



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

**CONFIRMED MINUTES
(Public Document)**

**Council Chambers, Onslow Shire Complex, Second
Avenue, Onslow**

**CONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT
COMMITTEE MEETING 10 MARCH 2020**

**SHIRE OF ASHBURTON
ORDINARY MEETING OF COUNCIL**

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

ACTING CEO:

P. J. Heedy

Date: 10.03.2020

These minutes were confirmed by Council as a true and correct record of proceedings of the Ordinary Meeting of Council on the 10.03.2020.

Presiding Member:

[Signature]

Date:

10/03/2020

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.

**CONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT COMMITTEE
MEETING 10 MARCH 2020**

1.	DECLARATION OF OPENING.....	4
1.1	ACKNOWLEDGEMENT OF COUNTRY	4
2.	ATTENDANCE	4
2.1	PRESENT	4
2.2	APOLOGIES.....	4
2.3	APPROVED LEAVE OF ABSENCE	4
3.	ANNOUNCEMENT OF VISITORS.....	4
4.	DECLARATION BY MEMBERS.....	5
4.1	DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA	5
4.2	DECLARATIONS OF INTEREST	5
5.	CONFIRMATION OF MINUTES OF PREVIOUS MEETING	6
5.1	AUDIT AND RISK COMMITTEE MEETING HELD ON 17 DECEMBER 2019	6
6.	TERMS OF REFERENCE	7
7.	AGENDA ITEMS	8
7.1	LOCAL GOVERNMENT COMPLIANCE AUDIT RETURN FOR 2019	8
8.	CONFIDENTIAL MATTERS	10
8.1	CONFIDENTIAL ITEM - UPDATE ON WITTENOOM LITIGATION, USE OF DELEGATION, WITTENOOM STEERING COMMITTEE, SENIOR COUNSEL LEGAL ADVICE AND ROEBOURNE - WITTENOOM ROAD	12
9.	NEXT MEETING	14
10.	CLOSURE OF MEETING	14

**CONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT COMMITTEE
MEETING 10 MARCH 2020**

1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at 9.01 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 D Dias Cr L Rumble Cr M Lynch Cr D Diver Cr M Gallanagh Cr R de Pledge Cr J Richardson	Tom Price Ward (Presiding Member) Onslow Ward Paraburdoo Ward Paraburdoo Ward Tom Price Ward Tom Price Ward Pannawonica Ward Ashburton Ward Tablelands Ward
Staff:	Mr P Sheedy Mr J Bingham Mr B Cameron Mr D Bailey Mrs J Fell Ms J Smith Mrs M Lewis Mrs K Cameron	Acting Chief Executive Officer Director Corporate Services Director Property and Development Services Manager Projects and Assets Manager Land and Asset Compliance Executive Coordinator Council Liaison Officer Governance Officer (entered at 9.04 am)
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

Mr Alan McColl	Acting Director Infrastructure
Mrs K Bartley	Director Community Services

2.3 APPROVED LEAVE OF ABSENCE

There were no approved applications for leave of absence for this meeting.

3. ANNOUNCEMENT OF VISITORS

There were no visitors for this meeting.

**CONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT COMMITTEE
MEETING 10 MARCH 2020**

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.

**CONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT COMMITTEE
MEETING 10 MARCH 2020**

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 were no Declaration of Interests provided.		

5. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

5.1 AUDIT AND RISK COMMITTEE MEETING HELD ON 17 DECEMBER 2019

<p>Council Decision</p> <p>MOVED: Cr L Rumble SECONDED: Cr M Lynch</p> <p>That the Unconfirmed Minutes of the Audit and Risk Committee Meeting held on 17 December 2019 (ATTACHMENT 5.1) be confirmed as a true and accurate record subject to the following amendments:</p> <p>That Minute Numbers 687/2019 - 689/2019 for the Unconfirmed Minutes of the Audit and Risk Management Committee be amended to the following - 717/2019 to 719/2019.</p> <p>Reason for change – Change required due to error in Synergy recording.</p> <p style="text-align: right;">CARRIED 9/0</p>
--

**CONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT COMMITTEE
MEETING 10 MARCH 2020**

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.

**CONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT COMMITTEE
MEETING 10 MARCH 2020**

7. AGENDA ITEMS

7.1 LOCAL GOVERNMENT COMPLIANCE AUDIT RETURN FOR 2019

MINUTE: 22/2020

FILE REFERENCE: GV32

AUTHOR'S NAME AND POSITION: Kathy Cameron
Governance Support Officer

AUTHORISING OFFICER AND POSITION: Paul Sheedy
Acting Chief Executive Officer

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 25 February 2020

DISCLOSURE OF FINANCIAL INTEREST: The author and authorising officer have no financial, proximity or impartiality interests in the proposal.

