

**SHIRE OF EAST PILBARA**

These minutes were confirmed by the council as a true and accurate record at the ordinary council meeting held on 24/11/2023



Unconfirmed copy of Ordinary Minutes of Special Council Meeting held on 27 October 2023 subject to confirmation at Ordinary Council Meeting to be held on 24 November 2023

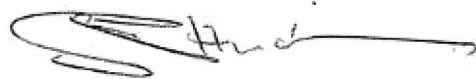


**EAST PILBARA SHIRE COUNCIL**

**MINUTES**

**SPECIAL COUNCIL MEETING**

**NOTICE IS HEREBY GIVEN** that a  
**SPECIAL MEETING OF THE COUNCIL**  
will be held in  
Council Chambers, Newman  
10.30AM FRIDAY, 27 OCTOBER 2023



**STEVEN HARDING**  
**CHIEF EXECUTIVE OFFICER**



## DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of East Pilbara for any act, omission or statement or intimation occurring during Council or Committee Meetings. The Shire of East Pilbara disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee Meeting does so at that person's or legal entity's own risk.

In particular and without derogating any planning application or application of a licence, any statement or intimation of approval made by any member or Officer of the Shire of East Pilbara during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of East Pilbara.

The Shire of East Pilbara warns that anyone who has any application lodged with the Shire of East Pilbara must obtain and should only rely on

## WRITTEN CONFIRMATION

of the outcome of the application and any conditions attaching to the decision made by the Shire of East Pilbara in respect of the application. Please be advised this Agenda may include the names of people who are deceased.

A handwritten signature in black ink, appearing to read 'S. Harding'.

Steven Harding  
Chief Executive Officer

6 October 2023

Mr Steven Harding  
Chief Executive Officer  
Shire of East Pilbara  
PMB 22  
NEWMAN WA 6753

Dear Mr Harding

**NOTICE PURSUANT TO SECTION 5.4(a)(i) – SPECIAL COUNCIL MEETING**

Pursuant to section 5.4(a)(i) of the *Local Government Act 1995*, I give notice of a Special Meeting of the Council to be convened on Friday, 27 October 2023 commencing at 10.30am.

The purpose of the Special Meeting is to consider the following matters:

- Election of Deputy Presidents;
- Election of Members to Committees and External Groups;
- Setting of Meeting Dates for 2023/24; and

any other items that are considered by you to be necessary for inclusion on the Agenda.

Yours sincerely



Anthony Middleton  
Shire President

**Disclosure of Financial, Proximity and Impartiality Interests**  
*Sections 5.65, 5.70 and 5.71 of the Local Government Act 1995*

<i>This form must be used by councillors, committee members and officers to disclose an interest in a matter in accordance with ss5.65, 5.71 and 5.71 of the Local Government Act 1995</i>	
Name	
Position	
Date of Meeting	
Type of Meeting	Council / Committee / Corporation Information / Workshop
<b>Interest Disclosed</b>	
Item Number and Title	
Nature of Interest	
Type of Interest	Financial / Proximity / Impartiality
How I will manage the conflict of interest	<input type="checkbox"/> Leave the room and take no part in the discussion <input type="checkbox"/> Make Impartiality Interest statement that I will consider the item on its merits and vote accordingly
<b>Interest Disclosed</b>	
Item Number and Title	
Nature of Interest	
Type of Interest	Financial / Proximity / Impartiality
How I will manage the conflict of interest	<input type="checkbox"/> Leave the room and take no part in the discussion <input type="checkbox"/> Make Impartiality Interest statement that I will consider the item on its merits and vote accordingly

Signed: \_\_\_\_\_ Date: \_\_\_ / \_\_\_ / \_\_\_

When disclosing an **Impartiality Interest**, you must make the following declaration prior to consideration and discussion of the item:

**"In relation to Agenda Item \_\_\_\_ (read item number and title), I disclose that I have an impartiality interest because \_\_\_\_\_ (state the nature of the interest). As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."**

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## TABLE OF CONTENTS

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ITEM	SUBJECT	PAGE NO
1	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS.....	1
2	ATTENDANCE BY INSTANTANEOUS COMMUNICATIONS.....	1
3	RECORD OF ATTENDANCES/APOLOGIES/LEAVE OF ABSENCE .....	1
2.1	ATTENDANCE.....	1
2.2	APOLOGIES .....	2
2.3	LEAVE OF ABSENCE .....	2
4	DISCLOSURES OF INTEREST .....	2
5	PUBLIC QUESTION TIME .....	2
6	ELECTION OF DEPUTY SHIRE PRESIDENT.....	3
7	ALLOCATION OF COUNCILLOR SEATING .....	5
8	OFFICER'S REPORTS .....	6
8.1	COUNCIL COMMITTEES – APPOINTMENT OF MEMBERS.....	6
8.2	LOCAL EMERGENCY MANAGEMENT COMMITTEES – APPOINTMENT OF MEMBERS.....	14
8.3	EXTERNAL GROUPS – APPOINTMENT OF REPRESENTATIVES.....	20
8.4	ORDER OF BUSINESS .....	25
8.5	COUNCIL MEETING DATES FOR 2023/24 .....	28
8.6	COMMITTEE MEETING DATES FOR 2023/24 .....	31
8.7	PETITION – DANGEROUS DOGS .....	34
9	CONFIDENTIAL MATTERS BEHIND CLOSED DOORS.....	40
9.1	AWARD OF CONTRACT – PROVISION OF WASTE MANAGEMENT SERVICES (NEWMAN) .....	40
9.2	AWARD OF TENDER – VP 01-2023/24 – SUPPLY AND DELIVERY OF ONE (1) NEW LOADER (WASTE SERVICES)..	41

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9.3      AWARD OF TENDER - RFT 02-2023/24 – SUPPLY AND  
            INSTALLATION OF A RAGE CAGE – NULLAGINE ..... 42

**10      CLOSURE ..... 43**

## 1 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Shire President and Presiding Member declared the Shire of East Pilbara Special Council Meeting of 27 October 2023 open at 10.30am at the Newman Council Chambers.

The President acknowledged the Traditional Owners of the land on which the Council met, the Nyamal People, and their continuing connection to the land, waters and community. The Council paid its respects to all their Elders, past, present and emerging.

All present were requested to turn off and refrain from using their mobile phones for the duration of the meeting. Tablets and Laptops were permitted for the purpose of accessing agenda items.

All present were also advised that the meeting was being live streamed and audio recorded which can be accessed by members of the public and the media, as such Council Members were reminded to refrain from making any defamatory statements.

## 2 ATTENDANCE BY ELECTRONIC MEANS

Nil for this meeting.

## 3 RECORD OF ATTENDANCES/APOLOGIES/LEAVE OF ABSENCE

### 3.1 ATTENDANCE

#### Council Members

Cr Anthony Middleton	Shire President
Cr Wendy McWhirter-Brooks	Deputy Shire President / Councillor
Cr Lee Anderson	Councillor
Cr David Evrett	Councillor
Cr David Kular	Councillor
Cr Karen Lockyer	Councillor

#### Officers

Steven Harding	Chief Executive Officer
Cherie Delmage	A/Director Corporate Services
Paul Miller	A/Director Community Services
Etienne Vorster	A/Director Infrastructure Services
Joshua Brown	Manager Governance, Risk and Procurement
Sally Fry	Governance Administration Officer (Attending Remotely)
Tehsin Ali	Governance Administration Officer (Attending Remotely)

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### 3.2 APOLOGIES

Cr Peta Baer  
Cr Annabell Landy  
Vic Etherington

Councillor  
Councillor  
Director Aviation and Regulatory Services

### 3.3 LEAVE OF ABSENCE

**COUNCIL DECISION**  
(Resolution No: 2023/ 152)

**Moved:** Cr Lockyer  
**Seconded:** Cr Kular

**That a Leave of Absence for:**

- **Cr Peta Baer**

for the Special Council Meeting of 27 October 2023 be granted.

**CARRIED UNANIMOUSLY**  
**RECORD OF VOTE: 6/0**

**For:** Shire President, Cr McWhirter-Brooks, Crs Lockyer, Anderson, Kular,  
Evrett

**Against:** Nil

## 4 DISCLOSURES OF INTEREST

Nil

## 5 PUBLIC QUESTION TIME

Nil



## 6 ELECTION OF DEPUTY SHIRE PRESIDENT

### Procedure

Schedule 2.3, Division 2, Clause 7(1)(a) of the *Local Government Act 1995* (“the Act”) requires that an election be conducted for the position of Deputy President as the first item of business at the first meeting of Council following an ordinary local government election.

The President is to conduct the election in accordance with the prescribed procedure, detailed below. In the absence of the President, the Chief Executive Officer will conduct the Election.

The Election is to be conducted as follows:

1. Nominations for the office are to be given to the person conducting the election in writing before the meeting or during the meeting before the close of nominations.
2. Nominations close at the meeting at a time announced by the person conducting the election, which is to be a sufficient time after the announcement by that person that nominations are about to close to allow for any nominations made to be dealt with.
3. If a councillor is nominated by another councillor the person conducting the election is not to accept the nomination unless the nominee has advised the person conducting the election, orally or in writing, that he or she is willing to be nominated for the office.
4. Council members are to vote on the matter by secret ballot as if they were electors voting at an election.
5. Unless the vote is tied (see below), the votes cast are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 of the Act as if those votes were votes cast at an election.

### A Tied Vote

6. If, when the votes cast are counted, there is an equality of votes between two (2) or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and, not more than seven (7) days later, a special meeting of the council is to be held.
7. Any nomination for the office may be withdrawn, and further nominations may be made, before or when the special meeting is held.
8. When the special meeting is held the council members are to vote again on the matter by secret ballot as if they were voting at an election.
9. The votes cast at the special meeting are to be counted, and the successful candidate determined, under Schedule 4.1 of the Act as if those votes were votes cast at an election.

### Declaration of the Result

10. As soon as is practicable after the result of the election is known, the person conducting the election is to declare and give notice of the result in accordance with regulations, if any.

Nominations for the Office of Deputy Shire President were received from Cr Peta Bear and Cr Wendy McWhirter-Brooks.

Both Council Members indicated that they accepted their nominations. The President proceeded to conduct the Election in accordance with clause 8 of Schedule 2.3 of the Act.

Ballot papers were prepared and distributed to Council Members present in the Chamber by the Manager Governance, Risk and Procurement.

All Council Members present in the Chamber cast a vote in the secret ballot. The result of the ballot was declared by the President as follows:

MCWHIRTER-BROOKS, Wendy 5 votes

BAER, Peta 1 vote

Informal 0 votes

**Declaration of Election:**  
(Resolution No: 2023/ 153)

**Cr Wendy McWhirter-Brooks** was elected to the office of Deputy Shire President of the Council of the Shire of East Pilbara for a two year term expiring on 18 October 2023.

## 7 ALLOCATION OF COUNCILLOR SEATING

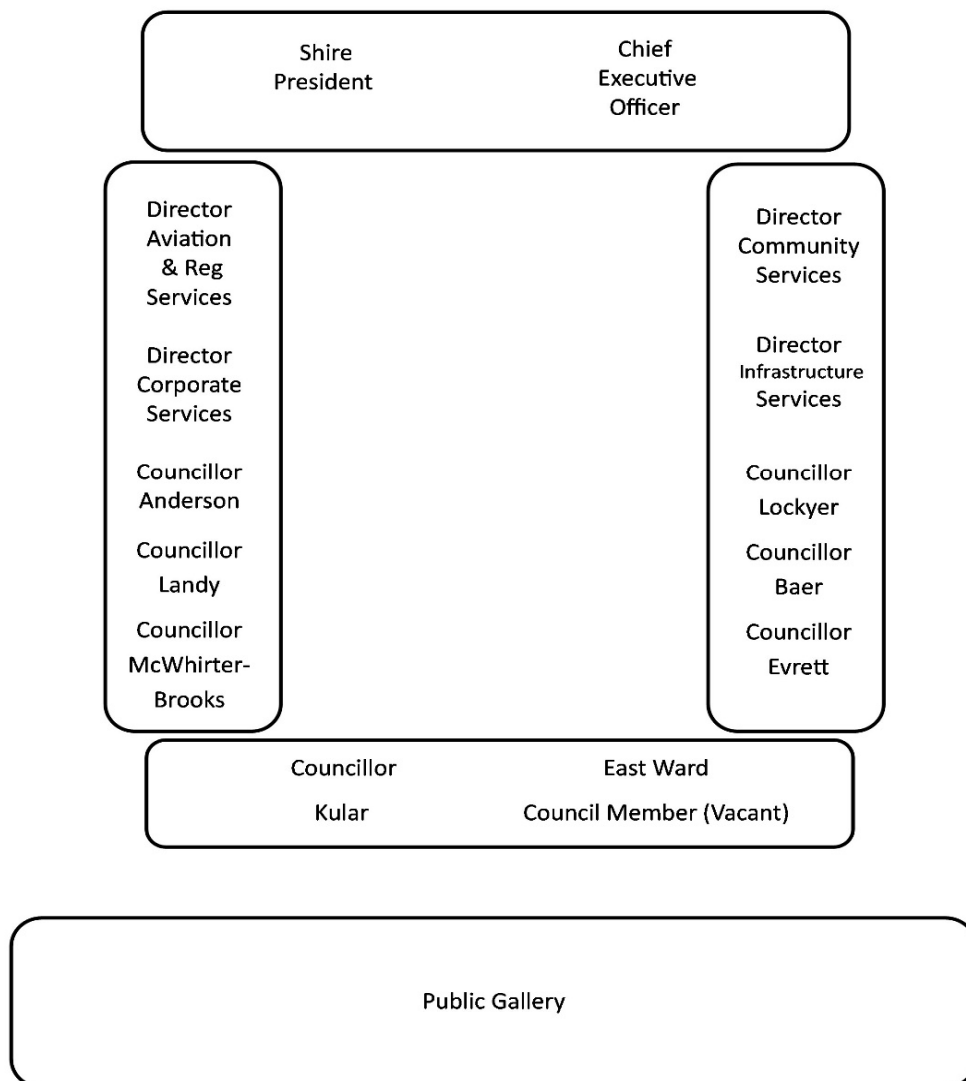
(Resolution No: 2023/ 154)

A seating plan of the Council Chambers is included in the Agenda (below). The seats of President, Chief Executive Officer, Directors and Governance staff are identified in the seating plan. A draw of lots will be undertaken by the Chief Executive Officer to allocate Councillors' seating in the Council Chambers. The vacant seat in East Ward will also be allocated during this process.

Seating positions determined at this meeting and depicted in the below Seating Plan will be in place until such time as Council determines otherwise by resolution, or until the next Ordinary Local Government Election.

### COUNCIL CHAMBERS SEATING PLAN

Minute  
Taker



## 8 OFFICER'S REPORTS

### 8.1 COUNCIL COMMITTEES – APPOINTMENT OF MEMBERS

**Attachments:** [Appendix 1 Audit, Risk and Governance Committee Terms of Reference](#)  
[Appendix 2 Plant Committee Terms of Reference](#)  
[Appendix 3 Shire Airports Committee Terms of Reference](#)  
[Appendix 4 CEO Performance Review Committee Terms of Reference](#)  
[Appendix 5 Schedule 4.1 Local Government Act 1995.](#)

**Responsible Officer:** Steven Harding  
Chief Executive Officer

**Author:** Joshua Brown  
Manager Governance, Risk and Procurement

**Proposed Meeting Date:** 27 October 2023

**Location/Address:** N/A

**Name of Applicant:** N/A

**Author Disclosure of Interest:** Nil

#### COUNCIL RESOLUTION

(Resolution No: 2023/ 155)

**Moved:** Cr McWhirter-Brooks

**Seconded:** Cr Lockyer

**That Members for appointment to Committees and External Groups be determined by election using optional preferential voting method.**

**CARRIED BY AN ABSOLUTE MAJORITY  
RECORD OF VOTE: 6/0**

**For:** Shire President, Cr McWhirter-Brooks, Lockyer, Anderson, Kular, Evrett

**Against:** Nil

**COUNCIL RESOLUTION**

(Resolution No: 2023/ 156)

**Moved:** Cr Lockyer

**Seconded:** Cr McWhirter-Brooks

1. That Council abolishes the Plant Committee and the Shire Airports Advisory Committee;
2. Amends the Register of Delegations and Authorisations and Procurement and Tenders Procedures Policy by replacing all references to the Plant Committee with Council; and
3. That Council appoints the following Councillors to the following Committees of Council for a term which expires at the 2025 Ordinary Local Government Elections:

**Audit Risk and Governance Committee**

Members		Deputy Members	
1.	Cr Middleton	1.	Cr Lockyer
2.	Cr Baer	2.	Cr McWhirter-Brooks
3.	Cr Anderson	3.	Cr Evrett

**Chief Executive Officer Performance Review Committee**

Members		Deputy Members	
1.	Cr Middleton	1.	Cr Anderson
2.	Cr Lockyer	2.	Cr Baer
3.	Cr McWhirter-Brooks	3.	Cr Landy
4.	Cr Kular	4.	Cr Evrett

**CARRIED BY AN ABSOLUTE MAJORITY  
RECORD OF VOTE: 6/0**

**For:** Shire President, Cr McWhirter-Brooks, Lockyer, Anderson, Kular, Evrett

**Against:** Nil

**Reasons for Decision**

That the Plant and Airport Committees have no delegated authority to make decisions and that items reported to these Committees must be returned to the Council for determination in any case.

The Officer Recommendation as detailed below was amended during discussion and resulted in the abolition of the Plant and the Shire Airports Advisory Committees. The adopted motion as amended is recorded above.

**OFFICERS RECOMMENDATION**

That Council appoints the following Councillors to the following Committees of Council for a term which expires at the 2025 Ordinary Local Government Elections:

Audit, Risk and Governance Committee

Members		Deputy Members	
1.		1.	
2.		2.	
3.		3.	

Plant Committee

Members		Deputy Members	
1.	Cr	1.	Cr
2.	Cr	2.	Cr
3.	Cr	3.	Cr
4.	Cr	4.	Cr

**Dissolved**

Shire Airports Advisory Committee

Members		Deputy Members	
1.	Cr	1.	Cr
2.	Cr	2.	Cr
3.	Cr	3.	Cr
4.	Cr	4.	Cr

Chief Executive Officer Performance Review Committee

Members		Deputy Members	
1.		1.	
2.		2.	
3.		3.	
4.		4.	

**REPORT PURPOSE**

For Council to appoint members to the following committees of Council:

- Audit, Risk and Governance Committee;
- Plant Committee;
- Shire Airports Advisory Committee; and
- Chief Executive Officer Performance Review Committee.

**BACKGROUND**

Council has established committees to assist it, and to provide advice and recommendations.

Membership of all committees became vacant on 21 October 2023 in accordance with s.5.11(d) of the *Local Government Act 1995* (“the Act”) and new members and deputy members are recommended for election.

**COMMENTS/OPTIONS/DISCUSSIONS**

Audit, Risk and Governance Committee

The Audit, Risk and Governance Committee (“the ARG Committee”) is established pursuant to s.7.1A of the Act, and consists of three or more members, with a minimum of three councillors, who must make up the majority of members.

Council may also appoint deputy members. Committee members cannot include the Chief Executive Officer or any other employee of the Shire.

The *Local Government (Audit) Regulations 1996* (“the Audit Regulations”) prescribe the functions of the ARG Committee:

- to guide and assist the Local Government in carrying out:
  - functions relating to financial management audits and other related matters; related to financial management;
  - Council’s audit function, including financial, performance and supplementary audits;
  - reviews of reports provided to the CEO under reg. 17(3) of the Audit Regulations;
- monitoring and reporting to the CEO on functions in relation to reviews under reg. 17(1) of the Regulations and reg. 5(2)(c) of the *Local Government (Financial Management) Regulations 1996* (“the Financial Management Regulations”);
- to support Council’s auditor to conduct an audit and carry out the auditor’s other duties under the Act;
- oversight of the implementation of any action that the Council is required to take pursuant to Part 7 of the Act or following receipt of a report of a review conducted under reg. 17(1) of the Audit Regulations or reg 5(2)(c) of the Financial Management Regulations;
- any other function conferred on the Committee by the Audit Regulations or another written law; and
- to review the Shire’s annual compliance audit return and report the results of that review to Council.

