



MINUTES OF THE SPECIAL COUNCIL MEETING

20 MARCH 2024

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

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member, Cr GA Cosgrove opened the meeting at 5:00pm.

2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

Councillors

Cr GJ Cosgrove Shire President

Cr JD Bagley Councillor

Cr JR Holmes Councillor

Cr AT Pearse Councillor

Cr AR Smyth Councillor

Cr RA Starick Councillor

Staff

Mr Matt Fanning Chief Executive Officer

Mrs Helen Sternick Manager Corporate Services

Ms Erin Greaves Governance and Community Manager

3.0 DECLARATIONS OF INTEREST

Ms E Greaves disclosed an impartiality interest in Item 4.1 Shire of Mingenew 2023 Compliance Audit Report, as disclosed in the Agenda Report, as she the auditor and responsible officer for some of the functional areas audited.

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 AND COUNCIL DECISION – ITEM 4.1 – RESOLUTION# 01200324

MOVED: Cr AR Smyth SECONDED: Cr AT Pearse

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.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

(FOR: Cr GJ Cosgrove, Cr HR McTaggart, Cr JD Bagley, Cr JR Holmes, Cr AT Pearse, Cr AR Smyth, and Cr RA Starick AGAINST: Nil)

Attachment

4.1.1 Compliance Audit Return 2023 Responses

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,

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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.

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

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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 —*
- (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.

LOCAL EMERGENCY MANAGEMENT COMMITTEE RECOMMENDATION AND COUNCIL DECISION – ITEM 4.2 – RESOLUTION# 02200324

MOVED: Cr HR McTaggart **SECONDED:** Cr JR Holmes

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.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

(FOR: Cr GJ Cosgrove, Cr HR McTaggart, Cr JD Bagley, Cr JR Holmes, Cr AT Pearse, Cr AR Smyth, and Cr RA Starick AGAINST: Nil)

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

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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

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5.0 CLOSURE

The meeting was closed at 5:09pm.

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

Signed _____
Presiding Officer

Date: _____