



Special Council Meeting
Agenda
23 October 2017

NOTICE OF MEETING

Notice is hereby given that the

Shire of Exmouth
Special Council Meeting

will be held on
23 October 2017

Commencing at 4.30pm
In the Council Chambers, behind Administration Centre,
22 Maidstone Crescent, Exmouth

Cameron Woods
Chief Executive Officer

23 October 2017

Disclaimer

The advice and information contained herein is 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 this agenda contains recommendations which have not yet been adopted by Council.

No responsibility whatsoever is implied or accepted by the Shire of Exmouth for any act, omission, statement or intimation occurring during the Council/Committee meetings or during formal/informal conversations with staff. The Shire of Exmouth disclaims any liability for any loss whatsoever and however caused arising out of reliance by any person or legal entity on any such act, omission, statement or intimation. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

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.



Shire of Exmouth
PO Box 21, EXMOUTH WA 6707 | Tel: (08) 9949 3000 | Fax: (08) 9949 3000
Email: records@exmouth.wa.gov.au | Website: www.exmouth.wa.gov.au

Disclosure of Interest Form
(Elected Members/Committee Members/Employees/Contractors)

Local Government Act 1995 (Section 5.65, 5.70 & 5.71)

To: Chief Executive Officer

- Ordinary Council Meeting held on _____
- Special Council Meeting held on _____
- Committee Meeting held on _____
- Other _____

Report No _____

Report Title _____

Name _____

- Elected Member
- Committee
- Employee
- Contractor

Type of Interest (**see overleaf for further information*)

- Proximity
- Financial
- Impartiality

Nature of Interest

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

Name: _____ Signed: _____ Date: _____

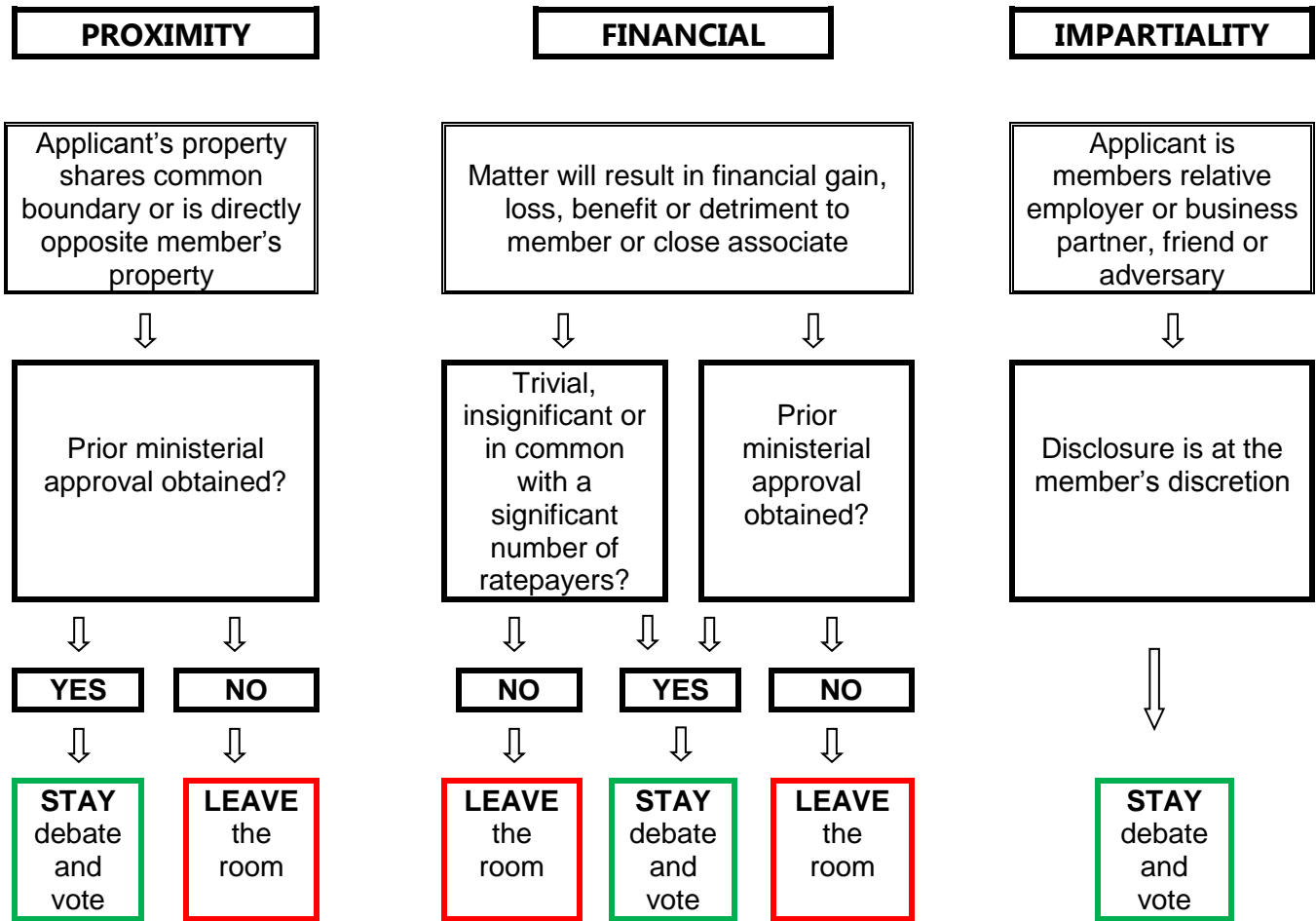
Note 1: For Ordinary meetings of Council, elected members and employees are requested to submit this completed form to the Chief Executive Officer prior to the meeting. Where this is not practicable, disclosure(s) must be given to the Chief Executive Officer prior to the matter being discussed.

