



Council Agenda

17 Queen Street, Pingelly
Western Australia 6308
Telephone: 9887 1066
admin@pingelly.wa.gov.au

Shire of Pingelly Special Council Meeting 25 October 2023

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MISSION STATEMENT

To enhance the quality of life for the people of Pingelly through the provision of leadership, services and infrastructure.



Shire of Pingelly

Notice of Meeting

Notice is given that a meeting of the Council will be held in the Council Chambers, 17 Queen Street, Pingelly on 25 October 2023, commencing at 5.00pm.

Your attendance is respectfully requested.

Disclaimer

The recommendations contained in this agenda are officers' recommendations only and should not be acted upon until Council has resolved to adopt those recommendations. The resolutions of Council should be confirmed by perusing the minutes of the Council meeting at which these recommendations were considered. Members of the public should also note that they act at their own risk if they enact any resolution prior to receiving official written notification of Councils decision.

A handwritten signature in black ink, appearing to be "Andrew Dover".

Andrew Dover
Chief Executive Officer

PUBLIC QUESTION TIME INFORMATION

The Shire of Pingelly welcomes community participation during public question time. This document is to be read in conjunction with the *Shire of Pingelly Standing Orders Local Law 2017* and the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*.

1. A member of the public who raises a question during question time must:
 - a. be in attendance at the meeting;
 - b. first state their name and address;
 - c. direct the question to the Presiding Member;
 - d. ask the question briefly and concisely;
 - e. limit any preamble to matters directly relevant to the question; and
 - f. ensure that the question is not accompanied by any expression of opinion, statement of fact or other comment, except where necessary to explain the question.
2. Each member of the public with a question is entitled to ask up to 3 questions before other members of the public will be invited to ask their questions.
3. Where a member of the public seeks a written response to their questions to be tabled at a meeting, the member of the public must submit their questions to Council by no later than 12 noon on the day prior to the meeting date of which the response is to be tabled.
4. Where a member of the public submits their questions after 12 noon on the day prior to the meeting date of which the response is to be tabled, a written response may be provided at the discretion of the presiding member.
5. Where a member of the public submits a written question after 12 noon the day prior to the meeting at which they are to be tabled, a verbal response may be provided at the meeting.
6. A member of the public may ask questions without notice at a meeting, provided they present a written copy of their questions to Council prior to the commencement of the meeting.

Questions may be submitted by e-mail to admin@pingelly.wa.gov.au.

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1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Chairman to declare the meeting open.

1.1 Election of President

Background

Council is required to elect the President and Deputy President as the first item at the first meeting following an ordinary election day.

The term of the positions is for two (2) years (until the next ordinary election).

Comment

The process of election is the same *mutatis mutandis* as the process for election of that of a Councillor.

The CEO is to preside at the meeting until the Office of President is filled. Once a Councillor has been elected and completed the declaration, the President is to assume the Chair.

Statutory Implications

Section 2 of Schedule 2.3 of the *Local Government Act* provides that, in relation to the Office of 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.

Section 3 provides that the CEO is to preside at the meeting until the Office is filled.

Section 4 provides:

- (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.

In relation to the role of the President Section 2.8 provides that:

- (1) The president —
 - (a) presides at meetings in accordance with this Act;
 - (b) provides leadership and guidance to the community in the district;
 - (c) carries out civic and ceremonial duties on behalf of the local government;
 - (d) speaks on behalf of the local government;
 - (e) performs such other functions as are given to the president by this Act or any other written law; and
 - (f) liaises with the CEO on the local government's affairs and the performance of its functions.

Section 5.34 provides that if —

- (a) the office of President is vacant; or
- (b) the President is not available or is unable or unwilling to perform the functions of the mayor or president,

then the deputy President may perform the functions of president.