Council reviewed and adopted the current committee terms of reference on 24 February 2023 ([Appendix 1](#)). They are scheduled to be reviewed again following the election.

The ARG Committee’s Membership prior to its dissolution on 21 October 2023 was:

<b>Members</b>	<b>Deputy Members</b>
Cr Middleton (Chair)	Cr Anick
Cr McWhirter-Brooks (Deputy Chair)	Cr Baer
Cr Lockyer	Cr Mortimer

### Plant Committee

At its meeting on 25 January 2019, Council resolved to establish a Plant Committee with the purpose of assisting Council with respect to the Shire of East Pilbara’s plant and machinery assets.



Council reviewed and adopted the current committee terms of reference on 24 February 2023 (Appendix 2). They are scheduled to be reviewed again following the election.

The Plant Committee's membership prior to its dissolution on 21 October 2023 was:

<b>Members</b>	<b>Deputy Members</b>
Cr Coppin (Chair)	Cr Smith
Cr Lockyer (Deputy Chair)	Cr Middleton
Cr Baer	Cr McWhirter-Brooks
Cr Anick	Cr Mortimer

Shire Airports Advisory Committee

The purpose of the Shire Airports Advisory Committee is to assist Council with respect to the Shire of East Pilbara's airports and airfield infrastructure.

Council reviewed and adopted the current committee terms of reference on 24 February 2023 (Appendix 3). They are scheduled to be reviewed again following the election.

The Shire Airports Advisory Committee's membership prior to its dissolution on 21 October 2023 was:

<b>Members</b>	<b>Deputy Members</b>
Cr Middleton (Chair)	Cr Anick
Cr McWhirter-Brooks (Deputy Chair)	Cr Smith
Cr Coppin	Cr Lockyer
Cr Kular	Cr Landy

Chief Executive Officer Performance Review Committee

The Council has established a Chief Executive Officer (CEO) Performance Review Committee ("the CEOPR Committee") to meet the model Standards for CEO Recruitment, Performance and Termination as set out in Division 3 of Schedule 2 of the *Local Government (Administration) Regulations 1996*.

The Committee must include the President as the presiding member.

The CEOPR Committee's purpose is:

1. To undertake the review of the CEO's performance in accordance with Schedule 2 of the Regulations.
2. To recommend performance criteria (KPIs) with the agreement of the Chief Executive Officer, to Council for adoption.
3. To conduct the annual review of the Chief Executive Officer Total Remuneration Package.

Council reviewed and adopted the current committee terms of reference on 24 February 2023 ([Appendix 4](#)). They are scheduled to be reviewed again following the election.

The CEOPR Committee's membership prior to its dissolution on 21 October 2023 was:

<b>Members</b>	<b>Deputy Members</b>
Cr Middleton (Chair)	Cr Kular
Cr Coppin	Cr Baer
Cr Lockyer	Cr Landy
Cr McWhirter-Brooks	Cr Anick

#### Process of Appointment

Council may appoint by an absolute majority members of each committee. The terms of reference of each committee stipulates that membership comprises of Council Members only.

In the circumstances where more Council Members nominate for appointment as members of a committee than there are positions, then an election is to be held in accordance with Schedule 4.1, Division 3 of the Act (attached as Appendix 5).

At any given time each Council Member is entitled to be a member of at least one committee of Council and if a Council Member nominates themselves to be a member of a committee and is not a member of any other committee, Council must appoint that Council Member to that Committee. If a Council Member nominates themselves to be appointed to more than one Committee, Council must appoint that Council Member to at least one committee as it decides [s.5.10 (2) of the Act].

Section 5.10(4) of the Act provides that if the president informs the Council of their wish to be a member of a committee, the Council must appoint the president to be a member of that committee.

Council may appoint by an absolute majority Council Members to be deputy members of each committee. Any deputy member may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause. A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member [ss.5.11A(2)(a),(3) and (4) of the Act].

Deputy members are not deputies to specific members. In the circumstances of more than one deputy member being present at a meeting of a committee, the committee shall vote to determine the deputy member entitled to exercise the functions of the absent member.

Committee membership continues until whichever the first of the following circumstances arise:

- a. the term, as set by Council of the person's appointment as a committee member expires; or
- b. Council removes the member from office or the office of committee member otherwise becomes vacant; or
- c. the next ordinary elections day [s.5.11(2)].

### **STATUTORY IMPLICATIONS/REQUIREMENTS**

Consistent with part 5, subdivision 2 and section 7.1A of the *Local Government Act 1995*.

### **POLICY IMPLICATIONS**

The appointment of members to the committees of Council is consistent with existing Council policy.

### **STRATEGIC COMMUNITY PLAN**

#### **5: Governance**

- G1 Vibrant local democracy, forward-thinking civic leadership, and transparent stewardship of the community's assets and resources.
- G1.1 Continued focus on good governance, transparency and community and stakeholder engagement in significant decisions, including place-based plans.
- G1.4 Ensure a high standard of organisational management and effectiveness

### **RISK MANAGEMENT CONSIDERATIONS**

Compliance - Insignificant

### **FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

### **VOTING REQUIREMENTS**

Absolute Majority.

**AUDIT, RISK AND GOVERNANCE COMMITTEE**  
**TERMS OF REFERENCE**  
**(Adopted 24 February 2023)**

<b>Name</b>	Audit, Risk and Governance Committee
<b>Definitions</b>	<p><b>CEO</b> means the Chief Executive Officer</p> <p><b>Committee</b> means the Audit, Risk and Governance Committee</p> <p><b>Shire</b> means the Shire of East Pilbara</p> <p><b>The Act</b> means the <i>Local Government Act 1995</i></p>
<b>Purpose</b>	<p>The objectives of the Committee are to oversee:</p> <ol style="list-style-type: none"> <li>1. The credibility and objectivity of financial reporting;</li> <li>2. The effective management of financial and other risks and protect Council assets;</li> <li>3. Compliance with laws and regulations as well as use of best practice guidelines relative to audit, risk management, internal control and legislative compliance;</li> <li>4. The provision of an effective means of communication between the external auditor, the CEO and Council;</li> <li>5. The scope of work, objectivity, performance and independence of the external and internal auditors; and</li> <li>6. The process and systems which protect against fraud and improper activities.</li> </ol>
<b>Powers</b>	<p>The Committee has the authority to undertake the following:</p> <ol style="list-style-type: none"> <li>1. Review the internal and external auditor's annual audit plans and the outcomes/results of all audits undertaken;</li> <li>2. Request the CEO to seek information or advice in relation to matters considered by the Committee;</li> <li>3. Formally meet with internal and external auditors as necessary;</li> <li>4. Seek resolution on any disagreements between management and the external auditors on financial reporting; and</li> <li>5. Make recommendations to Council with respect to matters within its scope of responsibility.</li> </ol>
<b>Membership</b>	<ol style="list-style-type: none"> <li>1. The Committee will consist of three (3) Councillors as members. All members shall have full voting rights and will be appointed by an absolute majority of the Council [s.10(a)(1) of the Act]. <ol style="list-style-type: none"> <li>a. At any given time each Councillor is entitled to be a member of at least one committee of the Council (where either only Councillors or only Councillors and employees are members of such a committee) and if a Councillor nominates themselves to be a member of the Committee and is not a member of any other committee (constituted only by Councillors or by Councillors and Shire employees), Council must appoint that Councillor to the Committee as one of the three (3) members [s.10(2)].</li> </ol> </li> </ol>

	<ol style="list-style-type: none"> <li>2. The CEO and employees are not members of the Committee [s.7.1A(3)&amp;(4) of the Act].</li> <li>3. The CEO and/or their nominee is to attend all meetings to provide advice and guidance to the Committee.</li> <li>4. Council may appoint by an absolute majority up to three (3) Councillors to be deputy members of the Committee. Any deputy member may perform the functions of any Councillor member when the member is unable to do so by reason of illness, absence or other cause. A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member [ss.5.11A(2)(a),(3) and (4) of the Act].</li> <li>5. Deputy members are not deputies to specific members. In the circumstances of more than one deputy member being present at a meeting of the Committee, the Committee shall vote to determine the deputy member entitled to exercise the functions of the absent member.</li> <li>6. A deputy member may attend only in place of an appointed councillor member.</li> </ol>
<b>Meetings</b>	<ol style="list-style-type: none"> <li>1. The Committee shall meet as required, but must hold a minimum of four (4) meetings in any one calendar year as set by Council.</li> <li>2. Additional meetings may be scheduled by decision of the Council or the Committee, or at the request of the President, the Presiding Member of the Committee or any two (2) members of the Committee [cl.3.4 <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i>].</li> <li>3. A Notice of Meeting, including an Agenda, will be circulated to the Committee Members (including any deputy members) at least 72 hours prior to each meeting, and must be published on the Shire's website.</li> <li>4. The Chief Executive Officer shall ensure that detailed minutes of all meetings are kept and shall provide the Committee members (including deputy members) with a copy of such minutes.</li> <li>5. All Committee meetings shall be conducted in accordance with the <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i>.</li> </ol>
<b>Quorum</b>	The quorum for an Audit Committee meeting shall be at least (3) of the endorsed members.
<b>Reporting</b>	<ol style="list-style-type: none"> <li>1. The Minutes of each Committee meeting will be reported to Council and published on the Shire's website.</li> <li>2. Any Committee resolution or recommendation requiring consideration by Council will be reported to Council as soon as practicable.</li> <li>3. The Committee's Terms of Reference will be published on the Shire's website.</li> </ol>

<b>Legislative Reference</b>	The Committee is established under section 7.1A of the Act.
<b>Delegated Authority</b>	The Committee is an advisory committee appointed by and reports to Council. The Committee provides appropriate advice and recommendations to the Council on matters relevant to its Terms of Reference. This is in order to facilitate informed decision making by the Council in relation to legislative functions and duties of the local government that have not been delegated to the CEO.

<b>References:</b>	Local Government Operational Guidelines Number 09 (September 2013) – Appendix 1 Model Terms of Reference – Audit Committees		
<b>Authorised by:</b>	Council		
<b>Date:</b>	24 February 2023	<b>Item No.</b>	11.1.3
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Next Review</b>	Following each ordinary local government election		
<b>Responsible Directorate</b>	Office of the Chief Executive Officer		
<b>Responsible Officer</b>	Manager Governance, Risk and Procurement		
<b>File No.</b>			

Item 8.1 Appendix 1

**PLANT COMMITTEE  
TERMS OF REFERENCE  
(Adopted 24 February 2023)**

<b>Name</b>	Plant Committee
<b>Definitions</b>	<b>Committee</b> means the Plant Committee <b>Shire</b> means the Shire of East Pilbara <b>The Act</b> means the <i>Local Government Act 1995</i>
<b>Purpose</b>	To assist Council with respect to the Shire of East Pilbara's plant and machinery assets.
<b>Functions</b>	To ensure the Shire's plant and machinery assets are managed with due regard to Council's key objectives and goals as specified in the Strategic Plan. To provide input into Council's budget forward planning through the development program covering heavy vehicle replacements, and relevant plant and machinery including (where relevant) identification of significant maintenance cost points.
<b>Membership</b>	<ol style="list-style-type: none"> <li>1. The Committee shall consist of the following members: <ol style="list-style-type: none"> <li>a. Four (4) Councillors appointed by an absolute majority of the Council [s.5.10(a)(1) of the Act]; <ol style="list-style-type: none"> <li>i. Should the Shire President inform the local government of his or her wish to be a member of the committee, the local government is to appoint the Shire President to be a member of the committee [s.5.10(4) of the Act].</li> <li>ii. At any given time each Councillor is entitled to be a member of at least one committee of the Council (where either only Councillors or only Councillors and employees are members of such a committee) and if a Councillor nominates themselves to be a member of the Committee and is not a member of any other committee (constituted only by Councillors or by Councillors and Shire employees), Council must appoint that Councillor to the Committee as one of the four (4) members [s.5.10(2)].</li> </ol> </li> <li>b. The Chief Executive Officer [s.5.10(5)(a)];</li> <li>c. Employees of the Shire as nominated by the Chief Executive Officer from time to time [s.5.10(5)(b)];</li> </ol> </li> <li>2. Council may appoint by an absolute majority up to four (4) Councillors to be deputy members of the Committee. Any deputy member may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause. A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member [ss.5.11A(2)(a),(3) and (4) of the Act].</li> <li>3. Deputy members are not deputies to specific members. In the circumstances of more than one deputy member being present at a meeting of the Committee, the Committee shall vote to determine</li> </ol>

	<p>the deputy member entitled to exercise the functions of the absent member.</p> <ol style="list-style-type: none"> <li>4. The Chief Executive Office may appoint a deputy to attend a meeting in their absence. [s.5.11A(2)(b) of the Act].</li> <li>5. Only Councillors appointed as members (or deputies in accordance with (3)) of the Committee by Council shall have voting rights [s5.9(2)(a) of the Act].</li> <li>6. The Chief Executive Officer and employees of the Shire as nominated by the Chief Executive Officer shall attend meetings only in an advisory capacity and do not have voting rights.</li> <li>7. Committee membership continues until which ever the first of the following circumstances arise: <ol style="list-style-type: none"> <li>a. the term, as set by Council of the person's appointment as a committee member expires; or</li> <li>b. Council removes the member from office or the office of committee member otherwise becomes vacant; or</li> <li>c. the committee is disbanded; or</li> <li>d. the next ordinary elections day [s.5.11(2)].</li> </ol> </li> <li>8. The Shire President (where the Shire President is appointed in accordance with (1)(a)(i) of these Terms of Reference) and the Chief Executive Officer are ex officio members of the Committee.</li> <li>9. Members must comply with the <i>Shire of East Pilbara Code of Conduct for Council Members, Committee Members and Candidates</i>.</li> </ol> <p>The Committee has authority to second individuals from outside of the Committee, on a voluntary basis, for their expert advice.</p>
<p><b>Operating Procedures</b></p>	<ol style="list-style-type: none"> <li>1. Presiding Member: <ol style="list-style-type: none"> <li>a. The members of a Committee are to elect a presiding member and deputy presiding member from amongst themselves at the first meeting of the Committee and in accordance with Schedule 2.3, Division 1 of the Act [s.5.12 of the Act].</li> <li>b. The CEO or delegated nominee will attend the first meeting to conduct the election of the Presiding Member and Deputy Presiding Member.</li> <li>c. The Presiding Member will preside at all meetings.</li> <li>d. In the absence of the Presiding Member, the Deputy Presiding Member will assume the chair, and in their absence, a person is to be elected by the Committee members present to assume the Chair.</li> <li>e. The Presiding Member is responsible for the proper conduct of the Committee in accordance with the <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i> and the Code of Conduct for Council Members, Committee Members and Candidates.</li> </ol> </li> </ol> <p>Meetings:</p> <ol style="list-style-type: none"> <li>a. The Committee shall meet as required, but must hold a minimum of two (2) meetings in any one calendar year.</li> </ol>



	<p>b. Additional meetings may be scheduled by decision of the Council or the Committee, or at the request of the President, the Presiding Member of the Committee or any two (2) members of the Committee [cl.3.4 <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i>].</p> <p>c. A Notice of Meeting, including an Agenda, will be circulated to the Committee members (including deputy members) at least 72 hours prior to each meeting, and must be published on the Shire's website.</p> <p>d. The Chief Executive Officer shall ensure that detailed minutes of all meetings are kept.</p> <p>e. All Committee meetings will be conducted in accordance with the <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i> and the Act.</p> <p>2. Quorum: The quorum for a meeting shall be at least 50% of the number of appointed (councillor)members or deputy member in the absence of a member.</p> <p>3. Reporting: a. The Minutes of each Committee meeting will be reported to Council and published on the Shire's website. b. Any Committee resolution or recommendation requiring consideration by Council will be reported to Council as soon as practicable. c. The Committee's Terms of Reference will be published on the Shire's website.</p>
<b>Legislative reference</b>	The Committee is established under section 5.8 of the <i>Local Government Act 1995</i> .
<b>Delegated Authority</b>	The Committee is an advisory committee appointed by and reports to Council. The Committee provides appropriate advice and recommendations to the Council on matters relevant to its Terms of Reference. This is in order to facilitate informed decision making by the Council in relation to legislative functions and duties of the local government that have not been delegated to the CEO.

<b>References:</b>	Nil		
<b>Authorised by:</b>	Council		
<b>Date:</b>	24 February 2023	<b>Item No.</b>	11.1.3
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Next Review</b>	Following each ordinary local government election		
<b>Responsible Directorate</b>	Office of the Chief Executive Officer		
<b>Responsible Officer</b>	Manager Governance, Risk and Procurement		
<b>File No.</b>			

**SHIRE AIRPORTS ADVISORY COMMITTEE**  
**TERMS OF REFERENCE**  
**(Adopted 24 February 2023)**

<b>Name</b>	Shire Airports Advisory Committee
<b>Definitions</b>	<b>Committee</b> means the Shire Airports Committee <b>Shire</b> means the Shire of East Pilbara <b>The Act</b> means the <i>Local Government Act 1995</i>
<b>Purpose</b>	To assist Council with respect to the Shire of East Pilbara's airports and airfield infrastructure.
<b>Functions</b>	<ol style="list-style-type: none"> <li>1. To assist Council on the strategic development of the Shire's airports and to share information.</li> <li>2. To provide input into Council's budget forward planning for the Shire's airports.</li> </ol>
<b>Membership</b>	<ol style="list-style-type: none"> <li>1. The Committee shall consist of the following members: <ol style="list-style-type: none"> <li>a. Four (4) Councillors appointed by an absolute majority of the Council [s.5.10(a)(1) of the Act]; <ol style="list-style-type: none"> <li>i. Should the Shire President inform the local government of his or her wish to be a member of the committee, the local government is to appoint the Shire President to be a member of the committee [s.5.10(4) of the Act].</li> <li>ii. At any given time each Councillor is entitled to be a member of at least one committee of the Council (where either only Councillors or only Councillors and employees are members of such a committee) and if a Councillor nominates themselves to be a member of the Committee and is not a member of any other committee (constituted only by Councillors or by Councillors and Shire employees), Council must appoint that Councillor to the Committee as one of the four (4) members [s.5.10(2)].</li> </ol> </li> <li>b. The Chief Executive Officer [s.5.10(5)(a)];</li> <li>c. Employees of the Shire as nominated by the Chief Executive Officer from time to time [s.5.10(5)(b)];</li> </ol> </li> <li>2. Council may appoint by an absolute majority up to four (4) Councillors to be deputy members of the Committee. Any deputy member may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause. A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member [ss.5.11A(2)(a),(3) and (4) of the Act].</li> <li>3. Deputy members are not deputies to specific members. In the circumstances of more than one deputy member being present at a meeting of the Committee, the Committee shall vote to determine the deputy member entitled to exercise the functions of the absent member.</li> </ol>

	<ol style="list-style-type: none"> <li>4. The Chief Executive Office may appoint a deputy to attend a meeting in their absence. [s.5.11A(2)(b) of the Act].</li> <li>5. Only Councillors appointed as members (or deputies in accordance with (3)) of the Committee by Council shall have voting rights [s5.9(2)(a) of the Act].</li> <li>6. The Chief Executive Officer and employees of the Shire as nominated by the Chief Executive Officer shall attend meetings only in an advisory capacity and do not have voting rights.</li> <li>7. Committee membership continues until whichever the first of the following circumstances arise: <ol style="list-style-type: none"> <li>a. the term, as set by Council of the person's appointment as a committee member expires; or</li> <li>b. Council removes the member from office or the office of committee member otherwise becomes vacant; or</li> <li>c. the committee is disbanded; or</li> <li>d. the next ordinary elections day [s.5.11(2)].</li> </ol> </li> <li>8. The Shire President (where the Shire President is appointed in accordance with (1)(a)(i) of these Terms of Reference) and the Chief Executive Officer are ex officio members of the Committee.</li> <li>9. Members must comply with the Shire of East Pilbara Code of Conduct for Council Members, Committee Members and Candidates.</li> <li>10. The Committee has authority to second individuals from outside of the Committee, on a voluntary basis, for their expert advice</li> </ol>
<p><b>Operating Procedures</b></p>	<ol style="list-style-type: none"> <li>1. Presiding Member <ol style="list-style-type: none"> <li>a. The members of the Committee are to elect a presiding member and deputy presiding member from amongst themselves at the first meeting of the Committee, and in accordance with Schedule 2.3, Division 1 of the Act [s.5.12 of the Act].</li> <li>b. The CEO or delegated nominee will attend the first meeting to conduct the election of the Presiding Member and Deputy Presiding Member.</li> <li>c. The Presiding Member will preside at all meetings.</li> <li>d. In the absence of the Presiding Member, the Deputy Presiding Member will assume the chair, and in their absence, a person is to be elected by the Committee members present to assume the Chair.</li> <li>e. The Presiding Member is responsible for the proper conduct of the Committee in accordance with the <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i> and the Code of Conduct for Council Members, Committee Members and Candidates.</li> </ol> </li> <li>2. Meetings <ol style="list-style-type: none"> <li>a. The Committee shall meet as required, but must hold a minimum of two (2) meetings in any one calendar year.</li> </ol> </li> </ol>

	<p>b. Additional meetings may be scheduled by decision of the Council or the Committee, or at the request of the President, the Presiding Member of the Committee or any two (2) members of the Committee [cl.3.4 <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i>].</p> <p>c. A Notice of Meeting, including an Agenda, will be circulated to the Committee members (including any deputy members) at least 72 hours prior to each meeting, and must be published on the Shire’s website.</p> <p>d. The Chief Executive Officer shall ensure that detailed minutes of all meetings are kept and shall provide the Committee members (including deputy members) with a copy of such minutes.</p> <p>e. All Committee meetings will be conducted in accordance with the <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i> and the Act.</p> <p>3. Quorum The quorum for a meeting shall be at least 50% of the appointed (councillor) members or deputy member in the absence of a member.</p> <p>4. Reporting</p> <p>a. The Minutes of each Committee meeting will be reported to Council and published on the Shire’s website.</p> <p>b. Any Committee resolution or recommendation requiring consideration by Council will be reported to Council as soon as practicable.</p> <p>c. The Committee’s Terms of Reference will be published on the Shire’s website.</p>
<b>Legislative reference</b>	The Committee is established under section 5.8 of the <i>Local Government Act 1995</i> .
<b>Delegated Authority</b>	The Committee is an advisory committee appointed by and reports to Council. The Committee provides appropriate advice and recommendations to the Council on matters relevant to its Terms of Reference. This is in order to facilitate informed decision making by the Council in relation to legislative functions and duties of the local government that have not been delegated to the CEO.