Note 2: Employees or Contractors disclosing an interest in any matter apart from at meetings, where there is a conflict of interest including disclosures required by submit this form to the CEO as soon as practicable.

OFFICE USE ONLY

CEO: _____ Signed: _____ Date: _____

*** Declaring an Interest**



Local Government Act 1995 - Extract

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)

'Local Government (Administration) Regulations 1996 – Extract

In this clause and in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996:

"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.

INDEX OF AGENDA

1.	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	6
2.	RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	6
3.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	6
4.	PUBLIC QUESTIONS TIME.....	6
5.	DECLARATIONS OF INTEREST	7
6.	APPLICATIONS FOR LEAVE OF ABSENCE	7
7.	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS	7
8.	ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION	7
9.	PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS.....	7
10.	ELECTION OF SHIRE PRESIDENT	8
11.	ELECTION OF DEPUTY SHIRE PRESIDENT	11
12.	MATTERS ARISING FROM COMMITTEES OF COUNCIL.....	14
13.	REPORTS OF OFFICERS.....	15
13.1	ORDINARY COUNCIL MEETING DATES 2018	15
13.2	APPOINT REPRESENTATIVES TO AUDIT COMMITTEE	17
13.3	APPOINT REPRESENTATIVES TO EXTERNAL COMMITTEES.....	22
14.	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	31
15.	MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS.....	31
16.	CLOSURE OF MEETING.....	31

SPECIAL COUNCIL MEETING AGENDA

Our Vision

To support and develop a vibrant, welcoming community that embraces its past, values its present and plans for a sustainable future

Our Purpose

To responsibly provide governance for the whole community in the best interest of current and future generations

Our Strategic Objectives

- To provide sustainable management of the organisation
- To consistently apply the principles of Good Governance
 - To communicate effectively
 - To promote socioeconomic development
 - To value our environment and heritage

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

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

2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTIONS TIME

In accordance with section 5.24 of the *Local Government Act 1995*, a 15 minute public question time is made available to allow members of the public the opportunity of questioning Council on matters concerning them.

When public questions necessitate resolutions of Council, out of courtesy and at the President discretion the matter is to be dealt with immediately to allow the public to

observe the determination of the matter (obviates the need for the public to wait an undetermined period of time).

When a matter is listed on the Agenda and member/s of the public are in attendance to observe the determination of the matter, out of courtesy and at the discretion of the President the matter is to be brought forward on the agenda and dealt with immediately to allow the public to observe the determination of the matter (again this obviates the need for the public to wait an indeterminate period of time).

5. **DECLARATIONS OF INTEREST**

Item/Description	Name	Detail of Interest	Extent of Interest

6. **APPLICATIONS FOR LEAVE OF ABSENCE**

The *Local Government Act 1995* (Section 2.25) provides that a Council may, by resolution, grant leave of absence to a member for Ordinary Council Meetings. A member who is absent, without first obtaining leave of the Council, throughout three consecutive Ordinary meetings of the Council is disqualified from continuing his or her membership of the Council.

Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The leave cannot be granted retrospectively. An apology for non-attendance at a meeting is not an application for leave of absence.

7. **CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

That the Minutes of the Ordinary Meeting of the Shire of Exmouth held on the 10 October 2017 be confirmed as a true and correct record of proceedings.

8. **ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**

9. **PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**

In accordance with the section 2.29 of the *Local Government Act 1995* and Regulation 13 of the *Local Government (Constitution) Regulations 1996* a person elected to the position of a council member must make a declaration of office prior to being able to act in that office.

The Chief Executive Officer invited newly elected Councillors to make their Declaration of Office of Councillor before Justice of the Peace, Mr Fletcher (8431) AM.

- Cr Ben Dixon
- Cr Gary Mounsey
- Cr Matthew Niikkula

- Cr Mark Lucas
- Cr Heather Lake
- Cr Gavin Penfold

10. ELECTION OF SHIRE PRESIDENT

Nominations for the Office of President are given to the Chief Executive Officer. The position of Shire President runs from 23 October 2017 to October 2019. The office of President is for a two year term and expires at the time of each Ordinary election - *Local Government Act 1995* 2.28(2) Item 11.