Regulation 13 of the *Local Government (Constitution) Regulations* (Oaths, affirmations and declarations) provides that:

- (1) For the purposes of sections 2.29 and 2.42 —
 - (c) the form of declaration for a mayor, president, deputy mayor, deputy president or councillor is that in Form 7;
 - (d) the form of declaration for a commissioner is that in Form 8.
- (2) A declaration required by section 2.29 to be made by a person elected as a mayor or president is to be made before —
 - (a) the immediate predecessor of the person in the office of mayor or president; or
 - (b) an authorised person.
- (3) A declaration required by section 2.29 to be made by a person elected as a councillor, deputy mayor or deputy president is to be made before an authorised person.
- (4) A declaration required by section 2.42 to be made by a person appointed as a commissioner is to be made before an authorised person.
- (5) In this regulation —

“authorised person” means a person before whom a statutory declaration can be made under the *Oaths, Affidavits and Statutory Declarations Act 2005*

1.2 Election of Deputy President

Background

Council is required to elect the President and Deputy President as the first item at the first meeting following an ordinary election day.

Comment

The process of election is the same as the process for election of that of President.

Statutory Implications

In relation to the Office of Deputy President, Section 7 provides:

- (2) If the local government has a councillor president the office of deputy president is to be filled —
- (a) as the next matter dealt with after the president is elected at the first meeting of the council after an ordinary elections day;

In relation to the role of the Deputy President Section 2.9 provides that the deputy President performs the functions of the President when authorised to do so under section 5.34.

Regulation 13 of the *Local Government (Constitution) Regulations* provides that:

- (1) For the purposes of sections 2.29 and 2.42 —
- (c) the form of declaration for a mayor, president, deputy mayor, deputy president or councillor is that in Form 7;
 - (d) the form of declaration for a commissioner is that in Form 8.
- (2) A declaration required by section 2.29 to be made by a person elected as a mayor or president is to be made before —
- (a) the immediate predecessor of the person in the office of mayor or president; or
 - (b) an authorised person.
- (3) A declaration required by section 2.29 to be made by a person elected as a councillor, deputy mayor or deputy president is to be made before an authorised person.
- (4) A declaration required by section 2.42 to be made by a person appointed as a commissioner is to be made before an authorised person.
- (5) In this regulation —
- “authorised person”** means a person before whom a statutory declaration can be made under the *Oaths, Affidavits and Statutory Declarations Act 2005*.

1.3 Seating Arrangements

CEO to conduct draw of seating arrangements in the Shire Chambers.

2. ACKNOWLEDGEMENT OF COUNTRY

We acknowledge the Noongar people of this area and recognise their continuing connection to land, waters and community. We pay respect to both the Aboriginal and non-Aboriginal people past, present and emerging.

3. ANNOUNCEMENTS BY THE PRESIDING MEMBER

Please turn your mobile phones to silent, any calls are to be taken outside of the Chambers. Thank you.

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

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

6. PUBLIC QUESTION TIME

Please see Public Question Time Information on page 3.

7. APPLICATIONS FOR LEAVE OF ABSENCE

8. DISCLOSURES OF INTEREST

9. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

10. REPORTS OF COMMITTEES OF COUNCIL

To be resolved.

11. REPORTS OF COUNCIL DELEGATES ON EXTERNAL COMMITTEE

To be resolved.

12. REPORTS FROM COUNCILLORS

Nil

13. OFFICE OF THE CHIEF EXECUTIVE OFFICER

13.1 Council Delegates to Committees

File Reference: ADM0008
Location: Shire of Pingelly
Applicant: Shire of Pingelly
Author: Chief Executive Officer
Disclosure of Interest: Nil
Attachments: Nil
Previous Reference: Nil

Summary:

Council to consider reviewing and appointing members, delegates, and deputies to Committees (internal and external).

Background:

Council has the following Committees:

- Audit Committee Full Council
Charter:
To:
 - assist the auditor and ensure that audits are conducted successfully and timely;
 - meet with the auditor at least once a year;
 - examine the auditor's report and ensure appropriate action is taken; and
 - report on actions taken in respect of any issues raised by the auditor to council.

- Bushfire Advisory Committee
Charter:
To advise Council on all matters relating to:
 - the prevention, controlling and extinguishing of bush fires;
 - prosecutions for breaches of the Bush Fire Act;
 - the formation and de-formation of bush fire brigades;
 - the co-ordination of the efforts and activities of the bush fire brigades; and
 - any other matter relating to bush fire control.

- Chief Executive Officer Performance Review Committee
Charter:
To complete the Annual Performance Review of the Chief Executive Officer.

