



**SHIRE OF ASHBURTON
AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING**

**MINUTES
(Public Document)**

**Onslow Sports Club
Third Avenue, Onslow
11 December 2020**

11.00 am

**PUBLIC MINUTES - ORDINARY MEETING OF COUNCIL
11 DECEMBER 2020**

SHIRE OF ASHBURTON

ORDINARY MEETING OF COUNCIL

The Chief Executive Officer recommends the endorsement of these minutes at the next Ordinary Meeting of Council.

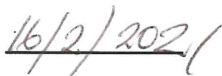


**Mr Kenn Donohoe
Chief Executive Officer**

Date: 15.12.2020

These minutes were confirmed by Council as a true and correct record of proceedings of the Ordinary Meeting of Council on the 11 December 2020.

Presiding Member: 

Date: 

DISCLAIMER

The resolutions contained in the Minutes are subject to confirmation by Council. The Shire of Ashburton warns that anyone who has any application lodged with Council must obtain and should only rely on written confirmation of the outcomes of the application following the Council meeting, and any conditions attaching to the decision made by the Council in respect of the application. No responsibility whatsoever is implied or accepted by the Shire of Ashburton for any act, omission or statement or intimation occurring during a Council meeting.

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1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at 11.17 am.

1.1 ACKNOWLEDGEMENT OF COUNTRY

As representatives of the Shire of Ashburton Council, we respectfully acknowledge the local Indigenous people, the traditional custodians of this land where we are meeting upon today and pay our respects to them and all their elders both past, present and emerging.

2. ATTENDANCE

2.1 PRESENT

Members:	Cr P Foster Cr K White Cr M Lynch Cr D Diver Cr R de Pledge Cr J Richardson Cr M Gallanagh	Tom Price Ward (Presiding Member) Onslow Ward Tom Price Ward Tom Price Ward Ashburton Ward Tablelands Ward Pannawonica Ward
Staff:	Mr K Donohoe Mr J Bingham Mr A Majid Mrs C McGurk Mr A Sheridan Mr M Khosravi Mrs M Lewis	Chief Executive Officer Director Corporate Services Director Development Services Director Projects and Procurement Acting Director Infrastructure Services Director Infrastructure Council Liaison Officer
Guests:	Nil	
Members of Public:	There were no members of the public in attendance at the commencement of the meeting.	
Members of Media:	There were no members of the media in attendance at the commencement of the meeting.	

2.2 APOLOGIES

Cr L Rumble Paraburdoo Ward

2.3 APPROVED LEAVE OF ABSENCE

Cr D Dias Paraburdoo Ward

3. ANNOUNCEMENT OF VISITORS

There were no visitors for this meeting.

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4. DECLARATION BY MEMBERS

4.1 DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA

All Councillors noted that they had given due consideration to all matters contained in the Agenda presently before the meeting.

4.2 DECLARATIONS OF INTEREST

Councillors to Note

A member who has an Impartiality, Proximity or Financial Interest in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest:

- (a) In a written notice given to the Chief Executive Officer before the Meeting or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- (a) Preside at the part of the Meeting, relating to the matter or;
- (b) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under Section 5.68 or Section 5.69 of the *Local Government Act 1995*.

NOTES ON DECLARING INTERESTS (FOR YOUR GUIDANCE)

The following notes are a basic guide for Councillors when they are considering whether they have an interest in a matter.

These notes are included in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the *Local Government Act 1995* but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc.), and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.

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4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) or the *Local Government Act*, or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69 (3) of the *Local Government Act*, with or without conditions.

Declarations of Interest provided:

Item Number/ Name	Type of Interest	Nature/Extent of Interest
There are no Declarations of Interest for this meeting.		

5. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

5.1 AUDIT AND RISK COMMITTEE MEETING HELD ON 8 SEPTEMBER 2020

<p>Council Decision</p> <p>MOVED: Cr K White SECONDED: Cr M Lynch</p> <p>That the Unconfirmed Minutes of the Audit and Risk Committee Meeting held on 8 September 2020 (ATTACHMENT 5.1) be confirmed as a true and accurate record.</p> <p style="text-align: right;">CARRIED 7/0</p>

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6. TERMS OF REFERENCE

Audit and Risk Management Committee

Purpose

The Audit Committee's role in accordance with Regulation 15 of the *Local Government (Audit) Regulations 1995* is to provide assistance and guidance to Council on the discharge of its duties under Part 6 and 7 of the *Local Government Act 1995 (the Act)*. The Audit Committee assists Council to monitor the integrity of the Shire's financial statements, risk management, internal controls and compliance with legislative requirements.

Responsibilities

The Audit Committee is responsible for:

- 1.1 Guiding and assisting Council in carrying out its functions under:
 - (a) Part 6 of the *Act* and its functions relating to other audits and other matters related to financial management; and
 - (b) Part 7 of the *Act* in relating to auditing the Shire's financial accounts.
- 1.2 Reviewing the CEO's report required under regulation 17(3).
- 1.3 Monitoring and advising the CEO when the CEO is carrying out functions in relation to a review under:
 - (a) regulation 17 (1); and
 - (b) the *Local Government (Financial Management) Regulations 1996*, regulation 5(2)(c).
- 1.4 Support the Auditor conducting an audit and carrying out the Auditor's other duties under the *Act*.
- 1.5 Oversee the implementation of any action that Council
 - (a) is required to take, has stated it has taken or intends to take in respect to matters raised by the audit report;
 - (b) has accepted should be taken on receipt of the CEO's report of a review under regulation 17(1); and
 - (c) has accepted should be taken on receipt of the CEO's report under regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996*.
- 1.6 The Audit Committee's duties include;
 - (a) considering the Auditor's interim audit of the Shire's accounting and internal control procedures for the financial year;
 - (b) reviewing the audited financial report for the previous financial year;
 - (c) reviewing the interim and final audit reports for the financial year;
 - (d) reviewing the annual Compliance Audit Return;
 - (e) reviewing the CEO's triennial report on the appropriateness and effectiveness of the Shire's systems and procedures regarding risk management, internal controls and legislative compliance;
 - (f) reviewing the CEO's triennial report on the appropriateness and effectiveness of the Shire's financial management systems and procedures; and
 - (g) considering the proposed timeline for Council to adopt the budget and the ten-year financial plan for the following financial year; and providing a report to council on those matters.

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7. AGENDA ITEMS

7.1 REGULATION 17 REVIEW – 2020 PROGRAM

FILE REFERENCE:	GV04
AUTHOR'S NAME AND POSITION:	John Bingham Director Corporate Services
AUTHORISING OFFICER AND POSITION:	Kenn Donohoe Chief Executive Officer
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	1 December 2020
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Ordinary Meeting of Council 8 September 2020 Adoption of Committee Minutes EnBloc.

Summary

This report sets out the findings of the Chief Executive Officer's review of systems and processes relating to legislative compliance, risk management and internal controls and provides actions to address these issues, as required by Regulation 17 of the *Local Government (Audit) Regulations*.

In accordance with Regulation 16 of the *Local Government (Audit) Regulations* requiring the Audit and Risk Committee to review a report given to it by the CEO under regulation 17(3) this item seeks the endorsement of the Audit and Risk Committee and recommendation to Council for adoption.

Background

Regulation 16(C) of the *Local Government (Audit) Regulations 1996* stipulates that the Audit Committee is to review a report given to it by the Chief Executive Officer (CEO) under Regulation 17 (3) of the *Local Government (Audit) Regulations 1996*. Regulation 17 of the *Local Government (Audit) Regulations 1996* provides that the CEO is to review the appropriateness and effectiveness of the local governments systems and procedures in relation to risk management, internal control and legislative compliance.

The Audit Committee is also required to report to the Council the results of that review and give a copy of the CEO's report to the Council.