The Nominee is to accept the nomination in writing to the position of Shire President and sign a declaration of Office for Shire President.

The elected Shire President will be sworn in then will take over the position of Chairperson.

Compliance with the *Local Government Act 1995* Section 2.29.

2.29. Declaration

- (1) *A person elected as an elector mayor or president or as a councillor has to make a declaration in the prescribed form before acting in the office.*
- (2) *A person elected by the council as mayor, president, deputy mayor or deputy president has to make a declaration in the prescribed form before acting in the office.*
- (3) *A declaration required by this section is to be taken or made before a prescribed person.*
- (4) *A person who acts in an office contrary to this section commits an offence. Penalty: \$5 000 or imprisonment for one year.*

The process:

Schedule 2.3 — When and how mayors, presidents, deputy mayors and deputy presidents are elected by the council

[Sections 2.11(1)(b) and 2.15]

Division 1 — Mayors and presidents

2. When the council elects the mayor or president

- (1) *The office is to be filled as the first matter dealt with —*
 - (a) *at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and*
 - (b) *at the first meeting of the council after an extraordinary vacancy occurs in the office.*
- (2) *If the first ordinary meeting of the council is more than 3 weeks after an*

extraordinary vacancy occurs in the office, a special meeting of the council is to be held within that period for the purpose of filling the office.

3. CEO to preside

The CEO is to preside at the meeting until the office is filled.

4. How the mayor or president is elected

- (1) *The council is to elect a councillor to fill the office.*
- (2) *The election is to be conducted by the CEO in accordance with the procedure prescribed.*
- (3) *Nominations for the office are to be given to the CEO in writing before the meeting or during the meeting before the close of nominations.*
- (3a) *Nominations close at the meeting at a time announced by the CEO, which is to be a sufficient time after the announcement by the CEO that nominations are about to close to allow for any nominations made to be dealt with.*
- (4) *If a councillor is nominated by another councillor the CEO is not to accept the nomination unless the nominee has advised the CEO, orally or in writing, that he or she is willing to be nominated for the office.*
- (5) *The councillors are to vote on the matter by secret ballot as if they were electors voting at an election.*
- (6) *Subject to clause 5(1), the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 (which deals with determining the result of an election) as if those votes were votes cast at an election.*
- (7) *As soon as is practicable after the result of the election is known, the CEO is to declare and give notice of the result in accordance with regulations, if any.*

[Clause 4 amended by No. 49 of 2004 s. 69(2)-(5); No. 66 of 2006 s. 14.]

5. Votes may be cast a second time

- (1) *If when the votes cast under clause 4(5) are counted there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and the meeting is to be adjourned for not more than 7 days.*
- (2) *Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes.*
- (3) *When the meeting resumes the councillors are to vote again on the matter by secret ballot as if they were electors voting at an election.*
- (4) *The votes cast under subclause (3) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.*

Division 2 — Deputy mayors and deputy presidents**7. When the council elects the deputy mayor or deputy president**

- (1) *If the local government has an elector mayor or president the office of deputy mayor or deputy president is to be filled as the first matter dealt with —*
 - (a) *at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and*
 - (b) *at the first meeting of the council after an extraordinary vacancy occurs in the office.*

- (2) *If the local government has a councillor mayor or president the office of deputy mayor or deputy president is to be filled —*
 - (a) *as the next matter dealt with after the mayor or president is elected at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and*
 - (b) *subject to subclause (3), as the first matter dealt with at the first meeting of the council after an extraordinary vacancy occurs in the office.*

- (3) *If at a meeting referred to in clause 2(1)(b) the deputy mayor or deputy president is elected to be the mayor or president, the resulting extraordinary vacancy in the office is to be filled as the next matter dealt with at the same meeting.*

8. How the deputy mayor or deputy president is elected

- (1) *The council is to elect a councillor (other than the mayor or president) to fill the office.*
- (2) *The election is to be conducted in accordance with the procedure prescribed by the mayor or president, or if he or she is not present, by the CEO.*
- (3) *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.*
- (3a) *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.*
- (4) *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.*
- (5) *The council members are to vote on the matter by secret ballot as if they were electors voting at an election.*
- (6) *Subject to clause 9(1) the votes cast under subclause (5) are to be counted,*

and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.

- (7) *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.*

[Clause 8 amended by No. 64 of 1998 s. 54(2)-(4); No. 49 of 2004 s. 69(6)-(9).]

9. *Votes may be cast a second time*

- (1) *If, when the votes cast under clause 8(5) are counted, there is an equality of votes between 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 7 days later, a special meeting of the council is to be held.*
- (2) *Any nomination for the office may be withdrawn, and further nominations may be made, before or when the special meeting is held.*
- (3) *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.*
- (4) *The votes cast under subclause (3) are to be counted, and the successful candidate determined, under Schedule 4.1 as if those votes were votes cast at an election.*

11. ELECTION OF DEPUTY SHIRE PRESIDENT

The Shire President called for written nominations for the position of Deputy Shire President. Nominations for the Office of Deputy Shire President are to be given to the Chief Executive Officer in writing.

