formal process where members of the community present a written request to the Council.	Deputations A formal process where members of the community request permission to address Council or Committee on an issue.	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
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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.

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- 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.

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**AGENDA FOR THE SPECIAL MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS
ON 20 MARCH 2024 COMMENCING AT 5:00PM.**

- 1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**
- 2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE**
- 3.0 DECLARATIONS OF INTEREST**

4.0 GOVERNANCE AND COMMUNITY

4.1 SHIRE OF MINGENEW 2023 COMPLIANCE AUDIT REPORT

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	FM.AUD.23.24
Disclosure of Interest:	Erin Greaves - Impartiality Interest (auditor for this report)
Date:	5 March 2024
Author:	Erin Greaves, Governance Officer
Authorising Author:	Matt Fanning, Chief Executive Officer
Voting Requirements:	Simple Majority

Summary

The 2023 Compliance Audit Return (CAR) is presented for the Audit & Risk Committee to consider and recommend to Council for endorsement so that it may be submitted to the Department.

Key Points

- The Shire is required to complete and submit, to the Department of Local Government, Sport and Cultural Industries (DLGSCI), a Compliance Audit Return annually for each previous calendar year
- Section 7.13(i) of the *Local Government Act 1995* requires that the Local Government carry out an annual audit on their compliance with specific statutory obligations prescribed in the *Local Government (Audit) Regulations 1996*.
- Regulation 13 prescribes the scope of the Compliance Audit Return
- Regulation 14 requires the local government's Audit Committee to review the CAR and report the result to Council prior to adoption and submission to the Department by the 31 March each year
- Regulation 15 refers to the requirement for a certified copy of the compliance audit return to be presented to the Director General of the Department by the 31 March each year.

AUDIT & RISK COMMITTEE RECOMMENDATION - ITEM 4.1

Council:

1. Adopts the 2023 Compliance Audit Return (CAR) for the period 1 January to 31 December 2023 as presented in the Attachment Booklet;
2. Authorises the Shire President and Chief Executive Officer to sign the certification of the CAR, and lodge it with the Department of Local Government, Sport and Cultural Industries as required;
3. Notes the reported areas of non-compliance within the 2023 Compliance Audit Return, as follows:
 - a) Non-compliance with current Purchasing Policy – occasions where quotation requirements were not met or not evidenced for purchase values \$10,001-\$50,000 and purchasing activity for same category of supply has not been aggregated into single contract arrangements where it may have been possible.
 - b) Evidence of written notice not found to support requirement to give each tenderer written notice containing particulars of the successful tender or advising that no tender was accepted; and
4. Requests that a report be prepared and presented to the next Audit & Risk Committee identifying areas where aggregation of purchases into a single contract have not been undertaken and provide solutions to address this, including a potential review of the Purchasing Policy and any potential advocacy actions to gain greater clarity on expected best practice within the sector.

Attachment

4.1.1 Compliance Audit Return 2023

Background

The aim of the Compliance Audit Return is to build good governance by identifying and enforcing compliance and maintaining a transparent system of reporting. It is a checklist of a local government's compliance with the requirements of the *Local Government Act 1995* (the Act) and its regulations, and it focuses on areas considered high risk as determined by the Department.

Each year local governments are required to complete the Compliance Audit Return for the period 1 January to 31 December. The CAR is to be reviewed by the Audit Committee, adopted by Council and submitted to the Director of the Department of Local Government, Sport and Cultural Industries (DLGSC) by 31 March each year.

For the year 2023, the CAR focused on the following areas:

- Commercial Enterprises by Local Government
- Delegation of Power/Duty
- Disclosure of Interest
- Disposal of Property
- Elections
- Finance
- Integrated Planning and Reporting
- Local Government Employees
- Official Conduct
- Optional Questions (relating to Regulation 17 Audit and Financial Management Review requirements and Elected Member policies)
- Tenders for Providing Goods and Services

Comment

The annual Compliance Audit Return for the Shire of Mingenew was completed internally by the Governance and Community Manager, noting that an Impartiality Interest has been disclosed due to a portion of the audit review relating to matters that are key responsibility areas for the officer.

The audit required sourcing of evidence of compliance for each legislative requirement on the return. Evidence was found through source documents such as, but not limited to, minutes of meetings and resolutions of Council, declarations of interest forms, annual/primary returns, registers, financial reports, synergy records and newspapers / public notices. Links to such evidence have been recorded on the CAR for easy reference should it be required in future.

An overview of the findings for each focus area is provided below:

Commercial Enterprises by Local Government

The Shire did not participate in any major trading or land transactions for the reporting period, as defined within s3.59 of the *Local Government Act 1995* and *Local Government (Functions and General) Regulations 1996*. The classification of "major" trading or land transaction refers to a value set out in the Regulations, which, for the Shire of Mingenew, has a lower threshold of 10% of operating expenditure incurred by the local government from its municipal fund in the last completed financial year (which is approximately \$557,000).

Delegation of Power / Duty

Council last adopted its Delegations Register, by Absolute Majority, in June 2023, which included the review of delegations to Committees, the CEO and all other personnel. No matters of non-compliance were found. The Delegations are scheduled for review again prior to 30 June 2024.

