



Agenda

Audit Committee

2 March 2023

Notice of Meeting

Notice is hereby given that the next Audit Committee Meeting of the Shire of Exmouth will be held on 2 March 2023, in Shire Administration Building, 2 Truscott Crescent, Exmouth commencing at 3.30 pm.

A handwritten signature in black ink, appearing to be 'Ben Lewis', written in a cursive style.

Ben Lewis
CHIEF EXECUTIVE OFFICER

2 March 2023

Disclaimer

The advice and information contained herein are given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

Please note that this agenda contains recommendations which have not yet been adopted by Council.

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In particular and without derogating in any way from the broader disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation of approval made by a member or officer of the Shire of Exmouth during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Exmouth. The Shire of Exmouth warns that anyone who has an application lodged with the Shire of Exmouth must obtain and should only rely on written confirmation of the outcome of the application, and any conditions attached to the decision made by the Shire of Exmouth in respect of the application.

VISION

A globally recognised community of guardians for our unique environment and culture as we pursue innovations for sustainable growth.

Goals

The goals are organised in five strategic pillars: Social, Natural Environment, Built Environment, Economy, and Governance and Leadership.

Social

Nurture a friendly, safe and inclusive community spirit

Natural Environment

Embrace natural sensitivities and promote positive change

Built Environment

Enable sustainable development and infrastructure that meets the needs of the community, visitors and industry

Economy

Enhance a robust, resilient and diversified economy that champions innovation

Governance and Leadership

Foster open, transparent & accountable leadership, working collaboratively and in partnership with our community and stakeholders

Disclosure of Interest Form

(Elected Members/Committee Members/Employees/Contractors)
Local Government Act 1995 (Section 5.65, 5.70, 5.71 & 5.71(B))

To: Chief Executive Officer

Name [Click here to enter text.](#)

Elected Member Committee Member Employee Contractor

Ordinary Council Meeting held on [Click here to enter text.](#)

Special Council Meeting held on [Click here to enter text.](#)

Committee Meeting held on [Click here to enter text.](#)

Other [Click here to enter text.](#)

Report No [Click here to enter text.](#)

Report Title [Click here to enter text.](#)

Type of Interest (*see overleaf for further information)

Proximity Financial Impartiality

Nature of Interest

[Click here to enter text.](#)

Extent of Interest (if intending to seek Council approval to be involved with debate and/or vote)

[Click here to enter text.](#)

Signed: _____ Date: [Click here to enter text.](#)

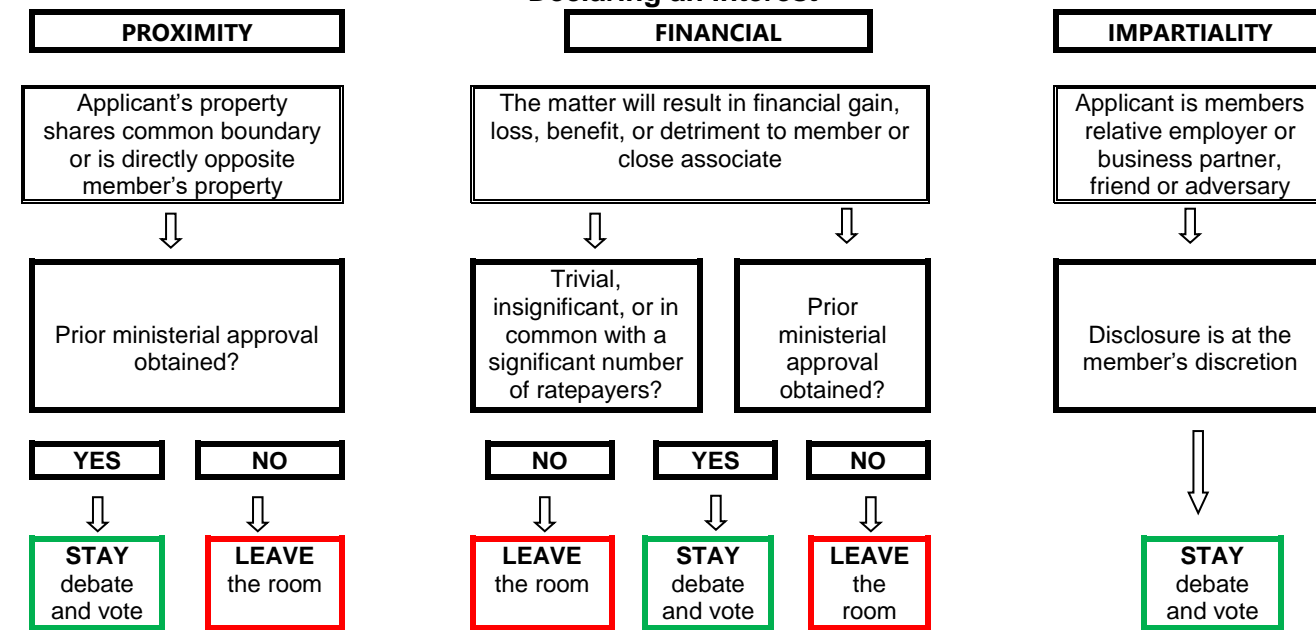
- **Note 1** - Elected Members/ Committee Members/Employees refer to the Disclosure of Interest Declaration card when disclosure is being read out at Council or Committee Meeting.
- **Note 2:** For Ordinary meetings of the Council, elected members and employees are requested to submit this completed form to the Chief Executive Officer prior to the meeting. Where this is not practicable, disclosure(s) must be given to the Chief Executive Officer prior to the matter being discussed.
- **Note 3:** Employees or Contractors disclosing an interest in any matter apart from at meetings, where there is a conflict of interest including disclosures required by s5.71 are required to submit this form to the CEO as soon as practicable.