<b>References:</b>	Nil		
<b>Authorised by:</b>	Council		
<b>Date:</b>	24 February 2023	<b>Item No.</b>	11.1.3
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Next Review</b>	Following each ordinary local government election		
<b>Responsible Directorate</b>	Office of the Chief Executive Officer		
<b>Responsible Officer</b>	Manager Governance, Risk and Procurement		
<b>File No.</b>			

**CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW  
COMMITTEE  
TERMS OF REFERENCE  
(Adopted 24 February 2023)**

<b>Name</b>	Chief Executive Officer Performance Review Committee
<b>Definitions</b>	<p><b>CEO</b> means Chief Executive Officer</p> <p><b>Committee</b> means the Chief Executive Officer Performance Review</p> <p><b>Shire</b> means the Shire of East Pilbara</p> <p><b>The Act</b> means the <i>Local Government Act 1995</i></p> <p><b>The Regulations</b> mean the <i>Local Government (Administration) Regulations 1996</i></p>
<b>Purpose</b>	<ol style="list-style-type: none"> <li>1. To undertake the review of the CEO's performance in accordance with Schedule 2 of the Regulations.</li> <li>2. To recommend performance criteria (KPIs) with the agreement of the Chief Executive Officer, to Council for adoption.</li> <li>3. To conduct the annual review of the Chief Executive Officer Total Remuneration Package.</li> </ol>
<b>Functions</b>	<ol style="list-style-type: none"> <li>1. To work with the appointed independent consultant to assist the Committee and Council on the conduct of the CEO performance review and annual TRP review. The independent consultant is appointed by agreement between the Shire President and the CEO.</li> <li>2. Conduct the Annual Review of the CEO's performance in accordance with the CEO's Employment Contract in accordance with Schedule 2 of the Regulations.</li> <li>3. Review and recommend to Council appropriate KPIs to be achieved by the CEO for the next 12 months. KPIs must be agreed to by the CEO, in accordance with the CEO Employment Contract and Schedule 2 of the Regulations, and subject to the authorisation by Council of the necessary resources and budget.</li> <li>4. Review the CEO's remuneration package in accordance with the relevant provisions of the Employment Contract.</li> <li>5. Review the Performance Review Procedure in consultation with the CEO prior to the commencement of the Annual Review of the CEO's performance.</li> <li>6. Review the CEO Annual Remuneration Review Framework 2022 prior to the commencement of the Annual TRP Review.</li> <li>7. Report findings and recommendations to Council for consideration.</li> </ol>
<b>Membership</b>	<ol style="list-style-type: none"> <li>1. The Committee shall consist of the following members: <ol style="list-style-type: none"> <li>a. Shire President; and</li> <li>b. Three (3) Councillors appointed by an absolute majority of the Council [5.10(a)(1) of the Act].</li> </ol> </li> <li>2. At any given time each Councillor is entitled to be a member of at least one committee of the Council (where either only Councillors or only Councillors and employees are members of such a committee) and if a Councillor nominates themselves to be a member of the Committee and is not a member of any other committee (constituted only by Councillors or by Councillors and Shire employees), Council must appoint that Councillor to the Committee as one of the three (3) members [s.5.10(2)].</li> </ol>

	<ol style="list-style-type: none"> <li>3. Council may appoint by an absolute majority up to four (4) Councillors to be deputy members of the Committee. Any deputy member may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause. A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member [ss.5.11A(2)(a),(3) and (4) of the Act].</li> <li>4. Deputy members are not deputies to specific members. In the circumstances of more than one deputy member being present at a meeting of the Committee, the Committee shall vote to determine the deputy member entitled to exercise the functions of the absent member.</li> <li>5. Committee membership continues until whichever the first of the following circumstances arise: <ol style="list-style-type: none"> <li>a. the term, as set by Council of the person's appointment as a committee member expires; or</li> <li>b. Council removes the member from office or the office of committee member otherwise becomes vacant; or</li> <li>c. the next ordinary elections day [s.5.11(2)].</li> </ol> </li> <li>6. The Shire President's committee membership is <i>ex officio</i>.</li> <li>7. Members must comply with the <i>Shire of East Pilbara Code of Conduct for Council Members, Committee Members and Candidates</i>.</li> <li>8. The Committee has authority to second individuals from outside of the Committee, for their expert advice.</li> </ol>
<b>Training</b>	<p>All Councillors appointed as Committee Members (and Deputy Members) must undertake CEO Performance Review training prior to participating in any performance review undertaken by the Committee. The costs of such training will be met by the Shire.</p>
<b>Operating Procedures</b>	<ol style="list-style-type: none"> <li>1. Presiding Member <ol style="list-style-type: none"> <li>a. The Shire President will be the Presiding Member of the Committee.</li> <li>b. Members of the Committee are to elect a deputy presiding member from amongst themselves at the first meeting of the Committee, and in accordance with Schedule 2.3, Division 1 of the Act [s.5.12 of the Act].</li> <li>c. The Presiding Member, or in the absence of the Presiding Member, a Committee Member elected by those members in attendance, is to conduct the election of the Deputy Presiding Member.</li> <li>d. The Presiding Member will preside at all meetings.</li> <li>e. In the absence of the Presiding Member, the Deputy Presiding Member will assume the chair, and in their absence, a person is to be elected by the Committee members present to assume the Chair.</li> <li>f. The Presiding Member is responsible for the proper conduct of the Committee in accordance with the <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i> and the Code of Conduct for Council Members, Committee Members and Candidates.</li> </ol> </li> <li>2. Meetings <ol style="list-style-type: none"> <li>a. The Committee shall meet as required, but must hold a minimum of one (1) meeting in any one calendar year.</li> <li>b. Additional meetings may be scheduled by decision of the Council or the Committee, or at the request of the President or any two (2) members of the Committee [cl.3.4 <i>Shire of East Pilbara Meeting</i></li> </ol> </li> </ol>

	<p><i>Procedures Local Law 2019</i>].</p> <ul style="list-style-type: none"> <li>c. A Notice of Meeting, including an Agenda, will be circulated to the Committee members (including any deputy members) at least 72 hours prior to each meeting, and must be published on the Shire’s website.</li> <li>d. The Chief Executive Officer shall ensure that detailed minutes of all meetings are kept.</li> <li>e. All Committee meetings will be conducted in accordance with the <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i> and the Act.</li> </ul> <p>3. Quorum The quorum for a meeting shall be at least 50% of the appointed members or deputy member in the absence of a member.</p> <p>4. Reporting</p> <ul style="list-style-type: none"> <li>a. The Minutes of each Committee meeting will be reported to Council and published on the Shire’s website.</li> <li>b. Any Committee resolution or recommendation requiring consideration by Council will be reported to Council as soon as practicable.</li> <li>c. The Committee’s Terms of Reference will be published on the Shire’s website.</li> </ul> <p>5. Procedure for the Review The review will be conducted in accordance with Schedule 2 of the Regulations and the Performance Review Procedure agreed to by Council and the CEO.</p>
<b>Appointing Legislation</b>	The Committee is established under s5.38 of the <i>Local Government Act 1995</i> and Regulation 18D of the <i>Local Government (Administration) Regulations</i> .
<b>Delegated Authority</b>	The Committee is an advisory committee appointed by and reports to Council. The Committee provides appropriate advice and recommendations to the Council on matters relevant to its Terms of Reference. This is in order to facilitate informed decision making by the Council in relation to legislative functions and duties of the local government that have not been delegated to the CEO.

<b>References:</b>	Nil		
<b>Authorised by:</b>	Council		
<b>Date:</b>	24 February 2023	<b>Item No.</b>	11.1.3
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Next Review</b>	Following each ordinary local government election		
<b>Responsible Directorate</b>	Office of the Chief Executive Officer		
<b>Responsible Officer</b>	Manager Governance, Risk and Procurement		
<b>File No.</b>			



## **Schedule 4.1 — How to count votes and ascertain the result of an election**

[s. 4.74]

*[Heading inserted: No. 11 of 2023 s. 92.]*

### **Division 1 — Preliminary**

*[Heading inserted: No. 11 of 2023 s. 92.]*

#### **1. Terms used**

In this Schedule —

***first-preference vote*** —

- (a) means a vote cast under section 4.69(2); and
- (b) includes a vote accepted by the returning officer as a first-preference vote under section 4.75(1) or under regulations made for the purposes of section 4.75(3)(a);

***one office election*** means an election to fill the office of mayor or president or to fill 1 office of councillor;

***preference vote*** —

- (a) means a vote cast under section 4.69(3); and
- (b) includes a vote accepted by the returning officer as a preference vote under section 4.75(1) or under regulations made for the purposes of section 4.75(3)(a).

Note for this clause:

For the purposes of the definitions of ***first-preference vote*** and ***preference vote***, see also section 4.73(5) which provides for a ballot paper to be treated as if a numeral indicating a preference had been altered.

*[Clause 1 inserted: No. 11 of 2023 s. 92.]*



**Division 2 — One office elections**

*[Heading inserted: No. 11 of 2023 s. 92.]*

**2. One office election: 2 candidates**

- (1) If there are only 2 candidates in a one office election —
  - (a) the first-preference votes for each candidate must be counted; and
  - (b) the candidate who has the greater number of first-preference votes is elected.
- (2) If the candidates have the same number of first-preference votes, the returning officer must draw lots in accordance with regulations to determine which candidate is elected.

*[Clause 2 inserted: No. 11 of 2023 s. 92.]*

**3. One office election: 3 or more candidates**

Clauses 4 and 5 apply if there are 3 or more candidates in a one office election.

*[Clause 3 inserted: No. 11 of 2023 s. 92.]*

**4. Count of first-preference votes**

- (1) The first-preference votes for each candidate must be counted.
- (2) A candidate is elected if the number of first-preference votes for the candidate exceeds 50% of the total number of all the first-preference votes for candidates.

*[Clause 4 inserted: No. 11 of 2023 s. 92.]*

**5. Process if no candidate elected under clause 4**

- (1) The process in subclause (2) —
  - (a) must be followed if no candidate is elected under clause 4; and

- (b) as necessary, must be repeated until a candidate is elected under subclause (3).

Notes for this subclause:

1. Subclauses (4) to (6) supplement subclauses (2) and (3) for cases where candidates have the same number of votes.
2. Subclauses (7) and (8) explain how the terms ballot paper and continuing candidate are used in this clause.

(2) The process is as follows —

- (a) exclude the candidate (the *excluded candidate*) with —
- (i) if this process is being followed for the first time — the fewest first-preference votes; or
  - (ii) if this process is being repeated — the fewest votes on the last count under paragraph (d);
- (b) set aside as exhausted any ballot paper of the excluded candidate that contains —
- (i) no preference votes at all; or
  - (ii) no preference votes for any continuing candidates;
- (c) transfer any remaining ballot papers of the excluded candidate that indicate the next available preference for a particular continuing candidate to that continuing candidate;
- (d) count the number of votes for each of the continuing candidates by totalling the following —
- (i) the number of first-preference votes for the continuing candidate;
  - (ii) if this process is being followed for the first time — the total number of ballot papers transferred to the continuing candidate under paragraph (c);
  - (iii) if this process is being repeated — the total number of ballot papers transferred to the continuing candidate under paragraph (c) on this or a previous occasion.

(3) A continuing candidate is elected if, on a count under subclause (2)(d), the number of votes for the continuing candidate exceeds 50% of the total number of all the votes for continuing candidates.

- (4) Subclause (6) applies if subclause (2)(a) cannot otherwise be applied because, as the case requires —
- (a) 2 or more candidates have the same number of first-preference votes (no other candidates having fewer first-preference votes); or
  - (b) 2 or more candidates have the same number of votes on the last count under subclause (2)(d) (no other candidates having fewer votes).
- (5) Subclause (6) also applies if subclause (3) cannot otherwise be applied because —
- (a) there are only 2 continuing candidates in a count under subclause (2)(d); and
  - (b) on the count, the continuing candidates have the same number of votes.
- (6) The returning officer must draw lots in accordance with regulations to determine, as the case requires —
- (a) the candidate to be excluded; or
  - (b) the continuing candidate to be elected.
- (7) For the purposes of the process in subclause (2), a ballot paper is a ballot paper of the excluded candidate if either of the following applies —
- (a) the ballot paper contains a first-preference vote for the excluded candidate;
  - (b) the process is being repeated and the ballot paper was transferred to the excluded candidate under subclause (2)(c) on a previous occasion.
- (8) For the purposes of the process in subclause (2), a continuing candidate is a candidate to whom neither of the following applies —
- (a) the candidate is the excluded candidate;
  - (b) the process is being repeated and the candidate was excluded under subclause (2)(a) on a previous occasion.

*[Clause 5 inserted: No. 11 of 2023 s. 92.]*

### **Division 3 — Elections for 2 or more councillors**

*[Heading inserted: No. 11 of 2023 s. 92.]*

#### **Subdivision 1 — Preliminary**

*[Heading inserted: No. 11 of 2023 s. 92.]*

**6. Application of Division**

This Division applies to an election that is not a one office election.

*[Clause 6 inserted: No. 11 of 2023 s. 92.]*

**7. Terms used**

In this Division —

**ballot paper**, of a candidate, means a first-preference ballot paper, or a transferred ballot paper, of the candidate;

**continuing candidate** means a candidate who has not already been elected or excluded under this Division;

**first-preference ballot paper**, of a candidate, means a ballot paper that contains a first-preference vote for the candidate;

**quota** means the quota determined under clause 8;

**surplus votes**, for a candidate who has been elected under this Division, means the votes for the candidate in excess of the quota (if any);

**transferred ballot paper**, of a candidate, means a ballot paper that has been transferred to the candidate under this Division;

**transfer value**, in relation to a ballot paper — see clauses 9(3)(a), 10(3)(b) and 11(3)(b) and (4)(c);

**votes**, for a candidate, means —

- (a) the first-preference votes for the candidate; and
- (b) the preference votes for the candidate as added (at the applicable transfer value) to the votes for the candidate under clause 9(3)(c), 10(3)(c)(iv) or 11(3)(b) or (4)(d).

*[Clause 7 inserted: No. 11 of 2023 s. 92.]*

**Subdivision 2 — Counting and transferring votes**

[Heading inserted: No. 11 of 2023 s. 92.]

Note for this Subdivision:

Subdivision 3 contains provisions that explain how certain things are to be done under this Subdivision and that otherwise supplement this Subdivision.

**8. Count of first-preference votes and determination of quota**

- (1) The first-preference votes for each candidate must be counted.
- (2) A quota must then be determined in accordance with subclauses (3) and (4).
- (3) Divide amount A by amount B, where —
  - (a) amount A is the total number of all the first-preference votes for candidates; and
  - (b) amount B is the number of offices to be filled plus 1.
- (4) The quota is the resulting number (disregarding any remainder) plus 1.
- (5) A candidate is elected if the number of first-preference votes for the candidate is equal to, or exceeds, the quota.
- (6) Go to clause 9 if 1 or more, but not all, of the offices are filled under this clause.
- (7) Go to clause 11 if none of the offices is filled under this clause.

[Clause 8 inserted: No. 11 of 2023 s. 92.]

**9. Transfer of surplus votes (1)**

- (1) In this clause —

*elected candidate* means a candidate elected under clause 8.
- (2) This clause applies if 1 or more, but not all, of the offices are filled under clause 8.

- (3) The surplus votes for each elected candidate who has surplus votes must be transferred to the continuing candidates as follows —
- (a) determine the *transfer value* that applies to each first-preference ballot paper of the elected candidate, being the fraction calculated by dividing amount C by amount D, where —
    - (i) amount C is the number of surplus votes for the elected candidate; and
    - (ii) amount D is the number of first-preference votes for the elected candidate;
  - (b) multiply, by the transfer value, the number of first-preference ballot papers of the elected candidate that indicate the next available preference for a particular continuing candidate;
  - (c) add the resulting number (disregarding any fraction) to the votes for that continuing candidate;
  - (d) transfer the ballot papers referred to in paragraph (b) to that continuing candidate.
- (4) A continuing candidate is elected if, on the completion of a transfer under this clause of the surplus votes for an elected candidate, the number of votes for the continuing candidate is equal to, or exceeds, the quota.
- (5) Go to clause 10 if 1 or more, but not all, of the remaining offices are filled under this clause.
- (6) Go to clause 11 if none of the remaining offices is filled under this clause.

[Clause 9 inserted: No. 11 of 2023 s. 92.]

**10. Transfer of surplus votes (2)**

- (1) In this clause —  
*elected candidate* means a candidate elected under clause 9, this clause or clause 11.
- (2) This clause applies —
- (a) if 1 or more, but not all, of the remaining offices are filled under clause 9; and

- (b) as otherwise provided under clause 11(7).
- (3) The surplus votes for each elected candidate who has surplus votes must be transferred to the continuing candidates as follows —
- (a) determine the *surplus fraction* for the elected candidate, being the fraction calculated by dividing amount E by amount F, where —
- (i) amount E is the number of surplus votes for the elected candidate; and
- (ii) amount F is the number of votes for the elected candidate;
- (b) determine the *transfer value* that applies to each ballot paper of the elected candidate, being —
- (i) if the ballot paper is a first-preference ballot paper of the elected candidate — the surplus fraction; or
- (ii) if the ballot paper is a transferred ballot paper of the elected candidate — the fraction calculated by multiplying the surplus fraction by the transfer value that applied to the ballot paper when the ballot paper was transferred to the elected candidate;
- (c) do the following —
- (i) identify the ballot papers of the elected candidate that indicate the next available preference for a particular continuing candidate;
- (ii) take the number of those ballot papers to which a particular transfer value applies;
- (iii) multiply that number by that transfer value;
- (iv) add the resulting number (disregarding any fraction) to the votes for that continuing candidate;
- (v) transfer the ballot papers referred to in subparagraph (ii) to that continuing candidate.
- (4) A continuing candidate is elected if, on the completion of a transfer under this clause of the surplus votes for an elected candidate, the number of votes for the continuing candidate is equal to, or exceeds, the quota.