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Disclosure of Interest

The Shire has maintained a Register of Financial Interests that captures any financial, proximity and impartiality interests disclosed prior to or during Council meetings through completion of the relevant Disclosure of Interest form. The disclosed interests are then recorded in the relevant meeting Minutes. All known interests have been adequately captured within the Register and recorded in the relevant Council Minutes.

Primary and Annual Returns have been completed, returned, and acknowledged in accordance with the Act.

Whilst there have been nil gift disclosures, the Shire maintains a register and publishes the register online.

Disposal of Property

The Act outlines that *disposal* for the purposes of s3.58, includes to sell, lease, or otherwise dispose of, whether absolutely or not, and *property* includes the whole or any part of the interest of a local government in property, but does not include money. The leasing of residential property is exempt from this requirement.

Whilst the Shire has disposed of property by lease, organisations considered to be "*charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature*" may be deemed exempt from disposal requirements under the Act as per Regulation 30 of the *Local Government (Functions and General) Regulations 1996*. For example, the Mingenew Tourist Centre lease is considered to fit under the "other" category, for which the Shire has previously sought advice from WALGA on.

Elections

The CAR questions relate to the disclosure of gifts and maintaining an electoral gift register. No gifts were disclosed during either the ordinary or extraordinary elections in 2023.

Finance

This section generally refers to the establishment and conduct of the Audit Committee and auditing responsibilities. The Shire's auditor is the Auditor General and Nexia Australia was contracted to carry out the Shire's external audit in 2023. Any actions raised from the audit were addressed in the Shire's Management Report. There were no significant adverse findings as a result of the Audit. The Audit findings were received by the Audit Committee in November and Council in December 2023. A copy of the report has been provided to the Department in January 2024, as required.

Integrated Planning and Reporting

Whilst the Shire recently completed the major review of the Strategic Community Plan (SCP) and subsequently, the Corporate Business Plan (CBP), the review was due to be completed in 2023.

Local Government Employees

This section relates to the recruitment and appointment of a CEO and senior employees. As Council did not seek to recruit or appoint a CEO or any senior employees during the reporting period, responses provided were 'Not Applicable (N/A)'. The Shire does not have any defined class of employees designated as 'senior employees' as per s5.37 of the Act.

Official Conduct

The Shire's Complaints Officer for the purposes of s5.37 is the CEO. The questions within the CAR refer to the Complaints Officer's responsibilities in maintaining a register of complaints that are classified as a minor breach under the Act. There were no complaints received during the CAR review period.

Optional Questions

The questions in this section related to conducting a Financial Management Review in accordance with the *Local Government (Financial Management) Regulations 1996* and a Regulation 17 Audit in accordance with the *Local Government (Audit) Regulations 1996*. Both are required to be done every three years. A FMR and Reg 17 Audit was last conducted in 2022, the next audits will also need to be conducted in 2024/25.

Tenders for Providing Goods and Services

The Shire called for public tenders on three occasions during 2023 (CAR reporting period):

RFT1 – 2022/23 Mingenew Tennis Clubhouse

RFT2 – 2022/23 Yandanooka NE Road Intersection

RFT1 – 2023/24 Mingenew Early Childhood Education Facility Design and Construct

Each tender met the public notice requirements and have been entered into the Shire's Tender Register (including online at www.mingenew.wa.gov.au/shiretenders) as required under the Act and Local Government (Functions and General) Regulations 1996.

As part of the CAR review, a creditors report was run and all creditors that had a single expense or combined total expenditure for the year of between \$10,001 and \$50,000 was reviewed for compliance against the Purchasing Policy. It was noted that there were several expenses that did not evidence the quote requirements or purchasing activity for same category of supply has not been aggregated into single contract arrangements where it should or could have been. The Shire has previously identified this as a weakness in its systems and already had scheduled a new system to be implemented (however the new Altus finance system implementation has been delayed to August 2024).

The new finance system is better equipped to capture quoting requirements and has built-in preventative measures to ensure a purchase order is not approved until requirements have been met. It will also ensure records management is captured within the same system to enable these audits to be conducted more easily.

It is noted that the final 2023 Compliance Audit Return document published by the DLGSC through the online portal is recommended for use only once the Audit & Risk Committee has reviewed the submission and it is ready for Council consideration. Responses will be transferred to the final format following this meeting for presentation to Council.

Consultation

Shire of Mingenew Audit & Risk Committee

Statutory Environment

Local Government Act 1995 Section 7.13

Local Government (Audit) Regulations 1996

14. Compliance audits by local governments

- (1) *A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*
- (2) *After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.*
- (3A) *The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.*
- (3) *After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —*
 - (a) presented to the council at a meeting of the council; and*
 - (b) adopted by the council; and*
 - (c) recorded in the minutes of the meeting at which it is adopted.*

15. Certified copy of compliance audit return and other documents to be given to Departmental CEO

- (1) *After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —*
 - (a) a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and*
 - (b) any additional information explaining or qualifying the compliance audit, is to be submitted to the Departmental CEO by 31 March next following the period to which the return relates.*
- (2) *In this regulation — certified in relation to a compliance audit return means signed by —*

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- (a) the mayor or president; and*
- (b) the CEO.*

Policy Implications

There are no direct policy implications to be considered as part of this report.