CEO: _____ Signed: _____ Date: _____

OFFICE USE ONLY

Particulars recorded in Minutes Particulars recorded in Register

*** Declaring an Interest**



Local Government Act 1995 – Extract

s.5.60A - Financial Interest

A person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

s.5.60B – Proximity Interest

A person has a proximity interest in a matter if the matter concerns —

- (a) a proposed change to a planning scheme affecting land that adjoins the person's land; or
- (b) a proposed change to the zoning or use of land that adjoins the person's land; or
- (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.

5.65 - Members' interests in matters to be discussed at meetings to be disclosed.

(1) A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest:

(a) in a written notice given to the CEO before the meeting; or (b) at the meeting immediately before the matter is discussed. (Penalties apply).

(2) It is a defence to a prosecution under this section if the member proves that he or she did not know: (a) that he or she had an interest in the matter; or (b) that the matter in which he or she had an interest would be discussed at the meeting.

(3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

5.70 - Employees to disclose interests relating to advice or reports.

(1) In this section: 'employee' includes a person who, under a contract for services with the local government, provides advice or a report on a matter.

(2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.

(3) An employee who discloses an interest under this section must if required to do so by the council or committee, as the case may be, disclose the extent of the interest. (Penalties apply).

5.71 - Employees to disclose interests relating to delegated functions.

If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and:

- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter. (Penalties apply)

5.71A. - CEOs to disclose interests relating to gifts in connection with advice or reports

(1) A CEO who has an interest relating to a gift in a matter in respect of which the CEO proposes to provide advice or a report, directly or indirectly, to the council or a committee must disclose the nature of the interest in a written notice given to the council.

(2) A CEO who makes a disclosure under subsection (1) must not provide the advice or report unless the CEO is allowed to do so under section 5.71B(2) or (6).

(3) A CEO who has an interest relating to a gift in a matter in respect of which another employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when the advice or report is provided.

Local Government (Administration) Regulations 1996 – Extract - In this clause and in accordance with Regulation 19AA "Interest" means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

1. Declaration of Opening and Announcements

The Presiding member declared the meeting open at

The Presiding Member acknowledged the aboriginal people both past and present, as the traditional custodians on the land on which we meet.

2. Attendance, Apologies and Approved Leave of Absence

Councillor M (Mark) Lucas Chairperson

Councillor J (Jackie) Brooks Deputy Chairperson

Councillor D (David) Gillespie

Mr Ben Lewis Chief Executive Officer

Mr Gollie Coetzee Executive Manager Corporate Services

Ms Michelle Head Minute Taker

3. Response to Previous Public Questions Taken on Notice

Nil

4. Declarations of Interest

5. Confirmation of Minutes of Previous Meetings

That the Minutes and associated attachment of the Audit Committee Meeting of the Shire of Exmouth held on 15 December 2022 be confirmed as a true and correct record of proceedings

6. Announcements by the Presiding person without discussion

Nil

7. Petitions/ Deputation/Presentations/ Submissions

Nil

8. Reports of Officers

8.1 2022 COMPLIANCE AUDIT RETURN

File Reference	FM.AD.0
Reporting Officer	Executive Secretary
Responsible Officer	Chief Executive Officer
Date of Report	28 February 2023
Applicant/Proponent	Nil
Disclosure of Interest	Nil
Attachment(s)	1. Compliance Audit Return Working document

Purpose

1. That the Audit Committee review the Compliance Audit Return (CAR) for the calendar year 1 January 2022 to 31 December 2022 and refer onto Council for endorsement, prior to lodging with the Department of Local Government, Sport and Cultural Industry (the Department).