Regulation 17 of the *Local Government (Audit) Regulations 1996* require the CEO to conduct a review of systems and procedures relating to legislative compliance, risk management and internal controls on a triennial basis.

The Department of Local Government, Sport and Cultural Industries (DLGSC) Operational Guidelines No.9 (revised September 2013) provides a useful overview of the issues that should be taken into account when undertaking a Regulation 17 review. A copy of the guideline is included as **ATTACHMENT 7.1A**. It is also worth noting that Section 7 of the Department's

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Western Australian Local Government Accounting Manual provides a comprehensive internal control framework related to internal control.

The Regulation 17 Audit incorporates the requirement under Regulation 5 (2) (c) of the *Local Government (Financial Management) Regulations 1996* which provides the Chief Executive Officer is to: 'Undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once every 3 financial years) and report to the local government the results of those reviews.'

Comment

The attached report from AMD Chartered Accountants and comments from Officers to address improvement opportunities

ATTACHMENT 7.1B

Consultation

Executive Leadership Team
Manager Finance and Administration
Manager Governance
Manager Fleet
ICT Specialist
Manager Community Services
Senior Procurement Officer

Statutory Environment

Local Government (Audit) Regulations 1996

16. *Functions of audit committee*

An audit committee has the following functions —

- (a) *to guide and assist the local government in carrying out —*
 - (i) *its functions under Part 6 of the Act; and*
 - (ii) *its functions relating to other audits and other matters related to financial management;*
- (b) *to guide and assist the local government in carrying out the local government's functions in relation to audits conducted under Part 7 of the Act;*
- (c) *to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to*
 - (i) *report to the council the results of that review; and*
 - (ii) *give a copy of the CEO's report to the council;*
- (d) *to monitor and advise the CEO when the CEO is carrying out functions in relation to a review under —*
 - (i) *regulation 17(1); and*
 - (ii) *the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c);*

17. *CEO to review certain systems and procedures*

- (1) *The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —*
 - (a) *risk management; and*
 - (b) *internal control; and*
 - (c) *legislative compliance.*
- (2) *The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.*
- (3) *The CEO is to report to the audit committee the results of that review.*

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Financial Implications

Implementing the recommendations of the Report that have financial impacts will be processed through normal budgetary processes.

Strategic Implications

Shire of Ashburton 10 Year Strategic Community Plan 2017-2027 (Desktop Review 2019)

Goal 05 Inspiring Governance
Objective 4 Exemplary team and work environment

Risk Management

Risk has been assessed on the basis of the Officers Recommendation.

Risk	Risk Likelihood	Risk Impact / Consequence	Risk Rating	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Compliance Failure to address areas for improvement identified in the Regulation 17 report	Possible (3)	Minor (2)	Moderate (6)	Some temporary non compliances	Adopt Officer recommendation.

The following Risk Matrix has been applied.

Risk Matrix						
Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

Adoption of this item has been evaluated against the Shire of Ashburton’s Risk Management Policy CORP5 Risk Matrix. The perceived level of risk is considered to be moderate. The plan addresses outstanding items and regular monitoring and reporting will be undertaken with quarterly reporting to the Audit and Risk Management Committee.

Policy Implications

Various policies may need to be amended to support implementation of improvements as a result of this review. This will take place over the coming months though the policy review process.

Voting Requirement

Simple Majority Required

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Officers Recommendation and Committee Decision

MINUTE: 215/2020

MOVED: Cr D Diver

SECONDED: Cr K White

That with respect to the Regulation 17 Review - 2020 Program, the Audit and Risk Management Committee recommends to Council that the program of suggested improvements/opportunities to address the Regulation 17 Risk Audit (ATTACHMENT 7.1B) be adopted and reported quarterly.