The position of Deputy Shire President runs from 23 October 2017 to October 2019. A two year term as with the Shire President of each Ordinary election -*Local Government Act 1995 2.28(2) Item 12.*

Compliance with the *Local Government Act 1995* Section 2.29.

2.30. Declaration

- (1) *A person elected as an elector mayor or president or as a councillor has to make a declaration in the prescribed form before acting in the office.*
- (2) *A person elected by the council as mayor, president, deputy mayor or deputy president has to make a declaration in the prescribed form before acting in the office.*
- (3) *A declaration required by this section is to be taken or made before a prescribed person.*
- (4) *A person who acts in an office contrary to this section commits an offence.*
Penalty: \$5 000 or imprisonment for one year.

The process:

Schedule 2.3 — When and how mayors, presidents, deputy mayors and deputy presidents are elected by the council

[Sections 2.11(1)(b) and 2.15]

Division 1 — Mayors and presidents

6. *When the council elects the mayor or president*

- (1) *The office is to be filled as the first matter dealt with —*
 - (a) *at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and*
 - (b) *at the first meeting of the council after an extraordinary vacancy occurs in the office.*
- (2) *If the first ordinary meeting of the council is more than 3 weeks after an extraordinary vacancy occurs in the office, a special meeting of the council is to be held within that period for the purpose of filling the office.*

7. *CEO to preside*

The CEO is to preside at the meeting until the office is filled.

8. *How the mayor or president is elected*

- (1) *The council is to elect a councillor to fill the office.*
- (2) *The election is to be conducted by the CEO in accordance with the procedure prescribed.*
- (3) *Nominations for the office are to be given to the CEO in writing before the meeting or during the meeting before the close of nominations.*
- (3a) *Nominations close at the meeting at a time announced by the CEO, which is to be a sufficient time after the announcement by the CEO that nominations are about to close to allow for any nominations made to be dealt with.*
- (4) *If a councillor is nominated by another councillor the CEO is not to accept the nomination unless the nominee has advised the CEO, orally or in writing, that he or she is willing to be nominated for the office.*
- (5) *The councillors are to vote on the matter by secret ballot as if they were electors voting at an election.*
- (6) *Subject to clause 5(1), the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 (which deals with determining the result of an election) as if those votes were votes cast at an election.*
- (7) *As soon as is practicable after the result of the election is known, the CEO is to declare and give notice of the result in accordance with regulations, if any.*

[Clause 4 amended by No. 49 of 2004 s. 69(2)-(5); No. 66 of 2006 s. 14.]

9. *Votes may be cast a second time*

- (1) *If when the votes cast under clause 4(5) are counted there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and the meeting is to be adjourned for not more than 7 days.*
- (2) *Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes.*
- (3) *When the meeting resumes the councillors are to vote again on the matter by secret ballot as if they were electors voting at an election.*
- (4) *The votes cast under subclause (3) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.*

Division 2 — Deputy mayors and deputy presidents

10. *When the council elects the deputy mayor or deputy president*

- (1) *If the local government has an elector mayor or president the office of deputy mayor or deputy president is to be filled as the first matter dealt with —*
 - (a) *at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and*
 - (b) *at the first meeting of the council after an extraordinary vacancy occurs in the office.*
- (2) *If the local government has a councillor mayor or president the office of deputy mayor or deputy president is to be filled —*
 - (a) *as the next matter dealt with after the mayor or president is elected at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and*
 - (b) *subject to subclause (3), as the first matter dealt with at the first meeting of the council after an extraordinary vacancy occurs in the office.*
- (3) *If at a meeting referred to in clause 2(1)(b) the deputy mayor or deputy president is elected to be the mayor or president, the resulting extraordinary vacancy in the office is to be filled as the next matter dealt with at the same meeting.*

11. *How the deputy mayor or deputy president is elected*

- (1) *The council is to elect a councillor (other than the mayor or president) to fill the office.*
- (2) *The election is to be conducted in accordance with the procedure prescribed by the mayor or president, or if he or she is not present, by the CEO.*

- (3) *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.*
- (3a) *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.*
- (4) *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.*
- (5) *The council members are to vote on the matter by secret ballot as if they were electors voting at an election.*
- (6) *Subject to clause 9(1) the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.*
- (7) *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.*

[Clause 8 amended by No. 64 of 1998 s. 54(2)-(4); No. 49 of 2004 s. 69(6)-(9).]

12. *Votes may be cast a second time*

- (1) *If, when the votes cast under clause 8(5) are counted, there is an equality of votes between 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 7 days later, a special meeting of the council is to be held.*
- (2) *Any nomination for the office may be withdrawn, and further nominations may be made, before or when the special meeting is held.*
- (3) *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.*
- (4) *The votes cast under subclause (3) are to be counted, and the successful candidate determined, under Schedule 4.1 as if those votes were votes cast at an election.*

12. MATTERS ARISING FROM COMMITTEES OF COUNCIL

13. REPORTS OF OFFICERS

13.1 ORDINARY COUNCIL MEETING DATES 2018

File Reference:	GV.CM.0
Responsible Officer:	Chief Executive Officer
Date of Report:	1 November 2017
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	Nil

PURPOSE

That Council consider the proposed Ordinary Council meeting dates and starting times for 2018.