Background

2. In accordance with Regulation 14 of the Local Government (Audit) Regulations 1996 the Shire is required to carry out a compliance audit return in a form determined by the Department.
3. The 2022 CAR deals with the period 1 January 2022 to 31 December 2022 and focuses on those areas considered high risk in accordance with the Local Government Act 1995 and associated regulations
4. The regulations require that the CAR is to be:
 - presented at a meeting of the Audit Committee;
 - presented to Council at an Ordinary Council Meeting;
 - adopted by the Council; and
 - the adoption recorded in the minutes of the meeting at which it is adopted.
5. After the CAR has been presented to the Council at the March Ordinary Council Meeting, a certified copy of the Return along with the relevant section of the minutes and any additional information is to be submitted to the Director General, Department of Local Government, Sport and Cultural Industries by 31 March 2023.

Comment

6. The 2022 CAR was undertaken in house and responses were received from the responsible officers.
7. To ensure a thorough audit has been undertaken, and where applicable the Shire has evidenced each of its responses by citing reference to relevant internal and external documents.
8. The table below provides a summary of the audit categories which represents 96.42% compliance (of those questions applicable to Shire of Exmouth) with the statutory requirements of the *Local Government Act 1995* and subsidiary legislation.

Category	Questions	Compliant	Not compliant	Not Applicable
Commercial Enterprises by Local Government	5	-	-	5
Delegation of Power/Duty	13	7	2	4
Disclosure of Interest	21	17		4
Disposal of Property	2	-	-	2
Elections	3	1	-	2
Finance	7	6	-	1
Integrated Planning and Reporting	3	3	-	-
Local Government Employees	5	-	-	5
Official Conduct	4	-	-	4
Optional Questions	9	9	-	-
Tenders for providing Goods & Services	22	8	-	14
	94	54	2	38

9. Two non-compliances were identified under the Delegation of Power/Duty section in the 2022 CAR:
- *Question 5, s5.18 - Has Council review delegations to its committees in the 2021/2022 financial year? and*
 - *Question 12, s.5.46(2) -Were all delegations made under Division 4 of the Act reviewed by the delegator at least once during the 2021/2022 financial year?*
10. Due to timing of the annual review of the Delegation Register there was no review during the 2021/2022 financial year. An annual review was completed and adopted by absolute majority on the 24 June 2021 and 24 November 2022; just prior to and after the financial year in question.

Consultation

11. Chief Executive Officer
12. Executive Manager Corporate Services
13. Procurement Officer
14. Information Management Officer

Statutory Environment

15. Local Government (Audit) Regulations 1996
 14. Compliance audits by local governments
 - (1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.
 - (2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.
 - (3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.
 - (3) After the audit committee has reported to the council under sub regulation (3A), the compliance audit return is to be —
 - (a) presented to the council at a meeting of the council; and

- (b) adopted by the council; and
- (c) recorded in the minutes of the meeting at which it is adopted.

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

(1) After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —

- (a) a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and
- (b) any additional information explaining or qualifying the compliance audit, is to be submitted to the Departmental CEO by 31 March next following the period to which the return relates.

Policy Implications

16. Nil

Financial Implications

17. Nil

Risk Management

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Performance (operational) – Failure to accept the report will result in no effective change to the operational practices	Possible	Minor	Low	Accept the report and implement the recommendations
Reputational – Council is perceived to be non-complaint with legislation	Possible	Moderate	Low	Implement strategies to ensure statutory compliance

Risk Matrix

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

Alternate Options

18. Nil

Strategic Alignment

19. This item is relevant to the Council’s approved Strategic Community Plan and Corporate Business Plan 2023 – 2033.

Governance & Leadership	<p>Foster open, transparent & accountable leadership, working collaboratively and in partnership with our community and stakeholders</p> <p>5.1 Forward-thinking leadership for efficient and sustainable operations</p> <p>5.2 Continued focus on transparent, accountable leadership and community stakeholder engagement</p>
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| 5.3 Council and administration plan and lead with good governance

Voting Requirements

20. Simple Majority

Officer Recommendation

Item 8.1

That the Audit Committee recommends that Council resolve to:

1. Adopt the statutory 2022 Compliance Audit Return for the Shire of Exmouth for the period 1 January 2022 to 31 December 2022; and
2. Authorise the Chief Executive Officer to submit the return of the Department of local Government, Sport and Cultural Industries by 31 March 2023.

9. Elected Members Motions of which previous Notice has Been Given

Nil

10. New Business of an Urgent nature introduced by Decision of Meeting

Nil

11. Matters to be considered Behind Closed Doors

Nil

12. Closure of meeting

The meeting was closed at