CARRIED 7/0

8. CONFIDENTIAL MATTERS

Under the Local Government Act 1995, Part 5, and Section 5.23, states in part:

- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —***
- (a) *a matter affecting an employee or employees; and***
 - (b) *the personal affairs of any person; and***
 - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;***
 - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and***
 - (e) *a matter that if disclosed, would reveal —***
 - (i) *a trade secret; or***
 - (ii) *information that has a commercial value to a person; or***
 - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and***
 - (f) *a matter that if disclosed, could be reasonably expected to —***
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or***
 - (ii) *endanger the security of the local government's property; or***
 - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;***
 - (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and***
 - (h) *such other matters as may be prescribed.***

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Council Decision

MOVED: Cr M Lynch

SECONDED: Cr M Gallanagh

That Council move behind closed doors at 11.21 am to consider the following Confidential Items.

8.1 CONFIDENTIAL ITEM - UPDATE ON WITTENOOM LITIGATION, USE OF DELEGATION, WITTENOOM STEERING COMMITTEE, SENIOR COUNSEL LEGAL BRIEF AND ADVICE AND ROEBOURNE - WITTENOOM ROAD

pursuant to sub section 5.23 (2) (a) (b) (c) and (d) of the *Local Government Act 1995* which provides:

- (b) the personal affairs of any person;**
- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;**
 - (I) a matter that if disclosed, would reveal;**
 - (II) a trade secret;**
 - (III) information that has a commercial value to a person; or**
 - (IV) information about the business, professional, commercial or financial affairs of a person.**

CARRIED 7/0

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8.1 CONFIDENTIAL ITEM - UPDATE ON WITTENOOM LITIGATION, USE OF DELEGATION, WITTENOOM STEERING COMMITTEE, SENIOR COUNSEL LEGAL BRIEF AND ADVICE AND ROEBOURNE - WITTENOOM ROAD

FILE REFERENCE:	LS34
AUTHOR'S NAME AND POSITION:	Janyce Smith Senior Administration Officer
AUTHORISING OFFICER AND POSITION:	John Bingham Director Corporate Services
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	27 November 2020
DISCLOSURE OF FINANCIAL INTEREST:	The authors and the authorising officer have no financial proximity or impartiality interests in the proposal
PREVIOUS MEETING REFERENCE:	Confidential Agenda Item 8.1 (Minute No. 136/2020) Audit and Risk Committee Meeting 8 September 2020

REASON FOR CONFIDENTIALITY

The Director Corporate Services Report is confidential in accordance with *s5.23 (2) the Local Government Act 1995* because it deals with matters affecting *s5.23 (2)*:

- (b) the personal affairs of any person;*
- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.*

Officers Recommendation and Committee Decision

MINUTE: 216/2020

MOVED: Cr D Diver

SECONDED: Cr K White

That with respect to the Confidential Item – Update on Wittenoom Litigation, Use of Delegation, Wittenoom Steering Committee, Senior Counsel Legal Advice and Roebourne - Wittenoom Road, the Audit and Risk Management Committee recommend Council:

- 1. Receive the Confidential Item – Update on Wittenoom Litigation, Use of Delegation, Wittenoom Steering Committee, Senior Counsel Brief and Advice and Roebourne - Wittenoom Road (CONFIDENTIAL ATTACHMENTS 8.1A & B) and remain confidential in accordance *s5.23 (2)(b) & (d)* of the *Local Government Act 1995*; and**
- 2. Ensure that the Shire management continue to provide Wittenoom related reports to the Audit and Risk Management Committee.**

CARRIED 7/0

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Council Decision

MOVED: Cr M Gallanagh

SECONDED: Cr M Lynch

That Council re-open the meeting to the public at 11.25 am pursuant to sub section 5.23 (2) (a) and (b) of the *Local Government Act 1995*.

CARRIED 7/0

9. NEXT MEETING

The next Audit and Risk Management Committee Meeting will be held on Tuesday 16 March 2021 at the Onslow Sports Club, Third Avenue, Onslow at a time to be advised.

10. CLOSURE OF MEETING

The Presiding Member closed the meeting at 11.25 am.