Outgoing members/delegates to committees are detailed below:

COMMITTEES OF COUNCIL

- Audit & Risk Committee Full Council

- Bush Fire Advisory Committee Member – Cr Narducci
Deputy – Cr Hotham

- Chief Executive Officer Performance Review Committee Member – Shire President
Member– Deputy President
Member – Cr Hotham

COUNCIL DELEGATES ON EXTERNAL COMMITTEES

- Central Country Zone of WALGA
Delegate – Shire President
Delegate – Deputy President
Deputy – Cr Wood
- Hotham-Dale Regional Road Sub-Group
Delegate – Shire President
Deputy – Cr Oliveri
- Pingelly Recreation & Cultural Centre Board
Member – Deputy President
Deputy – Shire President
- Development Assessment Panel
Delegate – Shire President
Delegate – Cr Wood

Deputy – Oliveri
Deputy – Cr Hotham
- Pingelly Tourism Group
Delegate – Cr Singh
Deputy – Cr Narducci
- Shires of Pingelly and Wandering Joint
Local Emergency Management Committee
Delegate – Shire President
Deputy – Deputy President
- Pingelly Youth Network
Delegate – Cr Narducci
Deputy – Deputy President
- Pingelly Somerset Alliance
Delegate – Shire President
Deputy – Deputy President
- Pingelly Early Years Network
Delegate – Deputy President
- Pingelly Community Wellbeing Plan Working Group
Delegate – Deputy President
- Pingelly Museum and Historical Group
Delegate – Cr Hotham

Comment:

At the local government elections, all positions and appointees to committees and other representation as members of Council are vacated and fresh appointments should be made to continue this representation.

Consultation:

Chief Executive Officer and Councillors.

Statutory Environment:

Section 5.8 of the *Local Government Act* (Establishment of committees) provides that 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.*

Section 5.9 (Types of committees) provides that:

- (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;
 - (b) council members and employees;
 - (c) council members, employees and other persons;

- (d) council members and other persons;
- (e) employees and other persons; or
- (f) other persons only.

Section 5.10 (Appointment of committee members) provides that:

- (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.

Section 5.11A (Deputy committee members) provides:

- (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 5.11 (Tenure of committee membership)

- (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;
 - (b) the person resigns from membership of the committee;
 - (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;
 - (b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant;
 - (c) the committee is disbanded; or
 - (d) the next ordinary elections day,whichever happens first.

Section 5.12 (Election of presiding members and deputies)

- (1) The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule —
 - (a) to "office" were references to "office of presiding member";
 - (b) to "council" were references to "committee"; and
 - (c) to "councillors" were references to "committee members".
- (2) The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule —
 - (a) to "office" were references to "office of deputy presiding member";
 - (b) to "council" were references to "committee";
 - (c) to "councillors" were references to "committee members"; and
 - (d) to "mayor or president" were references to "presiding member".

Section 5.15 (Reduction of quorum) provides that the local government may reduce* the number of offices of committee member required for a quorum at a committee meeting specified by the local government if there would not otherwise be a quorum for the meeting.

- **Absolute majority required.*

Section 5.16 (Delegation of some powers and duties to certain committees) provides that:

- (1) Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation.
 - **Absolute majority required.*
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —
 - (a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and
 - (b) any decision to amend or revoke a delegation under this section is to be by an absolute majority.
- (4) Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.

Section 5.17 (Limits on delegation of powers and duties to certain committees)

- (1) A local government can delegate —
 - (a) to a committee comprising council members only, any of the council's powers or duties under this Act except —
 - (i) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government; and
 - (ii) any other power or duty that is prescribed;and
 - (b) to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and

- (c) to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of —
 - (i) the local government's property; or
 - (ii) an event in which the local government is involved.
- (2) A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).

Section 5.19 (Quorum for meetings) provides that the quorum for a meeting of a council or committee is at least 50% of the number of offices (whether vacant or not) of member of the council or the committee.