- (5) Go, or go back, to clause 11 if not all of the remaining offices are filled under this clause.

[Clause 10 inserted: No. 11 of 2023 s. 92.]

**11. Exclusion of candidates**

- (1) This clause applies if, after the counting of first-preference votes or the transfer of surplus votes (if any) under clauses 8 to 10, 1 or more of the offices remain unfilled as referred to in clause 8(7), 9(6) or 10(5).
- (2) The candidate with the fewest votes is excluded.
- (3) If there are first-preference votes for the excluded candidate, the first-preference votes must be transferred to the continuing candidates as follows —
- (a) take the number of first-preference ballot papers of the excluded candidate that indicate the next available preference for a particular continuing candidate;
  - (b) add that number to the votes for that continuing candidate (the *transfer value* that applies to each of those ballot papers being 1);
  - (c) transfer those ballot papers to that continuing candidate.
- (4) If there are preference votes for the excluded candidate, the preference votes must be transferred to the continuing candidates as follows in the order of the transfers on which the excluded candidate received them, the preference votes received on the earliest transfer being transferred first —
- (a) identify the transferred ballot papers of the excluded candidate that were transferred to the excluded candidate from a particular candidate;
  - (b) take the number of those ballot papers that indicate the next available preference for a particular continuing candidate;
  - (c) multiply that number by the *transfer value* that applies to the ballot papers referred to in paragraph (b), being the transfer value that applied to the ballot papers when the ballot papers were transferred to the excluded candidate;



- (d) add the resulting number (disregarding any fraction) to the votes for that continuing candidate;
  - (e) transfer the ballot papers referred to in paragraph (b) to that continuing candidate.
- (5) If there are both first-preference votes and preference votes for the excluded candidate, the first-preference votes must be transferred under subclause (3) before the preference votes are transferred under subclause (4).
- (6) A continuing candidate is elected if, on the completion of a transfer under this clause of votes for an excluded candidate, the number of votes for the continuing candidate is equal to, or exceeds, the quota.
- (7) If there are surplus votes for that candidate and 1 or more offices remain unfilled, the surplus votes must be transferred under clause 10, but not before all the votes for the excluded candidate that remain to be transferred (if any) have been transferred to continuing candidates.
- (8) If, after the transfer under this clause of all the votes for an excluded candidate, no candidate is elected under subclause (6) with a number of votes that exceeds the quota and 1 or more offices remain unfilled —
- (a) the continuing candidate with the fewest votes is excluded; and
  - (b) that candidate's votes must be transferred under subclauses (3) to (5).

*[Clause 11 inserted: No. 11 of 2023 s. 92.]*

**Subdivision 3 — Supplementary provisions**

*[Heading inserted: No. 11 of 2023 s. 92.]*

**12. No further transfers to elected candidates**

- (1) If a candidate is elected under clause 9 or 10 on the completion of a transfer under clause 9 or 10 of the surplus votes for a candidate, no surplus votes for any other candidate may be transferred to the candidate so elected.

- (2) If a candidate is elected under clause 11 on the completion of a transfer under clause 11 of votes for an excluded candidate, no other votes for the excluded candidate may be transferred to the candidate so elected.

*[Clause 12 inserted: No. 11 of 2023 s. 92.]*

**13. Filling last office**

- (1) This clause applies, despite any other provision of this Division, to the last office to be filled if there are only 2 continuing candidates left.
- (2) The candidate with the greater number of votes is elected even if that number is less than the quota.
- (3) If the candidates have the same number of votes, the returning officer must draw lots in accordance with regulations to determine which candidate is elected.

*[Clause 13 inserted: No. 11 of 2023 s. 92.]*

**14. No need for further transfers of votes if number of continuing candidates equals number of vacancies**

Despite any other provision of this Division, if the number of continuing candidates is equal to the number of remaining unfilled offices, those candidates are elected.

*[Clause 14 inserted: No. 11 of 2023 s. 92.]*

**15. Order of transfers of surpluses**

- (1) If, after any count or transfer under this Division, 2 or more candidates have surplus votes, the order of any transfers of the surplus votes of those candidates is to be in accordance with the relative sizes of the surpluses, the larger or largest surplus being transferred first.
- (2) If 2 or more of the candidates referred to in subclause (1) have equal surpluses —
- (a) the order of any transfers of the surplus votes of those candidates is to be in accordance with the relative numbers of votes of those candidates at the last count or transfer at which each of those candidates had a different number of votes, the

surplus of the candidate with the larger or largest number of votes at that count or transfer being transferred first; but

- (b) if there has been no such count or transfer — the returning officer must draw lots in accordance with regulations to determine which candidate is, as between those candidates, taken to have had the larger or largest surplus.
- (3) Despite subclauses (1) and (2), if a candidate is elected on the completion of a transfer under this Division (the *later transfer*), the surplus votes for the candidate must not be transferred before the transfer of the surplus votes for any other candidate who was elected before the later transfer.

[Clause 15 inserted: No. 11 of 2023 s. 92.]

**16. Procedure to determine excluded candidates if votes equal**

- (1) This clause applies if —
  - (a) the continuing candidate with the fewest votes is to be excluded under clause 11(2) or (8); and
  - (b) 2 or more continuing candidates (the *tied candidates*) have an equal number of votes (no other continuing candidate having fewer votes).
- (2) Whichever of the tied candidates had the fewer or fewest votes at the last count or transfer at which each of the tied candidates had a different number of votes is excluded.
- (3) If there has been no such count or transfer, the returning officer must draw lots in accordance with regulations to determine which of the tied candidates is excluded.

[Clause 16 inserted: No. 11 of 2023 s. 92.]

**17. Setting aside ballot papers as finally dealt with or exhausted**

- (1) If a candidate is elected under this Division with a number of votes equal to the quota, all the ballot papers of that candidate must be set aside as finally dealt with.
- (2) Subclause (3) applies to any ballot paper of a candidate who is elected under this Division with a number of votes in excess of the quota.

- (3) The ballot paper must be set aside as exhausted if the ballot paper contains —
- (a) no preference votes at all; or
  - (b) no preference vote for any continuing candidate.

*[Clause 17 inserted: No. 11 of 2023 s. 92.]*

**18. Transfers to be treated separately**

Each of the following constitutes a separate transfer for the purposes of this Division —

- (a) a transfer under clause 9 or 10 of all the surplus votes for an elected candidate;
- (b) a transfer under clause 11(3) of all the first-preference votes for an excluded candidate;
- (c) a transfer under clause 11(4) of all the preference votes for an excluded candidate that were transferred to the excluded candidate from a particular candidate.

*[Clause 18 inserted: No. 11 of 2023 s. 92.]*

Item 8.1 Appendix 5

8.2 LOCAL EMERGENCY MANAGEMENT COMMITTEES – APPOINTMENT OF MEMBERS

**Attachments:** [Appendix 1 LEMC Committee Terms of Reference](#)  
[Appendix 2 Schedule 4.1 Local Government Act 1995.](#) (Refer to Item 8.1 Appendix 5)

**Responsible Officer:** Steven Harding  
Chief Executive Officer

**Author:** Joshua Brown  
Manager Governance, Risk and Procurement

**Proposed Meeting Date:** 27 October 2023

**Location/Address:** N/A

**Name of Applicant:** N/A

**Author Disclosure of Interest:** Nil

**COUNCIL RESOLUTION / OFFICER'S RECOMMENDATION**

(Resolution No: 2023 / 157)

**Moved:** Cr Anderson

**Seconded:** Cr Lockyer

**That Council:**

1. Appoints the following Council Members to Local Emergency Management Committees, for a two year term ending at the 2025 Ordinary Local Government Elections:

Newman

Council Member	Deputy Council Member
President Middleton	Cr Lockyer

Marble Bar

Council Member	Deputy Council Member
Cr Anderson	Cr McWhirter-Brooks

Nullagine

Council Member	Deputy Council Member
Cr McWhirter-Brooks	Cr Anderson

2. Appoints one (1) ex officio member (nominated by the member organisation) representing each of the following organisations to the respective Local Emergency Management Committees, for a two year term ending at the 2025 Ordinary Local Government Elections:

**Marble Bar**

**Voting Members:**

- (a) Marble Bar Police
- (b) Department of Fire & Emergency Services
- (c) Marble Bar Volunteer Fire & Emergency Services

**Non-Voting Members:**

- (d) Main Roads WA
- (e) WA Country Health Service
- (f) Marble Bar Nursing Post
- (g) Marble Bar Primary School
- (h) Department of Communities
- (i) Atlas Iron
- (j) Warralong Community Representative
- (k) Ashburton Aboriginal Corporation
- (l) Roy Hill
- (m) Telfer Newcrest Mining
- (n) DPAW
- (o) St Johns Ambulance
- (p) Kanyirninpa Jukurrpa
- (q) Marble Bar CRC
- (r) Department National Parks

**Newman**

**Voting Members:**

- (a) WA Police
- (b) Department of Fire & Emergency Services
- (c) Newman VFRS
- (d) Newman SES
- (e) St Johns Ambulance

**Non-Voting Members:**

- (f) Department of Defence
- (g) Spartan Medical
- (h) Department of Parks & Wildlife
- (i) East Pilbara Independence Support (EPIS)
- (j) WA Country Health Service
- (k) Department of Communities
- (l) Newman Senior High School
- (m) Main Roads WA
- (n) Air Services Australia

- (o) Puntukurnu Aboriginal Medical Services (PAMS)
- (p) Fortescue Metals Group
- (q) BHP
- (r) Rio Tinto
- (s) Water Corporation
- (t) Roy Hill
- (u) Fortescue Helicopters
- (v) Kanyirninpa Jukurrpa

**Nullagine**

**Voting Members:**

- (a) WA Police
- (b) Nullagine Bush Fire Brigade
- (c) Department of Fire & Emergency Services

**Non-Voting Members:**

- (d) Marble Bar VFRS
- (e) WA Country Health Service
- (f) Nullagine Primary School
- (g) Millenium Minerals Ltd
- (h) FMG Christmas Creek
- (i) Main Roads WA
- (j) Roy Hill
- (k) St John Ambulance
- (l) Department of Communities

**CARRIED BY AN ABSOLUTE MAJORITY  
RECORD OF VOTE: 6/0**

**For:** Shire President, Crs McWhirter-Brooks, Lockyer, Anderson, Kular, Evrett

**Against:** Nil

***With the agreement of the Mover and Seconder administrative amendments were made to the Officers Recommendation.***

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**REPORT PURPOSE**

To appoint members to the Shire's three Local Emergency Management Committees.

**BACKGROUND**

Section 38 of the *Emergency Management Act 2005* requires the Shire of East Pilbara to establish one or more local emergency management committees for the local government's district.

Where more than one local emergency management committee is established, the Shire is to specify the area in respect of which the committee is to exercise its functions. The Shire has a Local Emergency Management Committee (LEMC) for Newman, Nullagine and Marble Bar.

**COMMENTS/OPTIONS/DISCUSSIONS**

Membership of all committees became vacant on 21 October 2023 in accordance with s.5.11(d) of the *Local Government Act 1995* (“the Act”) and new members and deputy members are recommended for election.

The purposes of each committee are:

- To advise and assist Council in establishing local emergency management arrangements for their respective areas;
- To liaise with public authorities and other persons in the development, review and testing of the local emergency management arrangements for their respective areas; and
- To carry out other emergency management activities as directed by the State Emergency Management Committee or prescribed regulations.

Council reviewed and adopted the current committee terms of reference on 24 February 2023 ([Appendix 1](#)). They are scheduled to be reviewed again following the election.

Under the current terms of reference, Council is to appoint one Council Member, who will also be the presiding member of the Committee.

Each Committee’s Council representative and deputy prior to the local government election on 21 October 2023 was:

Marble Bar

<b>Member</b>		<b>Deputy Member</b>	
1.	Cr Coppin	1.	Cr Mortimer

Newman

<b>Member</b>		<b>Deputy Member</b>	
1.	Cr Middleton	1.	Cr Anick

Nullagine

<b>Member</b>		<b>Deputy Member</b>	
1.	Cr Smith	1.	Cr McWhirter-Brooks

Process of appointment

Council shall appoint by an absolute majority a member of each committee. As the committees’ terms of reference include the appointment of members who are not Committee Members, a resolution of Council supported by an absolute majority is required to confirm the reappointment of those members.



In the circumstances where more Council Members nominate for appointment as members of a committee than there are positions, then an election is to be held in accordance with Schedule 4.1, Division 2 of the Act (attached as Appendix 2).

At any given time each Council Member is entitled to be a member of at least one committee of Council and if a Council Member nominates themselves to be a member of a committee and is not a member of any other committee, Council must appoint that Council Member to that Committee. If a Council Member nominates themselves to be appointed to more than one Committee, Council must appoint that Council Member to at least one committee as it decides [s.5.10(2) of the Act].

Section 5.10(4) of the Act provides that if the president informs the Council of their wish to be a member of a committee, the Council must appoint the president to be a member of that committee.

Council may appoint by an absolute majority a Council Members to be a deputy member of each committee. Any deputy member may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause. A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member [ss.5.11A(2)(a),(3) and (4) of the Act].

Committee membership continues until whichever the first of the following circumstances arise:

- a. the term, as set by Council of the person's appointment as a committee member expires; or
- b. Council removes the member from office or the office of committee member otherwise becomes vacant; or
- c. the next ordinary elections day [s.5.11(2)].

### **STATUTORY IMPLICATIONS/REQUIREMENTS**

Consistent with part 5, subdivision 2 of the *Local Government Act 1995* and section 38 of the *Emergency Management Act 2005*.

### **POLICY IMPLICATIONS**

The appointment of members to the committees of Council is consistent with existing Council policy.

### **STRATEGIC COMMUNITY PLAN**

#### **5: Governance**

- G1 Vibrant local democracy, forward-thinking civic leadership, and transparent stewardship of the community's assets and resources.
  - G1.1 Continued focus on good governance, transparency and community and stakeholder engagement in significant decisions, including place-based plans.
  - G1.4 Ensure a high standard of organisational management and effectiveness

### **RISK MANAGEMENT CONSIDERATIONS**

Compliance - Insignificant

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**FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

**VOTING REQUIREMENTS**

Absolute Majority.

**LOCAL EMERGENCY MANAGEMENT COMMITTEE**  
**MARBLE BAR**  
**TERMS OF REFERENCE**  
**(Adopted 24 February 2023)**

<b>Name</b>	Local Emergency Management Committee – Marble Bar
<b>Role/Purpose</b>	To advise and assist Council in meeting its obligations under the <i>Emergency Management Act 2005</i> .
<b>Aims &amp; functions</b>	<ol style="list-style-type: none"> <li>1. To advise and assist Council in establishing local emergency management arrangements for Marble Bar;</li> <li>2. To liaise with public authorities and other persons in the development, review and testing of the local emergency management arrangements for Marble Bar; and</li> <li>3. To carry out other emergency management activities as directed by the State Emergency Management Committee or prescribed regulations.</li> </ol>
<b>Membership</b>	<ol style="list-style-type: none"> <li>1. The Committee shall consist of the following representatives: <ol style="list-style-type: none"> <li>a. One (1) Councillor appointed by an absolute majority of the Council [s.5.10(a)(1) of the LG Act].</li> <li>b. The Chief Executive Officer of the Shire of East Pilbara or their nominee.</li> <li>c. Employees of the Shire as nominated by the Chief Executive Officer from time to time [s.5.10(5)(b) of the LG Act].</li> <li>d. The Council may appoint by an absolute majority up to one (1) Councillors to be deputy members of the Committee. A deputy member may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause. A deputy of a member, while acting as a member, has all the function of and all the protection given to a member [ss.5.11A(2)(a),(3)&amp;(4) of the LG Act].</li> <li>e. The following organisations may appoint one (1) representative as a voting member of the Committee: <ol style="list-style-type: none"> <li>i. Marble Bar Police</li> <li>ii. Department of Fire &amp; Emergency Services</li> <li>iii. Marble Bar Volunteer Fire &amp; Emergency Services</li> </ol> </li> <li>f. The following organisations may appoint one (1) representative as a non-voting member of the Committee: <ol style="list-style-type: none"> <li>i. Main Roads WA</li> <li>ii. WA Country Health Service</li> <li>iii. Marble Bar Nursing Post</li> <li>iv. Marble Bar Primary School</li> <li>v. Department of Communities</li> <li>vi. Atlas Iron</li> <li>vii. Warralong Community Representative</li> <li>viii. Ashburton Aboriginal Corporation</li> <li>ix. Roy Hill</li> <li>x. Telfer Newcrest Mining</li> <li>xi. DPAW</li> <li>xii. St Johns Ambulance</li> <li>xiii. Kanyirninpa Jukurrpa</li> </ol> </li> <li>g. Committee membership continues until whichever the first of the following circumstances arise:</li> </ol> </li> </ol>

	<ul style="list-style-type: none"> <li>i. the term, as set by Council of the person's appointment as a committee member expires; or</li> <li>ii. Council removes the member from office or the office of committee member otherwise becomes vacant; or</li> <li>iii. the committee is disbanded; or</li> <li>iv. the next ordinary elections day [s.5.11(2)].</li> </ul> <p>h. Members must comply with the <i>Shire of East Pilbara Code of Conduct for Council Members, Committee Members and Candidates</i>.</p> <p>i. The Committee has authority to second individuals from outside of the Committee, on a voluntary basis, for their expert advice.</p>
<b>Operating Procedures</b>	<p>1. Presiding Member:</p> <ul style="list-style-type: none"> <li>a. The appointed Councillor will be the Presiding Member of the Committee and will preside at all meetings.</li> <li>b. In the absence of the Presiding Member, the CEO will appoint a person to preside for the duration of the Presiding Member's absence.</li> <li>c. The Presiding Member is responsible for the proper conduct of the Committee in accordance with the <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i> and the Code of Conduct for Council Members, Committee Members and Candidates.</li> </ul> <p>2. Meetings:</p> <ul style="list-style-type: none"> <li>a. The Committee shall meet as required, but must hold a minimum of four (4) meetings per calendar year.</li> <li>b. Additional meetings can be scheduled by decision of the Council or the Committee, or at the request of the President, the Presiding Member of the Committee or any two (2) members of the Committee [cl.3.4 <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i>].</li> <li>c. A Notice of Meeting, including an agenda, will be circulated to the Committee Members (including deputy members) at least 72 hours prior to each meeting where possible.</li> <li>d. The CEO shall ensure that detailed minutes of all meetings are kept and shall provide the Committee members (including any deputy members) with a copy of such minutes.</li> </ul> <p>3. Quorum: The quorum of a meeting shall be at least 50% of the number of voting members.</p> <p>4. Reporting:</p> <ul style="list-style-type: none"> <li>a. The Minutes of every Committee meeting will be circulated for the information of all Committee members and Councillors.</li> <li>b. Any Committee resolution or recommendation requiring consideration by Council will be reported to Council as soon as practicable.</li> <li>c. The Committee's Terms of Reference will be published on the Shire's website.</li> </ul>
<b>Appointing Legislation</b>	The Committee is established under section 38 of the <i>Emergency Management Act 2005</i> and governed by the <i>Local Government Act 1995</i> .
<b>Delegated Authority</b>	The Committee is an advisory committee appointed by and reports to Council. The Committee provides appropriate advice and recommendations to the Council on matters relevant to its Terms of Reference. This is in order to facilitate informed decision making by the Council in relation to legislative functions and duties of the local government that have not been delegated to the CEO.