BACKGROUND

Below are the proposed meeting dates for 2018, being the fourth Thursday of the month (except December when it will be held on the third Thursday) commencing at 4.00pm.

There will be no Ordinary Council meeting in January:

- 22 February 2018
- 22 March 2018
- 26 April 2018
- 24 May 2018
- 28 June 2018
- 26 July 2018
- 23 August 2018
- 27 September 2018
- 25 October 2018
- 22 November 2018
- 20 December 2018

Council are required to give local public notice of the proposed dates as per Regulation 12(1) of the *Local Government (Administration) Regulations 1996*.

COMMENT

Nil

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Administration) Regulations 1996

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016-2020.

- Civic Leadership: 4 To work together as custodians of now and the future.
- 4.1 *To be a collaborative community with the capacity to manage the current and future direction of Exmouth.*
- 4.2 *A local government that is respected, professional, trustworthy and accountable.*

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION**ITEM 13.1**

That Council endorse the following dates for Ordinary Council meetings for 2018 commencing at 4.00pm:

- 22 February 2018
- 22 March 2018
- 26 April 2018
- 24 May 2018
- 28 June 2018
- 26 July 2018
- 23 August 2018
- 27 September 2018
- 25 October 2018
- 22 November 2018
- 20 December 2018

13.2 APPOINT REPRESENTATIVES TO AUDIT COMMITTEE

File Reference:	GV.CM.0
Responsible Officer:	Chief Executive Officer
Date of Report:	September 2017
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	Nil

PURPOSE

The report recommends that Council revoke Council decision 02-117 from the Special Council Meeting held 6 January 2017 and endorses the appointment of three or more Councillors to the Audit Committee.

BACKGROUND

The *Local Government Act 1995* Section 5.8, 5.9 and 5.10 empowers Council to establish committees and elect persons to serve on those committees.

Previously Council passed the following resolution at the Special Council Meeting held 6 January 2017, Council Decision 02-0117

COUNCIL RESOLUTION **ITEM 11.2**

Res No: **02-0117**

That the Commissioner:

- 1. Revoke the Council Resolution 21 October 2015, Council Decision 01-1015 and 02-1015 Special Council Meeting "Formation of Council Committees".***
- 2. Authorise the Commissioner, Officer(s) and other Persons be appointed as representatives for the Shire of Exmouth on the following committees:***

Audit Committee

In accordance with provisions of Sections 5.8 of the Local Government Act 1995 Council establishes an Audit Committee;

In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Commissioner and other Persons only;

The Committee meet as required;

In accordance with provisions of section 5.10 (1) (a) and (3) of the Local Government Act 1995 the Committee shall consist of:

- ***The Commissioner***
- ***Independent Financial Experts***

Ningaloo Centre Project Steering/Management Committee

In accordance with provisions of Sections 5.8 of the Local Government Act 1995 Council establishes a Ningaloo Centre Project Steering/Management Committee;

In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Commissioner and Staff only;

In accordance with provisions of section 5.10 (1) (a) and (3) of the Local Government Act 1995 the Committee shall consist of:

- ***The Commissioner***
- ***The Acting Chief Executive Officer***
- ***The Executive Manager of Corporate Services***
- ***The Executive Manager Community Engagement***

COMMENT

The *Local Government Act 1995* requires that all local governments establish an audit committee. An audit committee plays a key role in assisting a local government to fulfil its governance and oversight responsibilities in relation to financial reporting, internal control structure, risk management systems, legislative compliance, ethical accountability and the internal and external audit functions.

The role of the audit committee is to support Council in fulfilling its governance and oversight responsibilities in relation to financial reporting, internal control structure, risk management systems, internal and external audit functions and ethical accountability.

The audit committee should critically examine the audit and management reports provided by the external auditor. The committee would then determine if matters raised in the reports require action to be taken by the local government and ensure that appropriate action is implemented.

A further role for the audit committee would be to receive and authorise the report relating to the audit prepared by the CEO that is to be sent to the Minister.

This report would outline any actions the local government has taken or intends to take in relation to the matters identified by the auditor.

While a formal internal audit function could be considered to be an operational function and therefore the responsibility of the CEO, it is desirable for an internal auditor to have a direct line of communication to the Audit Committee.

The Audit Committee needs to form an opinion of the local government's internal audit requirements and recommend a course of action that ensures that any internal audit processes adopted are appropriate, accountable and transparent. The role of the external auditor in this regard can be established at the time of appointment.

Please note that an audit committee (or any other committee) cannot be given a management task where the Act and Regulations make the CEO specifically responsible. Where the local government

is assigned the function through the legislation, the audit committee may have a role unless the function has been delegated to the CEO by the Council.