Section 7.1A (Audit committee) provides that:

- (1) A local government is to establish an audit committee of 3 or more persons to exercise the powers and discharge the duties conferred on it. The members of the audit committee of a local government are to be appointed * by the local government and at least 3 of the members, and the majority of the members are to be council members.
 - **Absolute majority required.*
- (2) A CEO is not to be a member of an audit committee and may not nominate a person to be a member of an audit committee or have a person to represent him or her as a member of an audit committee.
- (3) An employee is not to be a member of an audit committee.

Section 67 of the *Bush Fires Act* provides that:

- (1) A local government may at any time appoint such persons as it thinks fit as a bush fire advisory committee for the purpose of advising the local government regarding all matters relating to the preventing, controlling and extinguishing of bush fires, the planning of the layout of fire-breaks in the district, prosecutions for breaches of this Act, the formation of bushfire brigades and the grouping thereof under group brigade officers, the ensuring of co-operation and co-ordination of bush fire brigades in their efforts and activities, and any other matter relating to bush fire control whether of the same kind, as, or a different kind from, those specified in this subsection.
- (2) A committee appointed under this section shall include a member of the council of the local government nominated by it for that purpose as a member of the committee, and the committee shall elect one of their number to be chairman thereof.
- (3) In respect to a committee so appointed, the local government shall fix the quorum for the transaction of business at meetings of the committee and may —
 - (a) make rules for the guidance of the committee;
 - (b) accept the resignation in writing of, or remove, any member of the committee; and
 - (c) where for any reason a vacancy occurs in the office of a member of the committee, appoint a person to fill that vacancy.
- (4) A committee appointed under this section —
 - (a) may from time to time meet and adjourn as the committee thinks fit;
 - (b) shall not transact business at a meeting unless the quorum fixed by the local government is present;
 - (c) is answerable to the local government and shall, as and when required by the local government, report fully on its activities.

Section 5.8 of the *Local Government Act 1995* and section 38 of the *Emergency Management Act 2005*, establishes the Shires of Pingelly and Wandering Joint Local Emergency Management Committee;

- 1. In accordance with provisions of Section 5.9 of the *Local Government Act 1995* resolves that the Local Emergency Management Committees are to comprise of Councillors, Staff and Other Persons;

Policy Implications:

Nil

Financial Implications:

Nil

Strategic Implications:

N/A

Risk Implications

Risk	
Risk Rating (Prior to Treatment or Control)	
Principal Risk Theme	
Risk Action Plan (Controls or Treatment Proposed)	

Risk Matrix

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

Voting Requirements:

Absolute Majority

Recommendation:

That Council appoints the following delegates to Committees of Council and External Committees

- | | |
|--|---|
| • Audit & Risk Committee | Full Council |
| • Bush Fire Advisory Committee | Member –
Deputy – |
| • Chief Executive Officer Performance Review Committee | Member –
Member–
Member – |
| • Central Country Zone of WALGA | Delegate –
Delegate –
Deputy – |
| • Hotham-Dale Regional Road Sub-Group | Delegate –
Deputy – |
| • Pingelly Recreation & Cultural Centre Board | Member –
Deputy – |
| • Development Assessment Panel | Delegate –
Delegate –

Deputy –
Deputy – |
| • Pingelly Tourism Group | Delegate –
Deputy – |
| • Shires of Pingelly and Wandering Joint Local Emergency Management Committee | Delegate –
Deputy – |
| • Pingelly Youth Network | Delegate –
Deputy – |
| • Pingelly Somerset Alliance | Delegate –
Deputy – |
| • Pingelly Early Years Network | Delegate – |
| • Pingelly Community Wellbeing Plan Working Group | Delegate – |
| • Pingelly Museum and Historical Group | Delegate – |

Moved: _____ Seconded: _____

14. DIRECTORATE OF CORPORATE AND COMMUNITY SERVICES

Nil

15. DIRECTORATE OF WORKS

Nil

16. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

17. NEW BUSINESS OR URGENT BUSINESS INTRODUCED BY DECISION OF THE MEETING

New business of an urgent nature introduced by decision of the meeting. Best practice provides that Council should only consider items that have been included on the Agenda (to allow ample time for Councillors to research prior to the meeting) and which have an Officer Report (to provide the background to the issue and a recommended decision).

18. CONFIDENTIAL ITEMS

Nil

19. CLOSURE OF MEETING

The Chairman to declare the meeting closed.