<b>References:</b>	Nil		
<b>Authorised by:</b>	Council		
<b>Date:</b>	24 February 2023	<b>Item No.</b>	11.1.3
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Next Review</b>	Following each ordinary local government election		
<b>Responsible Directorate</b>	Office of the Chief Executive Officer		
<b>Responsible Officer</b>	Manager Governance, Risk and Procurement		
<b>File No.</b>			

Item 8.2 Appendix 1

**LOCAL EMERGENCY MANAGEMENT COMMITTEE  
NEWMAN  
TERMS OF REFERENCE**

<b>Name</b>	Local Emergency Management Committee – Newman
<b>Definitions</b>	<b>CEO</b> means Chief Executive Officer of the Shire of East Pilbara <b>Committee</b> means the Local Emergency Management Committee - Newman <b>Shire</b> means the Shire of East Pilbara <b>The LG Act</b> means the <i>Local Government Act 1995</i>
<b>Purpose</b>	To advise and assist Council in meeting its obligations under the <i>Emergency Management Act 2005</i> .
<b>Functions</b>	<ol style="list-style-type: none"> <li>1. To advise and assist Council in establishing local emergency management arrangements for Newman;</li> <li>2. To liaise with public authorities and other persons in the development, review and testing of the local emergency management arrangements for Newman; and</li> <li>3. To carry out other emergency management activities as directed by the State Emergency Management Committee or prescribed regulations.</li> </ol>
<b>Membership</b>	<p>The Committee shall consist of the following representatives:</p> <ol style="list-style-type: none"> <li>a. One (1) Councillor appointed by an absolute majority of the Council [s.5.10(a)(1) of the LG Act].</li> <li>b. The Chief Executive Officer of the Shire of East Pilbara or their nominee.</li> <li>c. Employees of the Shire as nominated by the Chief Executive Officer from time to time [s.5.10(5)(b) of the LG Act].</li> <li>d. The Council may appoint by an absolute majority up to one (1) Councillors to be deputy members of the Committee. A deputy member may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause. A deputy of a member, while acting as a member, has all the function of and all the protection given to a member [ss.5.11A(2)(a),(3)&amp;(4) of the LG Act].</li> <li>e. The following organisations may appoint one (1) representative as a voting member of the Committee: <ol style="list-style-type: none"> <li>i. WA Police</li> <li>ii. Department of Fire &amp; Emergency Services</li> <li>iii. Newman VFRS</li> <li>iv. Newman SES</li> <li>v. St Johns Ambulance</li> </ol> </li> <li>f. The following organisations may appoint one (1) representative as a non-voting member of the Committee:</li> </ol>

	<ul style="list-style-type: none"> <li>i. Department of Defence</li> <li>ii. Sonic Health Plus Newman</li> <li>iii. Department of Parks &amp; Wildlife</li> <li>iv. East Pilbara Independence Support (EPIS)</li> <li>v. WA Country Health Service</li> <li>vi. Department of Communities</li> <li>vii. Newman Senior High School</li> <li>viii. Main Roads WA</li> <li>ix. Air Services Australia</li> <li>x. Puntukurnu Aboriginal Medical Services (PAMS)</li> <li>xi. Fortescue Metals Group</li> <li>xii. BHP Billiton</li> <li>xiii. Rio Tinto</li> <li>xiv. Water Corporation</li> <li>xv. Roy Hill</li> <li>xvi. Fortescue Helicopters</li> <li>xvii. Kanyirninpa Jukurrpa</li> </ul> <p>g. Committee membership continues until whichever the first of the following circumstances arise:</p> <ul style="list-style-type: none"> <li>i. the term, as set by Council of the person's appointment as a committee member expires; or</li> <li>ii. Council removes the member from office or the office of committee member otherwise becomes vacant; or</li> <li>iii. the committee is disbanded; or</li> <li>iv. the next ordinary elections day [s.5.11(2)].</li> </ul> <p>h. Members must comply with the <i>Shire of East Pilbara Code of Conduct for Council Members, Committee Members and Candidates</i>.</p> <p>i. The Committee has authority to second individuals from outside of the Committee, on a voluntary basis, for their expert advice.</p>
<p><b>Operating Procedures</b></p>	<p>1. Presiding Member:</p> <ul style="list-style-type: none"> <li>a. The appointed Councillor will be the Presiding Member of the Committee and will preside at all meetings.</li> <li>b. In the absence of the Presiding Member, the CEO will appoint a person to preside for the duration of the Presiding Member's absence.</li> <li>c. The Presiding Member is responsible for the proper conduct of the Committee in accordance with the <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i> and the Code of Conduct for Council Members, Committee Members and Candidates.</li> </ul> <p>2. Meetings:</p> <ul style="list-style-type: none"> <li>a. The Committee shall meet as required, but must hold a minimum of four (4) meetings per calendar year.</li> <li>b. Additional meetings can be scheduled by decision of the Council or the</li> </ul>

	<p>Committee, or at the request of the President, the Presiding Member of the Committee or any two (2) members of the Committee [cl.3.4 <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i>].</p> <p>c. A Notice of Meeting, including an Agenda, will be circulated to the Committee Members (including deputy member) at least 72 hours prior to each meeting.</p> <p>d. The CEO shall ensure that detailed minutes of all meetings are kept and shall provide the Committee members (including any deputy member) with a copy of such minutes.</p> <p>3. Quorum:</p> <p>The quorum of a meeting shall be at least 50% of the number of voting members.</p> <p>4. Reporting:</p> <p>a. The Minutes of every Committee meeting will be circulated for the information of all Committee Members and Councillors.</p> <p>b. Any Committee resolution or recommendation requiring consideration by Council will be reported to Council as soon as practicable.</p> <p>c. The Committee's Terms of Reference will be published on the Shire's website.</p>
<b>Appointing Legislation</b>	The Committee is established under section 38 of the <i>Emergency Management Act 2005</i> and governed by the <i>Local Government Act 1995</i> .
<b>Delegated Authority</b>	The Committee is an advisory committee appointed by and reports to Council. The Committee provides appropriate advice and recommendations to the Council on matters relevant to its Terms of Reference. This is in order to facilitate informed decision making by the Council in relation to legislative functions and duties of the local government that have not been delegated to the CEO.

<b>References:</b>	Nil		
<b>Authorised by:</b>	Council		
<b>Date:</b>	24 February 2023	<b>Item No.</b>	
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Next Review</b>	Following each ordinary local government election		
<b>Responsible Directorate</b>	Office of the Chief Executive Officer		
<b>Responsible Officer</b>	Manager Governance, Risk and Procurement		
<b>File No.</b>			



# LOCAL EMERGENCY MANAGEMENT COMMITTEE

## NULLAGINE

### TERMS OF REFERENCE

<b>Name</b>	Local Emergency Management Committee – Nullagine
<b>Definitions</b>	<p><b>CEO</b> means Chief Executive Officer of the Shire of East Pilbara</p> <p><b>Committee</b> means the Local Emergency Management Committee - Nullagine</p> <p><b>Shire</b> means the Shire of East Pilbara</p> <p><b>The LG Act</b> means the <i>Local Government Act 1995</i></p>
<b>Purpose</b>	To advise and assist Council in meeting its obligations under the <i>Emergency Management Act 2005</i> .
<b>Functions</b>	<ol style="list-style-type: none"> <li>1. To advise and assist Council in establishing local emergency management arrangements for Nullagine;</li> <li>2. To liaise with public authorities and other persons in the development, review and testing of the local emergency management arrangements for Nullagine; and</li> <li>3. To carry out other emergency management activities as directed by the State Emergency Management Committee or prescribed regulations.</li> </ol>
<b>Membership</b>	<ol style="list-style-type: none"> <li>1. The Committee shall consist of the following representatives: <ol style="list-style-type: none"> <li>a. One (1) Councillor appointed by an absolute majority of the Council [s.5.10(a)(1) of the LG Act].</li> <li>b. The Chief Executive Officer of the Shire of East Pilbara or their nominee.</li> <li>c. Employees of the Shire as nominated by the Chief Executive Officer from time to time [s.5.10(5)(b) of the LG Act].</li> <li>d. The Council may appoint by an absolute majority up to one (1) Councillors to be deputy members of the Committee. A deputy member may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause. A deputy of a member, while acting as a member, has all the function of and all the protection given to a member [ss.5.11A(2)(a),(3)&amp;(4) of the LG Act].</li> <li>e. The following organisations may appoint one (1) representative as a voting member of the Committee: <ol style="list-style-type: none"> <li>i. WA Police</li> <li>ii. Nullagine Bush Fire Brigade</li> <li>iii. Department of Fire &amp; Emergency Services</li> </ol> </li> <li>f. The following organisations may appoint one (1) representative as a non-voting member of the Committee: <ol style="list-style-type: none"> <li>i. Marble Bar VFRS</li> <li>ii. WA Country Health Service</li> </ol> </li> </ol> </li> </ol>

	<ul style="list-style-type: none"> <li>iii. Nullagine Primary School</li> <li>iv. Millenium Minerals Ltd</li> <li>v. FMG Christmas Creek</li> <li>vi. Main Roads WA</li> <li>vii. Roy Hill</li> <li>viii. St John Ambulance</li> <li>ix. Department of Communities</li> </ul> <p>g. Committee membership continues until whichever the first of the following circumstances arise:</p> <ul style="list-style-type: none"> <li>i. the term, as set by Council of the person's appointment as a committee member expires; or</li> <li>ii. Council removes the member from office or the office of committee member otherwise becomes vacant; or</li> <li>iii. the committee is disbanded; or</li> <li>iv. the next ordinary elections day [s.5.11(2)].</li> </ul> <p>h. Members must comply with the <i>Shire of East Pilbara Code of Conduct for Council Members, Committee Members and Candidates</i>.</p> <p>i. The Committee has authority to second individuals from outside of the Committee, on a voluntary basis, for their expert advice.</p>
<p><b>Operating Procedures</b></p>	<p>1. Presiding Member:</p> <ul style="list-style-type: none"> <li>a. The appointed Councillor will be the Presiding Member of the Committee and will preside at all meetings.</li> <li>b. In the absence of the Presiding Member, the CEO will appoint a person to preside for the duration of the Presiding Member's absence.</li> <li>c. The Presiding Member is responsible for the proper conduct of the Committee in accordance with the <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i> and the Code of Conduct for Council Members, Committee Members and Candidates.</li> </ul> <p>2. Meetings:</p> <ul style="list-style-type: none"> <li>a. The Committee shall meet as required, but must hold a minimum of four (4) meetings per calendar year.</li> <li>b. Additional meetings can be scheduled by decision of the Council or the Committee, or at the request of the President, the Presiding Member of the Committee or any two (2) members of the Committee [cl.3.4 <i>Shire of East Pilbara Meeting Procedures Local Law 2019</i>].</li> <li>c. A Notice of Meeting, including an Agenda, will be circulated to the Committee Members (including deputy members) at least 72 hours prior</li> </ul>

	<p>to each meeting where possible.</p> <p>d. The CEO shall ensure that detailed minutes of all meetings are kept and shall provide the Committee members (including any deputy members) with a copy of such minutes.</p> <p>3. Quorum:</p> <p>The quorum of a meeting shall be at least 50% of the number of voting members.</p> <p>4. Reporting:</p> <p>a. The Minutes of every Committee meeting will be circulated for the information of all Committee Members and Councillors.</p> <p>b. Any Committee resolution or recommendation requiring consideration by Council will be reported to Council as soon as practicable.</p> <p>c. The Committee's Terms of Reference will be published on the Shire's website.</p>
<b>Appointing Legislation</b>	The Committee is established under section 38 of the <i>Emergency Management Act 2005</i> and governed by the <i>Local Government Act 1995</i> .
<b>Delegated Authority</b>	The Committee is an advisory committee appointed by and reports to Council. The Committee provides appropriate advice and recommendations to the Council on matters relevant to its Terms of Reference. This is in order to facilitate informed decision making by the Council in relation to legislative functions and duties of the local government that have not been delegated to the CEO.

<b>References:</b>	Nil		
<b>Authorised by:</b>	Council		
<b>Date:</b>	24 February 2023	<b>Item No.</b>	
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Review/Amendment Date</b>		<b>Item No.</b>	
<b>Next Review</b>	Following each ordinary local government election		
<b>Responsible Directorate</b>	Office of the Chief Executive Officer		
<b>Responsible Officer</b>	Manager Governance, Risk and Procurement		
<b>File No.</b>			

**8.3 EXTERNAL GROUPS – APPOINTMENT OF REPRESENTATIVES**

**Attachments:** [Appendix 1 WALGA Zone Delegate Information](#)  
**Responsible Officer:** Steven Harding  
 Chief Executive Officer  
**Author:** Joshua Brown  
 Manager Governance, Risk and Governance  
**Proposed Meeting Date:** 27 October 2023  
**Location/Address:** N/A  
**Name of Applicant:** N/A  
**Author Disclosure of Interest:** Nil

**COUNCIL RECOMMENDATION / OFFICER’S RECOMMENDATION**

(Resolution No: 2023/ 158)

**Moved:** Cr Anderson  
**Seconded:** Cr Lockyer

**That Council:**

1. Declares vacant all representative positions to external groups held by Council Members on behalf of Council;
2. Appoints the following representatives to external groups for a two year term concluding at the 2025 Local Government Elections; and
3. That Council endorses a Delegate to nominate as Chair of the WALGA Pilbara County Zone.

<b>Group</b>	<b>Appointee/s</b>	<b>Deputy Appointee/s</b>
Pilbara Regional Road Group (1 Member)	Cr McWhirter-Brooks	Cr Anderson
Regional Area Joint Development Assessment Panel (from 26 January 2024) (2 Members)	Cr Kular	Cr Lockyer
	Cr Evrett	Cr McWhirter-Brooks
WALGA Pilbara Country Zone (2 Delegates)	President Middleton	Cr Anderson
	Cr McWhirter-Brooks	Cr Kular
Newman Chamber of Commerce and Industry Inc. 1 (Non-Voting Member)	Shire President	Cr McWhirter-Brooks

Group	Appointee/s	Deputy Appointee/s
North West Defence Alliance	Shire President	Deputy President
	Chief Executive Officer	CEO's Delegate

**CARRIED UNANIMOUSLY  
RECORD OF VOTE: 6/0**

**For:** Shire President, Crs McWhirter-Brooks, Lockyer, Anderson, Kular, Evrett  
**Against:** Nil

## REPORT PURPOSE

For Council to appoint representatives of the Shire to external groups.

## BACKGROUND

Council appoints representatives to a number of external groups, either in response to a request from an organisation, a membership entitlement or because there is a statutory requirement for Council to provide representation.

It is sound practice for a new Council to review its representatives to external bodies following each local government election. This practice is followed in the interests of good governance, despite there being no explicit requirement in the *Local Government Act 1995* ("the Act") to do so, and provides an opportunity for the local government to fill any vacancies that may have occurred as a result of an existing Council Members either retiring or not being re-elected. It also allows newly-elected Council Members to nominate as representatives to any particular body they have an interest in.

## COMMENTS/OPTIONS/DISCUSSIONS

The following lists those groups to which Council has appointed representatives.

### Pilbara Regional Road Group

The State Road Funds to Local Government Agreement mandates the existence and operation of Regional Road Groups, which the State Road Funds to Local Government Advisory Committee oversees. The Regional Road Group is responsible for:

- Assessing road-funding submissions from its member Local Governments.
- The annual distribution of funds to Local Government roads.
- Monitoring and reporting on the effectiveness of applying funds to Local Government roads in its region.

Council is entitled to one member on the Pilbara Regional Road Group. Under the terms of reference of the Group, that member may delegate authority, including voting rights, to another Council Member from East Pilbara to attend in their place. However, it is recommended that Council appoint a deputy member for that purpose.

Regional Area Joint Development Assessment Panel

A Development Assessment Panel (DAP) is an independent decision-making body that determines certain development applications in place of other decision makers, such as the local government authority and/or the Western Australian Planning Commission (WAPC). There are five panels covering the State. The current structure is a transitional arrangement to a future model of no more than three panels.

Each panel consists of five members, comprising three specialist members and two local government Council Members. Members are appointed by the Minister for Planning and a pool of additional members are available to substitute if required.

The role of panels are to determine development applications of a certain type and value threshold through consistent, accountable, and professional decision-making.

Operating under Development Assessment Panel Regulations, each panel determines development applications as if it were the responsible planning authority, against the relevant local or region planning scheme.

DAP Regulations state that applications considered by a panel cannot be determined by local government or the WAPC.

The Shire of East Pilbara was part of the former Kimberley/Pilbara/Gascoyne Joint DAP, which has since been merged into a body that covers the whole of Western Australia, excluding metropolitan Perth, and is known as the Regional Area Joint DAP.

The relevant local government will be responsible for nominating four local government representative members from the local government's pool of Council Members. Two Council Members will be local members of the DAP, and two deputy local members to be called on if an issue of quorum arises. The Minister for Planning will appoint the local government representatives in accordance with Council's nomination.

Should the local government fail to nominate four representatives, the Minister has the power to appoint two alternative community representatives to ensure local representation is always present on a panel. The regulations require that these alternate representatives are residents of the local area and have relevant knowledge or experience that, in the opinion of the Minister, will enable them to represent the interests of their local community.

Members of the Regional Area Joint DAP must undertake mandatory training. The term of appointment will not commence until 26 January 2024.

WALGA Pilbara Country Zone

As part of its governance structure, the WA Local Government Association has established Zones as groups of geographically aligned Member Local Governments, responsible for direct elections of State Councillors, providing input into policy formulation and providing advice on various matters. The Shire of East Pilbara is a member of the Pilbara Country Zone and is entitled to two voting delegates and two deputy delegates. Information on the role of Zone delegates is attached as Appendix 1 to this report.

Council has been requested to appoint Council Members as delegates and deputy delegates to the Zone and notify WALGA by no later than Friday, 3 November 2023.

The first item of business at the November meeting will be for Zones to elect their State Council representative(s) and Deputy representative(s), as well as their Zone Chair

and Zone Deputy Chair. Council may choose to endorse its delegate/s to run as State Council representative(s) and/or Zone Chair and/or Deputy Chair.

Newman Chamber of Commerce

The Newman Chamber of Commerce and Industry has invited the Shire to send a non-voting representative of the Shire to attend its Annual General Meetings. It is recommended that the Shire President be appointed to this role, and the Deputy Shire President as the deputy representative.

Council's previous representatives on each group are listed below:

	<b>Body</b>	<b>Member/s</b>	<b>Deputy Member/s</b>
1	Pilbara Regional Road Group	Cr Coppin	Cr Lockyer
		Cr McWhirter-Brooks	Cr Anick
2	Joint Kimberley/Pilbara Development Assessment Panel (term expires 26/1/2024)	Cr Lockyer	Cr Baer
		Cr McWhirter-Brooks	Cr Landy
3	Pilbara WALGA Country Zone	Cr Middleton	Cr Baer
		Cr McWhirter-Brooks	Cr Lockyer
4	Newman Chamber of Commerce	Cr Middleton	Cr Baer

In the circumstances where more Council Members nominate for appointment as members of a committee than there are positions, then an election is to be held in accordance with Schedule 4.1, Division 3 of the Act.

North West Defence Alliance

The North West Defence Alliance (NWDA) is a group of the four Pilbara and four Kimberley local governments, which advocates for strategic defence infrastructure for the North West region of Western Australia. The Shire's representatives on the NWDA are currently the Shire President and Chief Executive Officer. The NWDA is generally represented by the President or Mayor and CEO of each member local government and it is recommended that the Council endorse the President and CEO to continue as the Council's representatives.

**STATUTORY IMPLICATIONS/REQUIREMENTS**

Nil

**POLICY IMPLICATIONS**

No known Policy implications

**STRATEGIC COMMUNITY PLAN**

**5: Governance**

G1 Vibrant local democracy, forward-thinking civic leadership, and transparent stewardship of the community's assets and resources.