The deliberations and recommendations of the committee must be independent and autonomous. Therefore, the Act prohibits the CEO being a member of the committee. However, it is essential that the CEO be given every opportunity to provide his/her expert advice to the committee as he/she does with full Council and other committees.

The primary objective of the audit committee is to accept responsibility for the annual external audit and liaise with the local government's auditor so that Council can be satisfied with the performance of the local government in managing its financial affairs.

Reports from the committee will assist Council in discharging its legislative responsibilities of controlling the local government's affairs, determining the local government's policies and overseeing the allocation of the local government's finances and resources. The committee will ensure openness in the local government's financial reporting and will liaise with the CEO to ensure the effective and efficient management of the local government's financial accounting systems and compliance with legislation.

CONSULTATION

Government of Western Australia, Department of Local Government and Communities, Local Government Operational Guideline "Number 09-Revised September 2013 Audit in Local Government-The appointment, function and responsibility of Audit Committees".

STATUTORY ENVIRONMENT

All Committees are established under provisions of Sections 5.8 to 5.18 of the *Local Government Act 1995*.

The committee is to be appointed by an absolute majority decision of Council. At least three of the members, and the majority of the members, are to be elected members.

Local Government Audit Regulation 1996:

16. Audit committee, functions of

An audit committee —

- (a) is to provide guidance and assistance to the local government —*
 - (i) as to the carrying out of its functions in relation to audits carried out under Part 7 of the Act; and*
 - (ii) as to the development of a process to be used to select and appoint a person to be an auditor;*
- and*
- (b) may provide guidance and assistance to the local government as to —*
 - (i) matters to be audited; and*
 - (ii) the scope of audits; and*

- (iii) *its functions under Part 6 of the Act; and*
- (iv) *the carrying out of its functions relating to other audits and other matters related to financial management; and*
- (c) *is to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to —*
 - (i) *report to the council the results of that review; and*
 - (ii) *give a copy of the CEO's report to the council.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016-2020

Civic Leadership: 4 *To work together as custodians of now and the future.*

4.2 *A local government that is respected, professional, trustworthy and accountable.*

4.3 *To be strong advocates representing the region's interests.*

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

ITEM 13.2

That the Council:

1. Revoke the Council Resolution 6 January 2017, Council Decision 02-0117

COUNCIL RESOLUTION ITEM 11.2

Res No: 02-0117

That the Commissioner:

- 1. Revoke the Council Resolution 21 October 2015, Council Decision 01-1015 and 02-1015 Special Council Meeting "Formation of Council Committees".***
- 2. Authorise the Commissioner, Officer(s) and other Persons be appointed as representatives for the Shire of Exmouth on the following committees:***

Audit Committee

In accordance with provisions of Sections 5.8 of the Local Government Act 1995 Council establishes an Audit Committee;

In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Commissioner and other Persons only;

The Committee meet as required;

In accordance with provisions of section 5.10 (1) (a) and (3) of the Local Government Act 1995 the Committee shall consist of:

- ***The Commissioner***
- ***Independent Financial Experts***

Ningaloo Centre Project Steering/Management Committee

In accordance with provisions of Sections 5.8 of the Local Government Act 1995 Council establishes a Ningaloo Centre Project Steering/Management Committee;

In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Commissioner and Staff only;

In accordance with provisions of section 5.10 (1) (a) and (3) of the Local Government Act 1995 the Committee shall consist of:

- ***The Commissioner***
- ***The Acting Chief Executive Officer***
- ***The Executive Manager of Corporate Services***
- ***The Executive Manager Community Engagement***

2. Appoint the following Councillors as the Audit Committee.

- Councillor -
- Councillor -
- Councillor -

13.3 APPOINT REPRESENTATIVES TO EXTERNAL COMMITTEES

File Reference:	GV.CM.0
Responsible Officer:	Chief Executive Officer
Date of Report:	20 October 2017
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	Nil

PURPOSE

The purpose of this report is to revoke council decision 03-117 from special Council Meeting held 6 January 2017 and nominate representatives to external Committees to exercise the powers and discharge the duties of the local government.

BACKGROUND

The Local Government Act 1995 Section 5.8, 5.9 and 5.10 empowers Council to establish committees and elect persons to serve on those committees.

Council passed the following resolution at the Special Council Meeting held 6 January 2017, Council Decision 03-0117

COUNCIL RESOLUTION

ITEM 11.3

Res No: 03-0117

That the Commissioner:

- 1. Revoke the Council Resolution 21 October 2015, Council Decision 02-1015, Special Council Meeting "Portfolio Allocation (Appointments to External Committees and Organisation)".***
- 2. Authorise the Commissioner and Officers to be appointed as representatives for the Shire of Exmouth on the following committees:***

Gascoyne Development Commission: The Commissioner and the Acting Chief Executive Officer.

WALGA Gascoyne Regional Committees: The Commissioner and the Acting Chief Executive Officer.