PREVIOUS MEETING REFERENCE: Agenda Item 9.2.1 Ordinary Meeting of Council 12 March 2019

Summary

Each local government is to carry out a Compliance Audit annually. This Compliance Audit Return is for the period of 1 January to 31 December 2019.

The Return for the year 2019 is presented to the Audit and Risk Committee for review and approval, prior to presentation to Council for Adoption.

Background

The Compliance Audit Return is to assist Council in monitoring its organisational functions. Council is required to note any areas of non-compliance and endorse remedial action.

The Audit is provided by the Department of Local Government, Sport and Cultural Industries through their secure website platform called Smart Hub. The same audit is required to be completed by every WA local government. The Department considers, from a large range of issues it can audit, which ones will be specific to the year in question (i.e. each year the audit questions can change).

For 2019, there were 104 questions over 11 disciplines. The return has been completed by the respective areas and it was noted that the following are non-compliant:

- Item 8 Delegations of Power/Duty;
- Item 2 Optional Questions;
- Item 1 Tenders for providing Goods and Services; and
- Item 27 Tenders for Providing Goods and Services.

CONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT COMMITTEE MEETING 10 MARCH 2020

All explanations and actions to be taken are stated in **ATTACHMENT 7.1**.

Comment

The Return is required to be presented to Council for adoption before its submission to the Department of Local Government and Communities.

Consultation

Executive Management Team

Statutory Environment

Section 7.13 of the *Local Government Act 1995*, and
Regulations 13, 14 & 15 of the *Local Government (Audit) Regulations 1996*.

Financial Implications

There are no known financial implications for this matter.

Strategic Implications

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

Goal 05 Inspiring Governance
Objective 3 Council leadership

Risk Management

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 "High". The high level of risk is being driven by the risk of a compliance breach requiring an internal investigation. As a high risk matter, the Chief Executive Officer and his staff actively monitor these matters.

Policy Implications

There are no known policy implications for this matter.

Voting Requirement

Simple Majority Required

Kathy Cameron entered the meeting at 9.04 am.

Committee Recommendation and Council Decision

MOVED: Cr M Lynch

SECONDED: Cr R de Pledge

That with respect to the Local Government Compliance Audit Return for 2019, the Audit and Risk Management Committee recommend, Council:

- 1. Accept the Compliance Audit Return (ATTACHMENT 7.1) of the Council for the period 1 January to 31 December 2019 and;**
- 2. Submit a certified copy of the Compliance Audit Return to the Director General of the Department of Local Government Sport and Cultural Industries by 31 March 2020.**

CARRIED 9/0

**CONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT COMMITTEE
MEETING 10 MARCH 2020**

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.*

**CONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT COMMITTEE
MEETING 10 MARCH 2020**

Council Decision

MOVED: Cr D Diver

SECONDED: Cr M Gallanagh

That Council move behind closed doors at 9.12 am to consider the following Confidential Items.

8.1 CONFIDENTIAL ITEM - UPDATE ON WITTENOOM LITIGATION, USE OF DELEGATION, WITTENOOM STEERING COMMITTEE, SENIOR COUNSEL LEGAL 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 9/0

**CONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT COMMITTEE
MEETING 10 MARCH 2020**

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

MINUTE: 23/2020

FILE REFERENCE: LS34

AUTHOR'S NAME AND POSITION: Keith Pearson
Special Projects Advisor

Janyce Smith
Executive Officer

Alan Mccoll
Acting Director Infrastructure Services

AUTHORISING OFFICER AND POSITION: Paul Sheedy
Acting Chief Executive Officer

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 28 February 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 18.5 (Minute No. 757/2020)
Ordinary Meeting of Council 11 February 2020

Confidential Agenda Item 8.1 (Minute No 631/2019) –
Audit and Risk Committee Meeting 18 September 2019

REASON FOR CONFIDENTIALITY

The Acting Chief Executive Officer's 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.*

Committee Recommendation and Council Decision

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:

**CONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT COMMITTEE
MEETING 10 MARCH 2020**

1. Receive the Confidential Item – Update on Wittenoom Litigation, Use of Delegation, Wittenoom Steering Committee, Senior Counsel Legal Advice and *Roebourne - Wittenoom Road* (CONFIDENTIAL ATTACHMENTS 8.1A, 8.1B) 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 9/0

Council Decision

MOVED: Cr D Diver

SECONDED: Cr J Richardson

That Council re-open the meeting to the public at 9.20 am pursuant to sub section 5.23 (2) (a) and (b) of the *Local Government Act 1995*.

CARRIED 9/0

**CONFIRMED PUBLIC MINUTES- AUDIT AND RISK MANAGEMENT COMMITTEE
MEETING 10 MARCH 2020**

9. NEXT MEETING

The next Audit and Risk Committee Meeting will be held on Tuesday 9 June 2020 at the Ashburton Hall, Ashburton Avenue, Paraburdoo at a time to be advised.

10. CLOSURE OF MEETING

The Presiding Member closed the meeting at 9.21 am.