G1.1 Continued focus on good governance, transparency and community and stakeholder engagement in significant decisions, including place-based plans.

G1.4 Ensure a high standard of organisational management and effectiveness

**RISK MANAGEMENT CONSIDERATIONS**

There are no identifiable risk management considerations

**FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

**VOTING REQUIREMENTS**

Simple Majority.



# **Elected Member Prospectus**

## **Becoming a Zone Delegate or State Councillor**

**Item 8.3 Appendix**  
**2023**

## About WALGA

WALGA is an independent, member-based, not for profit organisation representing and supporting the WA Local Government sector.

Our purpose is to leverage the collective strength and influence of the Local Government sector for the benefit of WA Local Governments and their communities.

### What does WALGA do?

WALGA provides value to Member Local Governments by advocating and facilitating sector solutions and policy, and by delivering member-centric, quality services.

### How does WALGA work?

WALGA employs approximately 100 staff across the areas of:

- Policy, including asset management, community, emergency management, environment, infrastructure, planning, roads and waste;
- Services and advice including governance, industrial relations, procurement, recruitment, supplier panels, tender management, and training for officers and Elected Members; and
- Operational functions including events, finance, human resources, information technology, marketing and media management.

### How is WALGA funded?

A number of components contribute to the WALGA operational budget. As with most member-based organisations, WALGA has an annual Membership fee paid by all Member Local Governments. To ensure fairness, the annual Membership fee is indexed to the size and capacity of each Local Government. It contributes less than 10 per cent of WALGA total turnover.

WALGA secures additional funding through charges to State and Federal departments and agencies for the administration of grants; fee-for-services selected for use by Member Local Governments; and returns from supplier contracts as part of group buying arrangements that guarantee lowest market rates for Members.

## Role of Zones

State Councillors are elected to State Council from one of 17 Zones, which are groupings of Local Governments convened together on the basis of population, commonalities of interest and geographical alignment.

The relationship between State Council and Zones within the Western Australian Local Government Association is a critical one in the political representation of Local Government at the State and Federal levels.

Zones have an integral role in shaping the political and strategic direction of WALGA. Not only are Zones responsible for bringing relevant local and regional issues to the State Council decision making table, they are a key player in developing policy and legislative initiatives for Local Government.

WALGA's Constitution outlines that the functions of Zones are to:

- elect one or more State Councillors;
- consider the State Council agenda;
- provide direction and feedback to their State Councillor; and
- any other function deemed appropriate by the Zone.

Additional activities undertaken by Zones include:

- developing and advocating on positions on regional issues affecting Local Government;
- progressing regional Local Government initiatives;
- identifying relevant issues for action by WALGA;
- networking and information sharing; and
- contributing to policy development through policy forums and other channels.

Zones provide input into State Council's advocacy efforts in two critical ways:

1. by passing resolutions on items contained in the State Council Agenda; and
2. by generating new Agenda items for consideration by State Council.

### Zone Motions

To generate new Agenda items for consideration by State Council, a Zone may pass a resolution requesting that WALGA take action. For example, a Zone motion may request WALGA to investigate an issue, undertake advocacy, or develop policy.

It is best practice that Zone motions are submitted with the backing of a resolution of Council. However, as Zones are self-governing and autonomous, individual Zone Delegates may submit motions for the Zone to consider.

It is recommended that the Zone be advised whether a motion to be considered has been endorsed by Council or has been submitted by an individual Zone Delegate.

## Role of a Zone Delegate

Zone Delegates are elected or appointed to represent their Council on the Zone and make decisions on their Council's behalf at the regional level.

In fulfilling their role as Council's representative, the Zone Delegate should give regard to their Council's positions on policy issues.

There is also an expectation that Zone Delegates will report back to their Council about decisions made by the Zone.

## Role of State Council

WALGA is governed by a President and a 24-member State Council, elected from the Local Government sector.

Each State Councillor represents a WALGA Zone. There are 5 metropolitan Zones and 12 country Zones. All 139 WA Local Governments are invited to be Members of WALGA and a Zone.

Elected Members are able to nominate to represent their Local Government on their Zone and in turn, through the Zone election process, to represent the Zone on State Council.

State Council's primary role is to govern the successful operation of WALGA and broadly includes:

- Strategy formulation and policy making;
- Development, evaluation and succession of the Chief Executive Officer;
- Monitoring financial management and performance, including the annual budget;
- Monitoring and controlling compliance and organisational performance;
- Ensuring effective identification, assessment and management of risk;
- Promoting ethical and responsible decision making;

- Ensuring effective communication and liaison with members and stakeholders; and;
- Ensuring an effective governance framework and culture.

## **Role of a State Councillor**

State Councillors have ultimate responsibility for the overall successful operations of WALGA.

The principal roles of State Councillors relate to:

- policy positions and issues;
- the strategic direction of WALGA;
- financial operations and solvency; and
- all matters as prescribed by law.

State Councillors, as directors of a board, are required to act consistently in the “best interests of the organisation as a whole”. This effectively means that the duties of a State Councillor are owed to all Member Local Governments.

State Councillors are also expected to be champions for WALGA and for the Local Government sector.

## **Commitment of the Role of State Councillor**

State Councillors are expected to attend State Council meetings, of which there are five ordinary meetings per year. As State Councillors are elected to State Council by their Zone, State Councillors would also be expected to attend and play a prominent role in Zone meetings, including reporting back to their Zone about WALGA’s activities and advocacy.

State Councillors are expected to attend WALGA events and functions and play an active role in representing the Local Government sector, and contributing to policy debates and other forums.

State Council operates a number of internal and external committees and policy forums. There is an expectation that State Councillors play a leading role in serving on State Council’s committees on behalf of WALGA and the Local Government sector.

State Councillors are paid an annual sitting fee and expenses incurred to attend State Council meetings are reimbursable.

## Opportunities for State Councillors

State Councillors, as board members of WALGA, are key leaders in the Local Government sector in Western Australia. Not only do State Councillors represent their community on their Council, they also have the opportunity to represent their region (Zone) and the Local Government sector at the state level.

All State Councillors will be appointed to a Policy Team or the Finance & Services Committee. Policy Teams provide State Councillors with hands-on exposure to development of policy positions and submissions to Government on behalf of the WA Local Government sector. The Chair of the relevant Policy Team will also have the opportunity to attend meetings with Government Ministers to advocate on behalf of Local Government.

## Become Involved

We hope that involvement in your Association – by representing your Council on the Zone, or representing your Zone on State Council – will be an enriching and rewarding experience.

Consider nominating for a position on the Zone or State Council and play a role in shaping policy and advocacy on behalf of Local Government in Western Australia!

## Contacts

Chantelle O'Brien, Governance Support Officer  
(08) 9213 2013 [cobrien@walga.asn.au](mailto:cobrien@walga.asn.au)

Kathy Robertson, Manager Association and Corporate Governance  
(08) 9213 2036 [krobertson@walga.asn.au](mailto:krobertson@walga.asn.au)

Tony Brown, Executive Director Member Services  
(08) 9213 2051 [tbrown@walga.asn.au](mailto:tbrown@walga.asn.au)

#### 8.4 ORDER OF BUSINESS

**Responsible Officer:** Steven Harding  
Chief Executive Officer

**Author:** Joshua Brown  
Manager Governance, Risk and Procurement

**Proposed Meeting Date:** 27 October 2023

**Location/Address:** N/A

**Name of Applicant:** N/A

**Author Disclosure of Interest:** Nil

#### **COUNCIL RESOLUTION / OFFICER'S RECOMMENDATION**

(Resolution No: 2023/ 159)

**Moved:** Cr McWhirter-Brooks

**Seconded:** Cr Lockyer

**That Council determines that the Order of Business at any Ordinary Meeting of the Council is to be as follows:**

- 1. Declaration of Opening/Announcement of Visitors;**
- 2. Attendance by Electronic Means;**
- 3. Record of Attendance/Apologies/Leave of Absence;**
- 4. Disclosure of Interests;**
- 5. Declarations by Council Members to have given due consideration to all matters contained in the Business Paper before the Meeting;**
- 6. Response to Previous Public Questions Taken on Notice;**
- 7. Public Question Time;**
- 8. Petitions/Deputations/Presentations;**
- 9. Applications for Leave of Absence;**
- 10. Confirmation of Minutes of Previous Council Meeting;**
- 11. Member Reports;**
- 12. Officer Reports;**
- 13. Committee Reports;**
- 14. Motions for Which Previous Notice Has Been Given;**
- 15. Questions by Members For Which Due Notice Has Been Given;**
- 16. New Business of an Urgent Nature Introduced by a Decision of Council;**
- 17. Confidential Matters Behind Closed Doors;**
- 18. Date of Next Meeting;**
- 19. Closure.**

**CARRIED UNANIMOUSLY  
RECORD OF VOTE: 6/0**

**For:** Shire President, Crs McWhirter-Brooks, Lockyer, Anderson, Kular, Evrett  
**Against:** Nil

## REPORT PURPOSE

For Council to determine the ordinary order of business for Council Meetings.

## BACKGROUND

The *Shire of East Pilbara Meeting Procedures Local Law 2019* provides Council with the power to determine from time to time, its order of business for ordinary meetings. Following the election of a new Council, it is prudent to review and confirm the usual order of business.

## COMMENTS/OPTIONS/DISCUSSIONS

At its ordinary meeting on 22 October 2021 following the last ordinary election, Council determined the order of business for ordinary meetings to be as follows:

1. Declaration of Opening/Announcement of Visitors;
2. Attendance by Instantaneous Communications;
3. Record of Attendance/Apologies/Leave of Absence;
4. Disclosure of Interests;
5. Response to Previous Public Questions Taken On Notice;
6. Public Question Time;
7. Petitions/Deputations/Presentations;
8. Applications for Leave of Absence;
9. Confirmation of Minutes of Previous Council meeting;
10. Members Reports;
11. Officer's Reports
12. Motions for which Previous Notice Has Been Given;
13. Questions by Members for which due Notice has been given;
14. New Business of an Urgent Nature Introduced By A Decision of Council;
15. Confidential Matters Behind Closed Doors;
16. Date of Next Meeting;
17. Closure.



A review of the order of business has identified four proposed changes for Council's consideration:

1. Change "Attendance by Instantaneous Communications" to "Attendance By Electronic means". This change is recommended to reflect the language of last year's amendments to the *Local Government (Administration) Regulations 1996* concerning meeting attendance by Council Members by video and telephone links.
2. Introduce a new item for Declarations by Council Members to have given due consideration to all matters contained in the Business Paper before the Meeting. This best practice governance measure confirms that all Council Members have considered the Council Agenda and business papers prior to the Council Meeting.
3. Introduce a new item for Committee Reports. This will demarcate Committee Reports from Directorates, and reflect the fact that recommendations in this section are from committees of Council and not from officers.
4. Change "Members Reports" and "Officer's Reports" to read "Member Reports" and "Officer Reports" respectively. This change corrects typographical errors.

No further changes to the usual order of business are recommended.

#### **STATUTORY IMPLICATIONS/REQUIREMENTS**

Consistent with clause 5.2 of the *Shire of East Pilbara Meeting Procedures Local Law 2019*.

#### **POLICY IMPLICATIONS**

Council may amend the order of business for ordinary meetings from time to time.

#### **STRATEGIC COMMUNITY PLAN**

##### **5: Governance**

- G1 Vibrant local democracy, forward-thinking civic leadership, and transparent stewardship of the community's assets and resources.
- G1.1 Continued focus on good governance, transparency and community and stakeholder engagement in significant decisions, including place-based plans

#### **RISK MANAGEMENT CONSIDERATIONS**

Compliance – Insignificant

#### **FINANCIAL IMPLICATIONS**

No financial resource impact.

#### **VOTING REQUIREMENTS**

Simple Majority.

8.5 COUNCIL MEETING DATES FOR 2023/24

**Attachments:** [Appendix 1 Council Meeting Calendar](#)  
**Responsible Officer:** Steven Harding  
 Chief Executive Officer  
**Author:** Tehsin Ali  
 Governance Administration Officer  
**Proposed Meeting Date:** 27 October 2023  
**Location/Address:** N/A  
**Name of Applicant:** N/A  
**Author Disclosure of Interest:** Nil

**COUNCIL RECOMMENDATION / OFFICER'S RECOMMENDATION**

(Resolution No: 2023/ 160)

**Moved:** Cr Anderson  
**Seconded:** Cr McWhirter-Brooks

That Council adopts the dates, times and places for Ordinary Council Meetings for the next twelve months as listed below, to be published in accordance with regulation 12(2) of the *Local Government (Administration) Regulations 1996*:

Date	Time	Location
24 November 2023	10:30am	Newman
15 December 2023	10:30am	Newman
23 February 2024	10:30am	Newman
22 March 2024	10:30am	Marble Bar
26 April 2024	10:30am	Newman
24 May 2024	10:30am	TBC
28 June 2024	10:30am	Nullagine
26 July 2024	10:30am	Newman
23 August 2024	10:30am	Newman
27 September 2024	10:30am	Marble Bar
25 October 2024	10:30am	Newman

**CARRIED UNANIMOUSLY  
 RECORD OF VOTE: 6/0**

**For:** Shire President, Crs McWhirter-Brooks, Lockyer, Anderson, Kular, Evrett  
**Against:** Nil

## **REPORT PURPOSE**

For Council to set and publish the Ordinary Council Meeting dates, times and locations for the forthcoming twelve month period.

## **BACKGROUND**

Council must publish on its website the meeting details for Ordinary Council Meetings that are required or proposed to be open to members of the public.

Council meetings are normally held on the fourth Friday of each month commencing at 10:30am.

## **COMMENTS/OPTIONS/DISCUSSIONS**

The following table details proposed dates, times and places for Ordinary Council Meetings to be held over the next twelve months:

<b>Date</b>	<b>Time</b>	<b>Location</b>
24 November 2023	10:30am	Newman
15 December 2023	10:30am	Newman
23 February 2024	10:30am	Newman
22 March 2024	10:30am	Marble Bar
26 April 2024	10:30am	Newman
24 May 2024	10:30am	TBC
28 June 2024	10:30am	Nullagine
26 July 2024	10:30am	Newman
23 August 2024	10:30am	Newman
27 September 2024	10:30am	Marble Bar
25 October 2024	10:30am	Newman

The proposed date for December 2023 takes into account the Christmas public holidays that fall on or near the fourth Friday of the month.

A meeting may be held on 28 January 2024, although this is not recommended as it is unlikely that there will be many matters requiring decisions, and it is common practice across the local government sector that ordinary meetings not be convened in January.

In the event that an urgent matter arose requiring a decision from the Council, a Special Council Meeting can be arranged as necessary.

It is also proposed to convene a meeting in a First Nations community. The previous Council determine to postpone its August 2023 ordinary meeting in Parnngurr until after the election of the new Council. It is recommended that the May 2023 meeting be held in a First Nations community. This time is suggested as the weather will be cooler, the extraordinary election for East Ward will have been convened, and it will provide an opportunity for Council Members to travel to and spend time in and around the community.

It is noted that ANZAC Day falls on the Thursday before the fourth Friday of April.

Subject to the completion by the Office of the Auditor General, it is anticipated that the Annual Elector Meeting will take place in January or February 2024.

## **STATUTORY IMPLICATIONS/REQUIREMENTS**

Part 5 - Administration (Division 2 - Council meetings, committees and their meetings and electors' meetings) (Subdivision 3 - Matters affecting council and committee meetings) 5.25. Regulations about council and committee meetings and committees.

The recommendation is consistent with section 5.25(1)(g) of the *Local Government Act 1995* and Regulation 12 of the *Local Government (Administration) Regulations 1996*.

## **POLICY IMPLICATIONS**

Consistent with Council Meetings – Dates and Times Policy and Location of Council Meetings Policy.

## **STRATEGIC COMMUNITY PLAN**

### **5: Governance**

G1 Vibrant local democracy, forward-thinking civic leadership, and transparent stewardship of the community's assets and resources.

G1.4 Ensure a high standard of organisational management and effectiveness

## **RISK MANAGEMENT CONSIDERATIONS**

The recommendation eliminates the compliance and reputational risks associated with not setting and publishing the following year's meeting schedule.

## **FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

## **VOTING REQUIREMENTS**

Simple Majority.

# Council Meeting Calendar 2023/24 (as at 27 October 2023)

2023		2024									
November	December	January	February	March	April	May	June	July	August	September	October
1 We	1 Fr	1 Mo <small>New Year's Day</small>	1 Th	1 Fr	1 Mo <small>Easter Monday</small>	1 We	1 Sa	1 Mo	1 Th	1 Su	1 Tu
2 Th	2 Sa	2 Tu	2 Fr	2 Sa	2 Tu	2 Th	2 Su	2 Tu	2 Fr	2 Mo	2 We
3 Fr	3 Su	3 We	3 Sa	3 Su	3 We	3 Fr	3 Mo <small>WA Day</small>	3 We	3 Sa	3 Tu	3 Th
4 Sa	4 Mo	4 Th	4 Su	4 Mo	4 Th	4 Sa	4 Tu	4 Th	4 Su	4 We	4 Fr <small>CEO PR Committee</small>
5 Su	5 Tu	5 Fr	5 Mo	5 Tu	5 Fr	5 Su	5 We	5 Fr	5 Mo	5 Th	5 Sa
6 Mo	6 We	6 Sa	6 Tu	6 We <small>Labour Day</small>	6 Sa	6 Mo	6 Th	6 Sa	6 Tu	6 Fr	6 Su
7 Tu	7 Th	7 Su	7 We	7 Th	7 Su	7 Tu	7 Fr	7 Su	7 We	7 Sa	7 Mo
8 We	8 Fr	8 Mo	8 Th	8 Fr	8 Mo	8 We	8 Sa	8 Mo	8 Th	8 Su	8 Tu
9 Th	9 Sa	9 Tu	9 Fr	9 Sa	9 Tu	9 Th	9 Su	9 Tu	9 Fr	9 Mo	9 We
10 Fr	10 Su	10 We	10 Sa	10 Su	10 We	10 Fr	10 Mo	10 We <small>Workshop (if required)</small>	10 Sa	10 Tu	10 Th
11 Sa	11 Mo	11 Th	11 Su	11 Mo	11 Th	11 Sa	11 Tu	11 Th	11 Su	11 We <small>Workshop (if required)</small>	11 Fr
12 Su	12 Tu	12 Fr	12 Mo	12 Tu	12 Fr	12 Su	12 We <small>Workshop (if required)</small>	12 Fr	12 Mo	12 Th	12 Sa
13 Mo	13 We	13 Sa	13 Tu	13 We <small>Workshop (if required)</small>	13 Sa	13 Mo	13 Th	13 Sa	13 Tu	13 Fr	13 Su
14 Tu	14 Th <small>ARG &amp; Plant Committees</small>	14 Su	14 We <small>Workshop (if required)</small>	14 Th	14 Su	14 Tu	14 Fr	14 Su	14 We <small>Workshop (if required)</small>	14 Sa	14 Mo
15 We	15 Fr <small>Council Meeting</small>	15 Mo	15 Th	15 Fr	15 Mo	15 We <small>Workshop (if required)</small>	15 Sa	15 Mo	15 Th	15 Su	15 Tu
16 Th	16 Sa	16 Tu	16 Fr	16 Sa	16 Tu	16 Th	16 Su	16 Tu	16 Fr	16 Mo	16 We <small>Workshop (if required)</small>
17 Fr	17 Su	17 We	17 Sa	17 Su	17 We <small>Workshop (if required)</small>	17 Fr	17 Mo	17 We	17 Sa	17 Tu	17 Th
18 Sa	18 Mo	18 Th	18 Su	18 Mo	18 Th	18 Sa	18 Tu	18 Th	18 Su	18 We	18 Fr
19 Su	19 Tu	19 Fr	19 Mo	19 Tu	19 Fr	19 Su	19 We	19 Fr	19 Mo	19 Th	19 Sa
20 Mo	20 We	20 Sa	20 Tu	20 We	20 Sa	20 Mo	20 Th	20 Sa	20 Tu	20 Fr	20 Su
21 Tu	21 Th	21 Su	21 We	21 Th	21 Su	21 Tu	21 Fr	21 Su	21 We	21 Sa	21 Mo
22 We	22 Fr	22 Mo	22 Th <small>ARG &amp; Airport Committees</small>	22 Fr <small>Council Meeting</small>	22 Mo	22 We	22 Sa	22 Mo	22 Th <small>ARG Committee</small>	22 Su	22 Tu
23 Th	23 Sa	23 Tu	23 Fr <small>Council Meeting</small>	23 Sa	23 Tu	23 Th <small>ARG &amp; Plant Committees</small>	23 Su	23 Tu	23 Fr <small>Council Meeting</small>	23 Mo <small>King's Birthday</small>	23 We
24 Fr <small>Council Meeting</small>	24 Su	24 We	24 Sa	24 Su	24 We	24 Fr <small>Council Meeting</small>	24 Mo	24 We	24 Sa	24 Tu	24 Th
25 Sa	25 Mo <small>Christmas Day</small>	25 Th	25 Su	25 Mo	25 Th <small>Anzac Day</small>	25 Sa	25 Tu	25 Th <small>Airport Committee</small>	25 Su	25 We	25 Fr <small>Council Meeting</small>
26 Su	26 Tu <small>Boxing Day</small>	26 Fr <small>Australia Day</small>	26 Mo	26 Tu	26 Fr <small>Council Meeting</small>	26 Su	26 We	26 Fr <small>Council Meeting</small>	26 Mo	26 Th	26 Sa
27 Mo	27 We	27 Sa	27 Tu	27 We	27 Sa	27 Mo	27 Th	27 Sa	27 Tu	27 Fr <small>Council Meeting</small>	27 Su
28 Tu	28 Th	28 Su	28 We	28 Th	28 Su	28 Tu	28 Th	28 Fr <small>Council Meeting</small>	28 Su	28 We	28 Mo
29 We	29 Fr	29 Mo	29 Th	29 Fr <small>Good Friday</small>	29 Mo	29 We	29 Sa	29 Mo	29 Th	29 Su	29 Tu
30 Th	30 Sa	30 Tu		30 Sa	30 Tu	30 Th	30 Su	30 Tu	30 Fr	30 Mo	30 We
	31 Su	31 We		31 Su <small>Easter Sunday</small>		31 Fr		31 We	31 Sa		31 Th