Local Emergency Management Committee: The Commissioner, the Acting Chief Executive Officer, the Works Coordinator and the Emergency Manager

Development Assessment Panels (DAPS): The Commissioner

COMMENT

Councillors and Officers are required to be appointed as representatives for the Shire of Exmouth on the following external committees:

1. Gascoyne Development Commission

The Gascoyne Development Commission. A Western Australian Government statutory authority dedicated to the economic social development of the Gascoyne region.

The objectives of the Regional Development Commissions (RDCs) are to:

- maximise job creation and improve career opportunities in the region;
- develop and broaden the economic base of the region;
- identify infrastructure services needed to promote economic and social development within the region;
- provide information and advice to promote business development within the region;
- seek to ensure that the general standard of government services and access to those services in the region is comparable to that which applies in the metropolitan area; and
- generally take steps to encourage, promote, facilitate and monitor the economic development in the region.

2. WALGA Zone Regional Committees

The WA Local Government Association (WALGA) is working for Local Government in Western Australia. As the peak industry body, WALGA advocates on behalf of 138 WA Local Governments and negotiates service agreements for the sector. WALGA is not a government department or agency.

The WA Local Government Association was formed on 6 December 2001 to provide a truly representative and united voice for Local Government in WA. Prior to this, a number of membership-based representative structures existed to represent Local Government in WA.

The WALGA operational structure is comprised of a number of internal business units who undertaken either policy and advocacy work on behalf of the Local Government sector or offer services to assist Local Governments to perform their duties.

Our Governance structure comprises of our State Council and Zones. The structure of WALGA is designed to ensure we remain representative of our Member Councils. The structure also enables us to work efficiently and effectively in meeting our goals.

The WALGA operational structure is comprised of a number of internal business units who undertake either policy and advocacy work on behalf of the Local Government sector, or offer services to assist Local Governments to perform their duties.

WALGA State Council is the decision making representative body of all Member Councils, who are responsible for sector-wide policy making and strategic planning on behalf of Local Government.

Zones are groups of geographically aligned Member Councils who are responsible for direct elections of State Councillors, providing input into policy formulation and providing advice on various matters.

3. Development Assessment Panels (DAPS)

As a key component of planning reform in Western Australia, Development Assessment Panels (DAPs) are intended to enhance planning expertise in decision making by improving the balance between technical advice and local knowledge.

Each DAP consists of five panel members, three being specialist members and two local government councillors.

Under the DAP regulations, each DAP will determine development applications that meet set type and value thresholds as if it were the responsible authority under the relevant planning instrument, such as the local planning scheme or region planning scheme. The DAP regulations state that DAP applications cannot be determined by local government or the Western Australian Planning Commission (WAPC).

The role of **DAP members** is to determine development applications within a certain type and value threshold through consistent, accountable, and professional decision-making.

A Mandatory DAP application is type of development application for the approval of a development outside the City of Perth with an estimated value of \$10 million or more.

4. Ningaloo Coast World Heritage Advisory Committee (NCWHAC)

Ningaloo Coast World Heritage Advisory Committee – Code of Conduct

An appointment of the Ningaloo Coast Heritage Advisory Committee (NCWHAC) carries with it responsibilities and obligations. This Code of Conduct outlines these NCWHAC member responsibilities and obligations and provides guidance about ethical issues that may arise.

All members are required to adopt this Code of Conduct to assist the NCWHAC's ability to perform its functions as specified in the Terms of Reference and Operating Procedures and strengthen the ability of members to contribute to the committee in a positive way.

The Code of Conduct requirements are based n the Office of the Public Sector Standards Commissioner's publication *Template Code of Conduct for Government Boards and Committees*, which in turn, is based on the *Western Australian Public Sector Code of Ethics*.

1.1 Understand the NCWHAC role:

Members will:

- Operate within the framework of the Terms of Reference and Operating Procedures of the NCWHAC.
- Gain a clear understanding of the purpose and function of the NCWHAC in addition to the statutory and regulation requirements of the World Heritage area and associated land tenure within which DPAW and other government agencies carry out their responsibilities.
- Stay informed about the relevant activities and management issues concerning the Ningaloo Coast World Heritage area.
- Make decisions fairly, impartially, promptly and considering all available information to ensure the best outcome for the Ningaloo Coast World Heritage area.

CONSULTATION

Local Government Act 1995

STATUTORY ENVIRONMENT

All Committees are established under provisions of Sections 5.8 to 5.18 of the local Government Act 1995.

5.8. Establishment of committees

A local government may establish committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

** Absolute majority required.*

5.9. Committees, types of

(1) *In this section —*

other person means a person who is not a council member or an employee.