Financial Implications

There are no financial implications to be considered as part of this report.

Strategic Implications

Strategic Community Plan

Strategy 1.2.1 Manage organisation in a financially sustainable manner

Strategy 1.2.3 Provide sound corporate governance of Shire and create an attractive work environment

Strategy 1.2.4 Seek innovative ways to improve organisational efficiency and effectiveness

Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

4.2 SHIRE OF MINGENEW LOCAL EMERGENCY MANAGEMENT ARRANGEMENTS

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ES.PLN.1
Disclosure of Interest: Nil
Date: 15 March 2024
Author: Erin Greaves, Governance & Community Manager
Authorising Author: Matt Fanning, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

An updated version of the Shire's Local Emergency management Arrangements (LEMA) are presented for Council endorsement, based on recommendation from the Local Emergency Management Committee (LEMC) as per the meeting held 11 March 2024.

Key Points

- The Shire last reviewed its Local Emergency Management Arrangements in 2021 (adopted by Council 17 March 2021)
- The Local Emergency Management Committee endorsed the updated LEMA at a meeting on 11 March 2024
- The *Emergency Management Act 2003* requires the LEMA and Local Recovery plan to be submitted to the State Emergency Management Committee (SEMC) once endorsed by Council.

OFFICER AND LOCAL EMERGENCY MANAGEMENT COMMITTEE RECOMMENDATION - ITEM 4.2

Council:

1. **Adopts the Mingenew Local Emergency Management Arrangements (LEMA) as presented in the Attachments Booklet; and**
2. **Authorises the Chief Executive Officer to lodge the endorsed LEMA, along with the Shire's Local Recovery Plan (as adopted by Council 17 August 2022), to the State Emergency Management Committee (SEMC) as soon as practicable.**

Attachment

- 4.2.1 Mingenew Local Emergency Management Arrangements (LEMA) updated November 2023
4.2.2 Mingenew Local Recovery Plan (adopted 17 August 2022)

Background

The Shire's Local Emergency Management Committee (LEMC) met on Monday, 11 March 2024 and at the meeting, received the updated Local Emergency Management Arrangements (LEMA). Feedback had been sought from all member agencies / organisations which have been incorporated into the final LEMA.

Whilst the LEMA was endorsed by the LEMC on 11 March, since the meeting the Shire has made minor amendments (not material) to the Plan following late feedback which included:

- Update to reference Limiting reference to "welfare" as preferred term is now "relief and support"
- Minor updates to State Hazard Plan naming
- Minor formatting changes for ease of reading

The Council-endorsed LEMA, along with the Shire's Local Recovery Plan, is to be lodged with the State Emergency Management Committee.

Comment

The Shire's Local Emergency Management Arrangements have been updated in consultation with relevant government agencies, local stakeholders and was further informed by the Internal Audit Review undertaken in December 2022.

The Shire of Mingenew Audit & Risk Committee identified that the objective of the internal audit was to:

- Assess the current controls, processes and policies to ensure the operation of a safe and effective emergency management service for prevention /mitigation and preparedness; and
- Establish if responsibilities for the Shire in relation to the Emergency Management Act 2005 and the Emergency Management Regulations 2006 have been complied with, in particular, the Local Emergency Management Committee (LEMC) and other associated responsibilities in respect of prevention/mitigation and preparedness

The Report revealed that the Local Emergency Management Arrangements (LEMA) document and the Local Emergency Management Committee (LEMC) generally comply with statutory requirements. The document inclusions were cross checked against requirements of s.41 of the *Emergency Management Act 2005* to confirm compliance. The only matter of note is that there is no evidence to suggest that the document was forwarded to the State Emergency Management Committee (SEMC) following adoption of the latest document in 2021, as per s.41(5). Given that the LEMA was adopted in March 2021 and TC Seroja hit in April 2021, it is likely that this step was overlooked and deprioritised and is not suggestive of any systemic issues.

Consultation

Local Emergency Management Committee (LEMC)
Audit & Risk Committee
Department of Fire & Emergency Services (DFES)

Statutory Environment

Local Government Act 1995
Emergency Management Act 2005 and Regulations

Policy Implications

There are no direct policy implications to be considered as part of this report.

Financial Implications

The Shire received grant funding (under the All West Australians Reducing Emergencies (AWARE) program 2022/23) to assist in undertaking a review of its LEMA, with the aim of:

- Enhancing the knowledge, capacity and/or awareness of community members, emergency services personnel and Agencies supporting emergency management activities.
- Supporting the development of a contemporary and updated LEMA.

Strategic Implications

Strategic Community Plan
Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

5.0 CLOSURE

The meeting was closed at ____pm.

These minutes were confirmed at an Ordinary Council meeting on 17 April 2024

Signed _____
Presiding Officer

Date: _____