- Ordinary Council Meeting
- Committee Meeting
- Council Workshop (if required)
- Public Holiday

8.6 COMMITTEE MEETING DATES FOR 2023/24

**Responsible Officer:** Steven Harding  
Chief Executive Officer

**Author:** Tehsin Ali  
Governance Administration Officer

**Proposed Meeting Date:** 27 October 2023

**Location/Address:** N/A

**Name of Applicant:** N/A

**Author Disclosure of Interest:** Nil

**COUNCIL RESOLUTION / OFFICER'S RECOMMENDATION**

(Resolution No: 2023/ 161)

**Moved:** Cr Kular

**Seconded:** Cr Lockyer

**That Council:**

1. Adopts the dates, times and places for Committee meetings for the next twelve months, as listed below, to be published in accordance with regulation 12(2) of the *Local Government (Administration) Regulations 1996*.
2. Authorises the Shire President to change the date and time of committee meetings in accordance with the *Shire of East Pilbara Meeting Procedures Local Law 2019*.

**Audit Risk and Governance Committee:**

Meeting Date	Time	Place
14 December 2023	4:00pm	Newman
22 February 2024	4:00pm	Newman
23 May 2024	4:00pm	Newman
22 August 2024	4:00pm	Newman

**CEO Performance Review Committee:**

Meeting Date	Time	Place
11 October 2024	8:00am	Newman

**CARRIED UNANIMOUSLY  
RECORD OF VOTE: 6/0**

**For:** Shire President, Crs McWhirter-Brooks, Lockyer, Anderson, Kular, Evrett  
**Against:** Nil

The Officers Recommendation in Item 8.1 of the Agenda was amended during discussion and resulted in the annulment of the Plant and the Shire Airports Advisory Committees.

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## REPORT PURPOSE

For Council to set the Committee meeting dates, times and venues for the next twelve months.

## BACKGROUND

The *Local Government Act 1995* and *Local Government (Administration) Regulations 1996* require the setting and publication of meeting dates, times and places for Committee meetings, that are to be open to the public or proposed to be open to the public, for the next twelve months.

Council currently has established the following Committees:

- Shire Airports Advisory Committee
- Audit, Risk and Governance Committee;
- CEO Performance Review Committee; and
- Plant Committee.

## COMMENTS/OPTIONS/DISCUSSIONS

Below are the proposed tentative meeting dates for the **Audit, Risk and Governance Committee**:

Meeting Date	Time	Place
14 December 2023	4:00pm	Newman
22 February 2024	4:00pm	Newman
23 May 2024	4:00pm	Newman
22 August 2024	4:00pm	Newman

Below are the proposed meeting dates for the **Plant Committee**:

Meeting Date	Time	Place
14 December 2023	4:30pm	Newman
23 May 2024	4:30pm	Newman

Below is the proposed meeting date for the **CEO Performance Review Committee**:

Meeting Date	Time	Place
11 October 2024	8:00am	Newman

Below are the proposed meeting dates for the **Shire Airport Advisory Committee**:

Meeting Date	Time	Place
22 February 2023	4:30pm	Newman
25 July 2023	4:30pm	Newman

**STATUTORY IMPLICATIONS/REQUIREMENTS**

Part 5 - Administration (Division 2 – Council meetings, committees and their meetings and electors' meetings) (Subdivision 2 - Committees and their meetings) 5.9. Committees, types of

**POLICY IMPLICATIONS**

Consistent with Council Meetings – Dates and Times Policy

**STRATEGIC COMMUNITY PLAN**

**5: Governance**

G1 Vibrant local democracy, forward-thinking civic leadership, and transparent stewardship of the community's assets and resources.

G1.4 Ensure a high standard of organisational management and effectiveness

**RISK MANAGEMENT CONSIDERATIONS**

The recommendation eliminates the compliance and reputational risks associated with not setting and publicising the following year's Committee meeting schedule.

**FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

**VOTING REQUIREMENTS**

Simple Majority.



**8.7 PETITION – DANGEROUS DOGS**

**Attachments:** [Appendix 1 Dangerous Dog Procedure](#)  
**Responsible Officer:** Steven Harding  
Chief Executive Officer  
**Author:** Joshua Brown  
Manager Governance, Risk and Procurement  
**Proposed Meeting Date:** 27 October 2023  
**Location/Address:** N/A  
**Name of Applicant:** N/A  
**Author Disclosure of Interest:** Nil

**COUNCIL RESOLUTION / OFFICER'S RECOMMENDATION**

(Resolution No: 2023/ 162)

**Moved:** Cr Lockyer  
**Seconded:** Cr Evrett

**That Council authorises the Chief Executive Officer to review the Shire's internal procedures relating to responding to dog attacks.**

**CARRIED UNANIMOUSLY  
RECORD OF VOTE: 6/0**

**For:** Shire President, Crs McWhirter-Brooks, Lockyer, Anderson, Kular, Evrett  
**Against:** Nil

**REPORT PURPOSE**

For Council to consider a report in relation to a petition received by Council at the 29 September 2023 ordinary meeting concerning dangerous dogs.

**BACKGROUND**

The *Shire of East Pilbara Meeting Procedures Local Law 2019* ("the Local Law") provides for the presentation to Council from electors of the District of a petition requesting action in relation to a matter. Upon receipt of the petition, Council must submit it to the relevant officer to be included in their deliberations and report on the matter that is the subject that is the matter of the petition.

The petition of 149 petitioners requests that Council:

*Review the policies and procedures allowing dangerous dogs to stay in our small community. Dogs that have jumped fences to kill other dogs should not be classed the same as a dog with potential to cause harm. There needs to be classifications [sic] with these incidents and each incident looked at individually regardless of breed. I also request along with this that the decision to keep such a dog should not lie with the owner who is emotionally attached to their pet. Any dog that kills another dog needs to be seized straight away to remove the emotional attachment and allow time for the investigation to take place, if a dog has shown intent to kill with no threat to it or family then the dog should be destroyed or re-homed where it can be rehabilitated [sic] with proper training.*

Whilst the petition did not strictly meet the form required by the Local Law, it was duly received by Council at its last ordinary meeting on 29 September 2023 and referred to the Chief Executive Officer for consideration and the preparation of a report for Council's consideration. This report canvasses the issues raised in the petition in accordance with the Local Law.

### COMMENTS/OPTIONS/DISCUSSIONS

Dog ownership in Western Australia is governed by the *Dog Act 1976* ("the Dog Act"). This is an Act of Parliament and can only be changed by the State Parliament. The main purposes of the Dog Act are to:

- encourage responsible pet ownership
- safely return lost animals to their homes
- keep the community and other animals safe
- reduce the number of animals admitted to pounds and shelters
- reduce the proportion of animals that are euthanised.

The Dog Act can be accessed at the following link:

[https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc\\_45453.pdf/\\$FILE/Dog%20Act%201976%20-%20%5B06-j0-00%5D.pdf?OpenElement](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45453.pdf/$FILE/Dog%20Act%201976%20-%20%5B06-j0-00%5D.pdf?OpenElement)

The Dog Act sets the rules for public safety in relation to dogs and their control. The Dog Act gives powers to local governments to regulate and control dogs and specifies what action a local government can take in relation to the control of dogs. In Western Australia, all dogs over three months old must be registered with a local government. The Dog Act also gives local governments powers to control "nuisance" or barking dogs and to regulate the number of dogs that can be housed at any one property.

The Dog Act also provides for the requirements for the control of dangerous dogs. It allows for any dog to be declared dangerous by a local government if:

- the dog has caused injury or damage by an attack on, or chasing, a person, animal or vehicle; or the dog has repeatedly shown a tendency –
  - to attack, or chase, a person, animal or vehicle even though no injury has been caused by that behaviour; or
  - to threaten to attack.

Section 33E of the Act provides for the following:

**33E. Individual dog may be declared to be dangerous dog (declared)**

- (1) *A local government, or on behalf of the local government an authorised person or person specifically authorised by the local government for the purposes of this section either generally or in a particular case, may, by a notice in writing given in accordance with section 33F, declare an individual dog to be a dangerous dog (declared) if, in the opinion of the local government or that person:*
  - (a) *the dog has caused injury or damage by an attack on, or chasing, a person, animal or vehicle; or*
  - (b) *the dog has, repeatedly, shown a tendency*
    - (i) *to attack, or chase, a person, animal or vehicle even though no injury has been caused by that behaviour; or*
    - (ii) *to threaten to attack; or*
  - (c) *the behaviour of the dog meets other criteria prescribed for the purpose of this section.*
- (2) *For the purpose of subsection (1)(b), a dog to which section 30(3) applies shall not be taken to show a tendency to attack, or chase, in carrying out the activities referred to in section 30(3) in relation to a dog of that kind.*
- (3) *The owner of a dog declared to be a dangerous dog (declared), or detained under this Division, shall have the rights referred to in this Division to object and to apply for a review.*

The fines in relation to dangerous dogs were increased in 2013 and a criminal offence was introduced if a dangerous dog kills a person or puts a person's life at risk. Courts can impose a requirement for dog owners to attend and complete a dog training course instead of (or in addition to) a fine.

The Shire may declare individual dogs 'dangerous' for offences such as attacking or repeatedly rushing, threatening or chasing people or animals.

If a dog is declared dangerous, the owner will be required to:

- Ensure the dog wears a specified collar indicating a dangerous dog
- Display warning signs indicating a dangerous dog at all access points at the premises at which the dog is kept
- Have the dog microchipped
- Providing clearly signposted, child and dog-proof enclosures
- Notify the local government if a declared dangerous dog attacks, goes missing or moves to another owner or address
- Notify the Shire if a female dog has puppies.

Section 39 of the Dog Act provides that a Court may order the destruction of a dog in the circumstances where an attack by a dog is shown on the balance of probabilities to have caused injury or damage. An application for the destruction of such a dog may be made by an authorised person of the local government.

The law provides no power to direct that a dangerous dog be relocated to an alternative location.

The measures to be taken in relation to dangerous dogs are prescribed by the *Dogs Regulation 2013*, which is available at the following link:

[https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc\\_45092.pdf/\\$FILE/Dog%20Regulations%202013%20-%20%5B01-h0-00%5D.pdf?OpenElement](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45092.pdf/$FILE/Dog%20Regulations%202013%20-%20%5B01-h0-00%5D.pdf?OpenElement)

### **Shire of East Pilbara Dogs Local Law 2020**

Each local government is able to introduce local laws on a range of matters for dog control including specified dog exercise areas and the number of dogs allowed to be kept at a premise.

The last review of the *Shire of East Pilbara Dogs Local Law 2020* (“the Dogs Local Law”) was undertaken in 2020. The proposed Local Law was endorsed for public consultation in May 2020 and adopted in August 2020 for gazettal and final approval by the Joint Parliamentary Committee on Delegated Legislation. The Local Government Act 1995 requires that all Local Laws be periodically reviewed every eight (8) years. The Dogs Local Law is next scheduled for review in 2028. A link to the Dogs Local Law is available at:

<https://www.eastpilbara.wa.gov.au/documents/164/dogs-local-law-2020>

### **Dog Policy and Procedure**

The Shire has an internal Dog Attack Process which outlines the procedures in response to a dog attack. A copy is attached as Appendix 1.

The procedure provides guidance to the authorised officer to determine whether or not to impound the dog or return the dog to its owner in the circumstances where the dog is at large. It includes a definition of where a dog is “effectively confined” as:

- (a) in relation to keeping a dog in premises comprising a mobile home, means the mobile home is designed and constructed in a way that enables an occupant to prevent the dog from escaping the mobile home; and
- (b) in relation to keeping a dog in or at other premises, or in any outdoor area of those premises, means the premises or area is bounded by a fence or barrier of a standard sufficient to prevent the dog from escaping;

The procedures cannot contemplate all circumstances and can only provide guidance to an officer to exercise a discretion appropriate to the immediate circumstances. Of prime importance is the safety of the authorised officer and other people, and so there will from time to time be circumstances where it is unsafe to capture a dangerous dog, particularly if an authorised officer is alone and unable to be backed up.

The powers of local government to make decisions in relation to dangerous dogs are given by the State Parliament through the Dog Act. Changes to these powers require amendments to the legislation. Council may consider forwarding the petition to the WA Government for its consideration.

### **Officer's Recommended Response to Petition**

The making of operational procedures, directives and work instructions is the function of the Chief Executive Officer. Council cannot give direction on operational matters. It is recommended therefore that Council authorises the Chief Executive Officer to review the Shire's internal procedures relating to responses to dog attacks, to ensure they are appropriate and promote safe operations, and include provisions to provide for escalation to higher authorities in particularly serious instances.

### **STATUTORY IMPLICATIONS/REQUIREMENTS**

Consistent with the *Dog Act 1976*.

### **POLICY IMPLICATIONS**

Consistent with the *Shire of East Pilbara Meeting Procedures Local Law 2019*.

### **STRATEGIC COMMUNITY PLAN**

#### **5: Governance**

- G1 Vibrant local democracy, forward-thinking civic leadership, and transparent stewardship of the community's assets and resources.
  - G1.1 Continued focus on good governance, transparency and community and stakeholder engagement in significant decisions, including place-based plans.
  - G1.2 Facilitate collaboration and partnerships with industry and government in key issues for the Shire (such as transport, housing, economic development and tourism, social wellbeing, public spaces etc.)

### **RISK MANAGEMENT CONSIDERATIONS**

Reputation – Moderate

### **FINANCIAL IMPLICATIONS**

No financial resource impact.

### **VOTING REQUIREMENTS**

Simple Majority.

# Dog Attack Process

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## 1. Purpose

To provide a safe and recognised procedure for the handling of reported Dog Attacks within the Shire of East Pilbara. This procedure outlines immediate response actions and subsequent investigative requirements to be undertaken by Shire Officers to ensure accurate application of the relevant legislation.

Investigations need to be conducted thoroughly to ensure appropriate action is taken. This includes obtaining statements, photos of the offending and injured dog/animal or person, inspection of fencing as required and/or obtaining copies of any medical or veterinary reports or other relevant documents.

Please be aware that these investigations may be subject to a prosecution and also Freedom of Information (FOI) applications or civil claims, and will therefore be open to scrutiny. The Shire is ultimately accountable for any action or lack of action taken. Your goal at the end of the investigation is to ensure that appropriate action has been taken to prevent the offending dog to repeat its unacceptable behaviour.

This procedure is intended to guide and assist officers in the performance of their functions and is not a substitute for the professional judgment of those officers.

## 2. Scope

This procedure relates to the execution of authorised officer powers under the Dog Act 1976 and Local Government Act 1995

## 4. Definitions

**"Act"** means the Local Government Act 1995 or Dog Act 1976;

**"Attack"** in relation to the behaviour of a dog, does not include behaviour which was an immediate response to, and was induced by, provocation, but includes —

- (a) aggressively rushing at or harassing any person or animal; or
- (b) biting, or otherwise causing physical injury to, a person or an animal; or
- (c) tearing clothing on, or otherwise causing damage to the property of, the person attacked; or
- (d) attempting to attack, or behaving in such a manner toward a person as would cause a reasonable person to fear physical injury,

unless the owner establishes that the behaviour was justified by a reasonable cause;

**"Authorised person"** means

- (a) a person who is appointed by a local government, to exercise powers on behalf of the local government, under section 29(1); or
- (b) a person designated as an authorised officer under the *Public Health Act 2016* section 24(1) for the purposes of this Act;

**“Dangerous dog”** means a dog that is —

- (a) a dangerous dog (declared); or
- (b) a dangerous dog (restricted breed); or
- (c) a commercial security dog;

**“Dangerous Dog (declared)”** means an individual dog that under section 33E (1) is declared to be a dangerous dog (declared);

**“Dangerous Dog (restricted breed)”** means a dog that —

- (a) is of a breed prescribed by the regulations to be a restricted breed; or
- (b) is a mix of 2 or more breeds, one being a breed prescribed by the regulations to be a restricted breed;

**“District”** means the district of the local government;

**“Dwelling”** means a place or a part of a place that is ordinarily used for human habitation and it does not matter that it is from time to time uninhabited;

**“Effectively Confined”** -

- (a) in relation to keeping a dog in premises comprising a mobile home, means the mobile home is designed and constructed in a way that enables an occupant to prevent the dog from escaping the mobile home; and
- (b) in relation to keeping a dog in or at other premises, or in any outdoor area of those premises, means the premises or area is bounded by a fence or barrier of a standard sufficient to prevent the dog from escaping;

**“Local Government”** means the Shire of East Pilbara;

**“Owner”** in relation to a dog means —

- (a) the person by whom the dog is ordinarily kept; or
- (b) a person who is deemed by subsection (2) to be the owner of the dog;

**“Person liable for the control of the dog”** means each of the following —

- (a) the registered owner of the dog; or
- (b) the owner of the dog; or
- (c) the occupier of any premises where the dog is ordinarily kept or ordinarily permitted to live; or
- (d) a person who has the dog in his possession or under his control, but does not include —
- (e) a registered veterinary surgeon, or a person acting on his behalf, in the course of his professional practice; or
- (f) a police officer or other person acting under a statutory duty or in the administration of this Act;

**“Person”** does not include the local government;



**“Provocation”** in relation to the behaviour of a dog, includes —

- (a) on the part of a person, other than a person liable for the control of the dog —
  - (i) any teasing, tormenting, or abuse of the dog; or
  - (ii) any assault on, or act of cruelty towards, the dog; or
  - (iii) entry without lawful excuse on any land or premises of which the owner of the dog is an occupier or where the dog is ordinarily kept; or
  - (iv) any intrusion into or upon any vehicle in or on which the dog is present; or
  - (v) any threat to, or attack upon, another person or animal towards whom the dog could reasonably be expected to be protective;or
- (b) on the part of another animal —
  - (i) an attack on the dog made by any other animal; or
  - (ii) the entry of that other animal on any land or premises of which the owner of the dog is an occupier or where the dog is ordinarily kept; or
  - (iii) any threat to, or attack upon, another person or animal towards whom the dog could reasonably be expected to be protective,

**“public place”** includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include —

- (a) premises on private property from which trading is lawfully conducted under a written law; and
- (b) local government property;

**“thoroughfare”** has the meaning given to it in the Act, but does not include a private thoroughfare which is not under the management control of the local government;

**“verge”** means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath.



## 5. Procedure

Please note that there will be varying scenarios to deal with which each will need careful consideration from an evidential point of view.