(2) *A committee is to comprise —*

- (a) *council members only; or*
- (b) *council members and employees; or*
- (c) *council members, employees and other persons; or*
- (d) *council members and other persons; or*
- (e) *employees and other persons; or*
- (f) *other persons only.*

5.10. Committee members, appointment of

(1) *A committee is to have as its members —*

- (a) *persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*

- (b) *persons who are appointed to be members of the committee under subsection (4) or (5).*

** Absolute majority required.*

- (2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*
- (3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.*
- (4) *If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*
- (5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*
- (a) *to be a member of the committee; or*
- (b) *that a representative of the CEO be a member of the committee,*
- the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.*

5.11A. Deputy committee members

- (1) *The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.*
- * Absolute majority required.*
- (2) *A person who is appointed as a deputy of a member of a committee is to be —*
- (a) *if the member of the committee is a council member — a council member; or*
- (b) *if the member of the committee is an employee — an employee; or*
- (c) *if the member of the committee is not a council member or an employee — a person who is not a council member or an employee; or*
- (d) *if the member of the committee is a person appointed under section 5.10(5) — a person nominated by the CEO.*
- (3) *A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.*

- (4) *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.*

[Section 5.11A inserted by No. 17 of 2009 s. 20.]

5.11. Committee membership, tenure of

- (1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —*
- (a) *the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or*
 - (b) *the person resigns from membership of the committee; or*
 - (c) *the committee is disbanded; or*
 - (d) *the next ordinary elections day,*
- whichever happens first.*
- (2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —*
- (a) *the term of the person's appointment as a committee member expires; or*
 - (b) *the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or*
 - (c) *the committee is disbanded; or*
 - (d) *the next ordinary elections day,*
- whichever happens first.*

POLICY IMPLICATIONS

Council Policy 1.9 Committee Meetings

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2012-2016.

<i>Civic Leadership:</i>	<i>4</i>	<i><u>To work together as custodians of now and the future.</u></i>
	<i>4.2</i>	<i>A local government that is respected, professional, trustworthy and accountable.</i>
	<i>4.3</i>	<i>To be strong advocates representing the region's interests.</i>

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

ITEM 13.3

That the Council:

1. Revoke the Council Resolution from the Special council meeting held 6 January 2017, Council Decision 03-0117:

COUNCIL RESOLUTION

ITEM 11.3

Res No: 03-0117

That the Commissioner:

1. ***Revoke the Council Resolution 21 October 2015, Council Decision 02-1015, Special Council Meeting "Portfolio Allocation (Appointments to External Committees and Organisation)".***

2. ***Authorise the Commissioner and Officers to be appointed as representatives for the Shire of Exmouth on the following committees:***

Gascoyne Development Commission: The Commissioner and the Acting Chief Executive Officer.

WALGA Gascoyne Regional Committees: The Commissioner and the Acting Chief Executive Officer.

Local Emergency Management Committee: The Commissioner, the Acting Chief Executive Officer, the Works Coordinator and the Emergency Manager

Development Assessment Panels (DAPS): The Commissioner

2. Authorise the newly Elected Council and Officers to be appointed as representatives for the Shire of Exmouth on the following committees:
 1. Gascoyne Development Commission
That the Council of the Shire of Exmouth:-
 - a) *In accordance with provisions of Sections 5.8 of the Local Government Act 1995 establishes a Gascoyne Development Committee;*
 - b) *In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Councillors and Staff;*

- c) *In accordance with provisions of section 5.10 (1)(a) and (3) of the Local Government Act 1995 the Committee shall have as its Members the following Councillors, the Chief Executive Officer and the Deputy Chief Executive Officer.*

MEMBERS:

- *Councillor -*
- *Councillor -*

2. *WALGA Gascoyne Zone Committees:*

That the Council of the Shire of Exmouth :-

- a) *In accordance with provisions of Sections 5.8 of the Local Government Act 1995 establishes a Gascoyne Development Committee;*
- b) *In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Councillors and Staff;*
- c) *In accordance with provisions of section 5.10 (1)(a) and (3) of the Local Government Act 1995 the Committee shall have as its Members the following Councillors, the Chief Executive Officer and the Deputy Chief Executive Officer.*

MEMBERS:

- *Councillor -*
- *Councillor -*

3. *Development Assessment Panels (DAPS):*

That the Council of the Shire of Exmouth:-

- a) *In accordance with provisions of Sections 5.8 of the Local Government Act 1995 establishes a Gascoyne Development Committee;*
- b) *In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Councillors;*
- c) *In accordance with provisions of section 5.10 (1)(a) and (3) of the Local Government Act 1995 the Committee shall have as its Members the following Councillors:*

MEMBERS:

- *Councillor -*
- *Councillor -*

4. *Ningaloo Coast World Heritage Advisory Committee (NCWHAC)*

That the Council of the Shire of Exmouth:-

- a) *In accordance with provisions of Sections 5.8 of the Local Government Act 1995 establishes a Gascoyne Development Committee;*
- b) *In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Councillors and Staff;*
- c) *In accordance with provisions of section 5.10 (1)(a) and (3) of the Local Government Act 1995 the Committee shall have as its Members the following Councillors, the Chief Executive Officer and the Deputy Chief Executive Officer.*

MEMBERS:

- *Councillor -*
- *Councillor -*

- 14. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

- 15. MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS**

- 16. CLOSURE OF MEETING**