Upon receipt of a Dog Attack Complaint the following procedure must be followed:

1. The responsible Ranger is to contact the complainant to obtain their version of the alleged incident and:
  - (a) Attend the location immediately to deal with any dog(s) still advised as wandering or not under effective control.
  - (b) If a dog is wandering at large - attempt to capture. Once caught you will need to determine:
    - i. Whether to return to owner (if owner can be identified and it is appropriate in the circumstances).
    - ii. Whether to impound, if owner cannot be identified or the attack is severe. If the offending dog is an unregistered dog, the dog is to be seized.
  - (c) Gather evidence (i.e., photos), inspect location, and ascertain facts as to what occurred.
  - (d) Arrange a time for the collection of the complainant's statement.
2. The complainant is to be advised that the complaint will be investigated as follows:
  - (a) That a final decision shall be made by the Shire and will **only** be made once the investigation has been completed and all evidence, prior history and statements have been reviewed.
  - (b) That this decision shall be based on the information gathered during the investigation and as such no speculation can take place regarding action to be taken. If requested, a description of possible courses of action should be provided to the complainant as a guide only.
  - (c) Although the Shire may request copies of medical / vet bills for the Dog Attack file, the Shire must only take action against offences committed under the Dog Act 1976. The Shire will assist with the recovery of expenses incurred as a result of the dog attack and will seek the co-operation of the offending Dog Owners/person responsible. However, if a dog owner refuses to co-operate, the Shire is only able to pursue any claims for damages through the Courts. The victim may pursue these claims as civil action and/or pursuant to Section 46 Dog Act (1976). The Complainant should be advised of this.
3. The offending dog owner/person in charge at the time of the alleged offence should be invited to make a statement but is not obliged to do so. It is an opportunity for them to

put their version of events to you to assist in determining your course of action.

A caution in regard to a person not being obliged to provide a statement to the offending party is only required where you have decided to recommend legal action - either by infringement or court process before you interview them. Any conversations or statements made prior to you deciding to recommend legal action are admissible in court. This is particularly relevant where there are limited or no witnesses to the incident and information is required from the offending dog owner to determine what occurred prior to being able to make a decision. Ensure you make comprehensive notes of any conversations and admissions.

4. The Ranger should determine if there are any witnesses to the incident and arrange to interview and/or collect a statement from them.
5. System checks confirming whether any history exists for offending dog(s). Registration checks should also be conducted for all dogs involved.
6. The classification of the dog attack will determine whether you can take action immediately such as issue an infringement notice or whether the file inclusive of your recommendation is to be forwarded to obtain permission to institute court prosecution.
7. Upon completion of the Dog Attack Investigation Report, the complainant must be advised regarding what action has been taken by the Shire in relation to the complaint received and an explanation why the action is being taken.
8. **The completed Dog Attack Investigation Report must be sent to the Manager for sign off prior to attaching to and closing off the ICS.**

Where the attack is of a serious nature **and** the offending dog(s) have been previously declared as dangerous under S33E of the Dog Act 1976, the responsible Ranger, in consultation with the Manager, must prepare the report for a court prosecution. Seeking surrender of the offending dog(s) should also be considered as a possible outcome.

**NOTE:** The statute of limitations for commencing legal action for a dog attack is 1 year. An infringement notice can only be issued within 28 days of the offence date, therefore it is preferred that all investigations are completed within this time frame.

**DOG ATTACK CLASSIFICATION GUIDE**

LEVEL	DESCRIPTION	TREATMENT OPTIONS	FILE REQUIREMENTS
<p><b>1</b> <b>Superficial</b></p>	<ul style="list-style-type: none"> <li>Aggressively rushing at or harassing any person or animal.</li> <li>Attempting to attack/bite, or behaving in such a manner toward a person as would cause a reasonable person to fear physical injury.</li> <li>No physical contact made by attacking animal.</li> </ul>	<ul style="list-style-type: none"> <li>No action</li> <li>Issue written caution(s)</li> <li>Issue infringement(s)</li> <li>Fencing inspection</li> </ul>	<ul style="list-style-type: none"> <li>Complete dog attack report.</li> <li>Complainant statement.</li> <li>Dog registration details.</li> <li>Completion of Report with: <ul style="list-style-type: none"> <li>Adequate notes and justifications for action taken.</li> <li>Details of any written cautions or infringements issued.</li> </ul> </li> </ul>
<p><b>2</b> <b>Minor</b></p>	<p><b>Person:</b></p> <ul style="list-style-type: none"> <li>Attack on person(s) resulting in minor scratching/ abrasions/ bruising of the skin. Use of band aids, application of antiseptic ointment.</li> <li>No Doctor or hospital treatment required.</li> <li>There may be damage to clothing and or footwear worn by the victim(s).</li> </ul> <p><b>Animal:</b></p> <ul style="list-style-type: none"> <li>Attack on animal(s) resulting in scratching or minor bruising of the skin.</li> <li>No veterinary treatment required.</li> </ul>	<ul style="list-style-type: none"> <li>No action - report unfounded or was 50/50 incident (i.e.: both dogs were off lead).</li> <li>Written caution(s)</li> <li>Infringement(s)</li> <li>Fencing inspections</li> <li>Final warning</li> </ul>	<ul style="list-style-type: none"> <li>Complete Dog Attack Report. <ul style="list-style-type: none"> <li>Photograph(s) of offending dog(s).</li> <li>Photograph(s) of any injuries/damage caused by attack.</li> <li>Dog(s) registration details.</li> <li>Copy of other reports jobs showing any prior history.</li> <li>Copies of any documentation relating to any other processes instigated as a result of offence(s) committed (e.g.: surrender form).</li> </ul> </li> </ul>

<p><b>3</b> <b>Moderate</b></p>	<p><b>Person:</b> Attacks on person(s) requiring minor doctor/hospital/medical treatment for bite/bruising involving application of antiseptic ointment, treatment for puncture wounds <u>without</u> sutures, antibiotics prescribed. Tetanus vaccination.</p> <p><b>Animal:</b> Attack on animal(s) requiring minor/ moderate veterinary treatment involving application of antiseptic ointment, treatment for puncture wounds <u>without</u> sutures, antibiotics prescribed.</p>	<ul style="list-style-type: none"> <li>• No action - report unfounded or was 50/50 incident i.e. both dogs were off lead.</li> <li>• Written caution(s)</li> <li>• Infringement (s)</li> <li>• Fencing inspections             <ul style="list-style-type: none"> <li>• Declare dog(s) as dangerous - is this the first incident or one of many? see Dangerous Dog procedure</li> </ul> </li> <li>• Seizure / surrender of offending dog(s) - is dog not owned or a repeat offender?</li> </ul>	<ul style="list-style-type: none"> <li>• Complete Dog Attack Report             <ul style="list-style-type: none"> <li>o Statement( s)</li> <li>o Photograph(s) of offending dog(s)</li> <li>o Photograph(s) of any injuries/damage caused by attack</li> <li>o Dog(s) registration details</li> <li>o Copies of any medical/vet reports or invoices</li> <li>o Copy of other reports jobs showing any prior history</li> <li>o Copies of any documentation relating to any other processes instigated as a result of offence(s) committed (e.g.: surrender form)</li> </ul> </li> </ul>
<p><b>4</b> <b>Serious</b></p>	<p><b>Person:</b> Attack on person(s) requiring doctor/hospital/medical treatment for puncture wounds <u>with</u> sutures, antibiotics prescribed.</p> <p><b>Animal:</b> Attack on an animal requiring significant veterinary treatment involving puncture wounds <u>with</u> sutures, drains in skin, antibiotics or resulting in death of animal.</p>	<ul style="list-style-type: none"> <li>• No action - report unfounded or was 50/50 incident (e.g.: both dogs were off lead).</li> <li>• Infringement(s).</li> <li>• Fencing inspections.</li> <li>• Declare dog (s) as dangerous - is this the first incident or one of many? See Dangerous Dog procedure.</li> <li>• Seizure/surrender of offending dog(s) - is dog not owned or a repeat offender?</li> <li>• Review the elements of the offence and consider prosecution.</li> </ul>	<ul style="list-style-type: none"> <li>• Complete Dog Attack Report.             <ul style="list-style-type: none"> <li>o Statement(s).</li> <li>o Photographs of offending dog(s).</li> <li>o Photograph(s) of any injuries/damage caused by attack.</li> <li>o Dog(s) registration details.</li> <li>o Copies of any medical/vet reports or invoices.</li> <li>o Copy of other reports/jobs showing any prior history.</li> <li>o Copies of any documentation relating to any other processes instigated as a result of offence(s) committed (e.g.: surrender form).</li> </ul> </li> <li>• Creation (in conjunction with Manager) of file for prosecution.</li> </ul>

Note: Where required by classification, and no offender can be identified, Dog Attack files are still required to be completed. This ensures the file is available should the offender be identified within the Statue of Limitations period (12 months).



## COURSES OF ACTION TO BE TAKEN

Action against offenders is dependent on:

1. Classification of dog attack.
2. Any prior history.
3. Where the offending dog was at the time of the incident.
4. Whether the dog was at the time of the incident declared as dangerous under the Dog Act 1976 (Section 33E).

## COURSES OF ACTION INCLUDE

- No action - report unfounded or was 50/50 incident e.g. both dogs were off lead.
- Written caution(s) (See table for possible related offences).
- Infringement(s) (See table for possible related offences).
- Fencing inspections.
- Commence proceedings to declare dog(s) as dangerous.
- Seizure / surrender of offending dog(s).
- Prepare documentation for prosecution.

## DEFINITION OF MEDICAL / VETERINARIAN TREATMENT REQUIRED

### LEVEL 2 - MINOR

#### Person:

- Attack on person(s) resulting in minor scratching/ abrasions/ bruising of the skin. Use of band aids, application of antiseptic ointment.
- No Doctor or hospital treatment required.
- There may be damage to clothing and or footwear worn by the victim(s).

#### Animal:

- Attack on animal(s) resulting in scratching or minor bruising of the skin.
- No veterinary treatment required.

### LEVEL 3 - MODERATE

#### Person:

- Attacks on person(s) requiring minor doctor/hospital/medical treatment for bite/bruising involving application of antiseptic ointment, treatment for puncture wounds without sutures, antibiotics prescribed.
- Tetanus vaccination.

#### Animal:

- Attack on animal(s) requiring minor/ moderate veterinary treatment involving application of antiseptic ointment, treatment for puncture wounds without sutures, antibiotics prescribed.

### LEVEL 4 - SERIOUS

#### Person:

- Attack on person(s) requiring doctor/hospital/medical treatment for puncture wounds with sutures, antibiotics prescribed.

**Animal:**

- Attack on an animal requiring significant veterinary treatment involving puncture wounds with sutures, drains in skin, antibiotics or resulting in death of animal.

## DEFINITIONS

### Definition of an Attack

Section 3 of the Dog Act 1976 states:

- (1) In this Act, unless the context otherwise requires - attack, in relation to the behaviour of a dog, does not include behaviour which was an immediate response to, and was induced by, provocation, but includes -
- (a) aggressively rushing at or harassing any person or animal; or
  - (b) biting, or otherwise causing physical injury to, a person or an animal; or
  - (c) tearing clothing on, or otherwise causing damage to the property of, the person attacked; or
  - (d) attempting to attack, or behaving in such a manner toward a person as would cause a reasonable person to fear physical injury, unless the owner establishes that the behaviour was justified by a reasonable cause;

Section 33D, of the Dog Act 1976 states:

- (1) If a dog attacks or chases any person or animal and physical injury is caused to the person or animal that is attacked or chased, every person liable for the control of the dog commits an offence.
- (2A) If a dog attacks or chases any person or animal without causing physical injury to the person or animal that is attacked or chased; every person liable for the control of the dog commits an offence.

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<b>Responsible directorate:</b>	Community Services
<b>Reviewing officer:</b>	Senior Ranger Community Safety
<b>Decision making authority:</b>	Manager Community Safety
<b>Procedure approved:</b>	11/05/2023
<b>Procedure amended:</b>	11/05/2023

*Sole member of public in the Gallery was asked to leave Chamber at this point to allow for a closed session of Council.*

**COUNCIL RESOLUTION**

**Moved:** Cr McWhirter-Brooks

**Seconded:** Cr Evrett

**That the meeting be closed to the public in accordance with section 5.23(2) of the *Local Government Act 1995* to consider item:**

- 9.1 AWARD OF CONTRACT – PROVISION OF WASTE MANAGEMENT SERVICES (NEWMAN)**
- 9.2 AWARD OF TENDER – VP 01-2023/24 – SUPPLY AND DELIVERY OF ONE (1) NEW LOADER (WASTE SERVICES)**
- 9.3 AWARD OF TENDER - RFT 02-2023/24 – SUPPLY AND INSTALLATION OF A RAGE CAGE – NULLAGINE**

**CARRIED UNANIMOUSLY  
RECORD OF VOTE: 6/0**

**For:** Shire President, Crs McWhirter-Brooks, Lockyer, Anderson, Kular, Evrett

**Against:** Nil

Closed session of Council commenced at 11.55am

Governance Staff confirmed that Live Streaming of the meeting had been suspended.

## 9 CONFIDENTIAL MATTERS BEHIND CLOSED DOORS

### 9.1 AWARD OF CONTRACT – PROVISION OF WASTE MANAGEMENT SERVICES (NEWMAN)

Responsible Officer: Steven Harding  
Chief Executive Officer

Author: Dawn Ronchi  
Coordinator Procurement

Proposed Meeting Date: 27 October 2023

Author Disclosure of Interest: Nil

#### REASONS FOR CONFIDENTIALITY

That in accordance with section 5.23 (2) of the *Local Government Act 1995* the meeting is closed to members of the public with the following aspect(s) of the Act being applicable to this matter:

- (c) A contract entered into or which may be entered into by the Local Government and relates to matters to be discussed at the meeting.

#### COUNCIL DECISION / OFFICER'S RECOMMENDATION

(Resolution No: 2023/ 163)

Moved: Cr McWhirter-Brooks

Seconded: Cr Kular

That Council:

1. Awards the Waste Management Services (Newman) Contract to Cleanaway Pty Ltd for an initial Contract period of five (5) years commencing on 1 November 2023 and expiring on 31 October 2028.
2. Authorises the Chief Executive Officer to approve annual pricing escalation variations (based on Perth All Groups CPI capped to a maximum increase of 5.8% per annum) for years two to five of the initial contract term.
3. Approves the Chief Executive Officer to extend the Contract with the same conditions for a further period of two (2) years on expiry of the initial Contract period.
4. Approve the Chief Executive Officer to apply the common seal of the Shire of East Pilbara to the Contract between the Cleanaway Pty Ltd and the Shire of East Pilbara with respect to the Waste Management Services.

CARRIED UNANIMOUSLY  
RECORD OF VOTE: 6/0

For: Shire President, Crs McWhirter-Brooks, Lockyer, Anderson, Kular, Evrett

Against: Nil



**9.2 AWARD OF TENDER – VP 01-2023/24 – SUPPLY AND DELIVERY OF ONE (1) NEW LOADER (WASTE SERVICES)**

**Responsible Officer:** Etienne Vorster  
A/Director Infrastructure Services

**Author:** Bevan Klein  
Manager Operations

**Proposed Meeting Date:** 27 October 2023

**Author Disclosure of Interest:** Nil

**REASONS FOR CONFIDENTIALITY**

That in accordance with section 5.23 (2) of the *Local Government Act 1995* the meeting is closed to members of the public with the following aspect(s) of the Act being applicable to this matter:

- (c) A contract entered into or which may be entered into by the Local Government and relates to matters to be discussed at the meeting.

**COUNCIL DECISION / OFFICER'S RECOMMENDATION**

(Resolution No: 2023/ 164)

**Moved:** Cr Evrett

**Seconded:** Cr McWhirter-Brooks

**That Council:**

- 1. Awards Tender VP 01-2023/24 for the Supply and Delivery of One (1) New Loader to Westrac Pty Ltd for the total tendered price of \$425,132.61 GST ex.**
- 2. Authorises the Chief Executive Officer to enter into any minor variations to the Contract.**

**CARRIED UNANIMOUSLY  
RECORD OF VOTE: 6/0**

**For:** Shire President, Crs McWhirter-Brooks, Lockyer, Anderson, Kular, Evrett

**Against:** Nil

**9.3 AWARD OF TENDER - RFT 02-2023/24 – SUPPLY AND INSTALLATION OF A RAGE CAGE – NULLAGINE**

**Responsible Officer:** Paul Miller  
A/Director Community Experience

**Author:** Dawn Ronchi  
Coordinator Procurement

**Proposed Meeting Date:** 27 October 2023

**Location/Address:** N/A

**Name of Applicant:** N/A

**Author Disclosure of Interest:** Nil

**REASONS FOR CONFIDENTIALITY**

That in accordance with section 5.23 (2) of the *Local Government Act 1995* the meeting is closed to members of the public with the following aspect(s) of the Act being applicable to this matter:

- (c) A contract entered into or which may be entered into by the Local Government and relates to matters to be discussed at the meeting.

**COUNCIL DECISION / OFFICER'S RECOMMENDATION**

(Resolution No: 2023/ 165)

**Moved:** Cr McWhirter-Brooks

**Seconded:** Cr Lockyer

**That Council:**

1. Not accept any Tender received for RFT 02-2023/24 – Supply & Installation of a Rage Cage in accordance with Regulation 18(5) of the *Local Government (Functions & General) Regulations 1996*;
2. Authorises the Chief Executive Officer (or delegate) to enter into direct negotiations with any suitably qualified supplier for a contract for the Supply and Installation of a Rage Cage and Steel Shade Structure at Nullagine; and
3. Authorises, in the event of unsuccessful negotiations, the Chief Executive Officer to invite Tenders for the supply and installation of a Rage Cage and Steel Shade Structure with a variation to the Scope of Works to include the works under contract to be offered as Separable Portions.

**CARRIED UNANIMOUSLY  
RECORD OF VOTE: 6/0**

**For:** Shire President, Crs McWhirter-Brooks, Lockyer, Anderson, Kular, Evrett

**Against:** Nil

**COUNCIL RESOLUTION**

**Moved:** Cr McWhiter-Brooks

**Seconded:** Cr Evrett

**That the meeting return to Open Council in accordance with 5.23(2) of the *Local Government Act 1995* at 12.04pm.**

**CARRIED UNANIMOUSLY  
RECORD OF VOTE: 6/0**

**For:** Shire President, Cr McWhirter-Brooks, Crs Lockyer, Anderson, Kular, Evrett

**Against:** Nil

Cr Whirter-Brooks acknowledged and extended her thanks for the efforts of the Manager Governance Risk and Procurement and the Returning Officer for the time invested commuting through the district to conduct the ordinary election. This included visiting remote communities providing the opportunity for these settlements to have access to vote and have their voice heard for the first time.

Cr McWhirter-Brooks advised she believes that this initiative was largely responsible for the increased participation of Electors outside of Newman and interest in this year's Election.

## **10 CLOSURE**

The next Ordinary Council Meeting of the Shire of East Pilbara will be held on 24 November 2023.

The Special Council Meeting of the Shire of East Pilbara held on 27 October 2023 was declared closed at 12.07pm.

The Presiding Member thanked Council Members and Staff for their attendance.