



MINUTES OF SPECIAL MEETING OF COUNCIL

For Council to:

Appoint the Commissioner to the Audit and Risk Management Committee

Held on

Wednesday 11 January 2023

Commenced at 9.00 am

Shire of Donnybrook Balingup Council Chamber

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

**Kim Dolzadelli
Acting Chief Executive Officer**

12 January 2023

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SHIRE OF DONNYBROOK BALINGUP
SPECIAL COUNCIL MEETING

Held at the Council Chamber
Wednesday 11 January 2023 at 9.00am

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Commissioner – Acknowledgment of Country

The Commissioner acknowledged the traditional custodians of the land, the Wardandi People of the Noongar Nation, paying respects to Elders, past, present and emerging.

The Commissioner declared the meeting open at 9:00am and welcomed the public gallery.

The Commissioner advised that the meeting is being live streamed and recorded in accordance with Council Policy EM/CP-2. The Commissioner further stated the following:

“This meeting is being livestreamed and digitally recorded in accordance with Council Policy.”

“Members of the public are reminded that no other visual or audio recording of this meeting by any other means is allowed without the permission of the chairperson.”

“Whilst every endeavour has been made to only record those who are actively participating in the meeting, loud comments or noises from the gallery may be picked up on the recording.”

2 ATTENDANCE

MEMBERS PRESENT

COMMISSIONER	STAFF
Gail McGowan	Kim Dolzadelli – Acting Chief Executive Officer
	Loren Clifford – Acting Manager Executive Services

PUBLIC GALLERY

One member of the public in attendance.

2.1 APOLOGIES

Nil.

2.2 APPROVED LEAVE OF ABSENCE

Nil.

2.3 APPLICATION FOR A LEAVE OF ABSENCE

Nil.

3 ANNOUNCEMENTS FROM PRESIDING MEMBER

The Commissioner made the following announcement:

“This is effectively a single issue Special Council Meeting for the purpose of formalising my appointment as a Member of the Audit and Risk Committee which is to be dealt with under Item 6.1.

It is also the first formal meeting I am presiding over in my capacity as Commissioner so I will take the opportunity to make a brief statement.

My appointment as Commissioner was made under the Local Government Act – specifically sections 2.37 and 2.38. As Commissioner I hold all the powers and functions of the Council and am regarded as being the Council in its entirety.

This will from time to time mean a practical approach will need to be taken when various regulatory and legislative requirements prescribe the composition of committees, working groups and similar bodies.

In such circumstances I will be guided by those with expertise in the area, including but not limited to the CEO and Shire Executive, the Western Australian Local Government Association (WALGA) and the Department of Local Government, Sport and Cultural Industries.

As I have indicated in the updates published on the Shire website, I invite you to make contact with me should there be any matters you wish to discuss and thank those people I have meet to date.”

4 DECLARATION OF INTEREST

Nil.

5 PUBLIC QUESTION TIME

Question: Mr Shane Sercombe

In the past we have had Special Council Meetings called with very limited notice, can you give some insight on why there has been very little notice, and your intentions in the future for providing good public notice?

Commissioners Response

It is not my intention to have too many Special Council meetings and not with short notice like this. There is a sequence of events, in order for me to have an Audit and Risk Management Committee meeting, the first is that I need to formally appoint myself as a member, as this is required under the Act. This was confirmed by the Department yesterday. The Office of the Auditor General has now finalized their statement and given a unqualified opinion, which means that we can start progressing these matters. I had a meeting with the chair of the Audit and Risk Management Committee yesterday and spoke about the need for an Audit and Risk

Management Committee meeting next week. It is also my intention is to have a Special Council Meeting on the 25 January 2023, of which I'll discuss at the conclusion of this meeting. Once again timing wont be ideal however there are outstanding matters that need to be progressed sooner than the scheduled February 2023 meeting.

I do not intend to hold Special Council Meeting's unless they are absolutely essential. If a meeting is essential I intend on giving the maximum notice.

Question: Mr Shane Sercombe

The Audit Committee are meant to meet quarterly and haven't meet since 3 March 2022, why?

Commissioners Response

I don't know, most meeting frequencies are a guide and does not mean that there has to be a meeting, if there is no actual need to hold a meeting. I do like to have regular meetings, but I don't like to hold them if there is no purpose for the meeting as this waste peoples time.

My intention is to utilise the Audit and Risk Management Committee, afterall we have good people appointed. The Audit and Risk Management Committee will be made up of three members.

Question: Mr Shane Sercombe

Several outstanding reports stemming from the Audit Committee meeting in February 2022 that have not been addressed along with several questions sent to the Audit Committee in May 2022 that haven't been answered. Can you please provide a reason for this?

Commissioners Response

I'll note that question and I'll have a look at those and as we discussed earlier you were going to provide me with an update with those questions so I can provide you with a response.

6 REPORTS OF OFFICERS

6.1 ACTING CHIEF EXECUTIVE OFFICER

6.1 APPOINTMENT OF COMMISSIONER TO THE AUDIT AND RISK MANAGEMENT COMMITTEE

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	N/A
Author	Kim Dolzadelli, Acting Chief Executive Officer
Responsible Manager	Kim Dolzadelli, Acting Chief Executive Officer
Attachments	Nil
Voting Requirements	Simple Majority

Executive Recommendation

That Council appoint Commissioner, Gail McGowan as Member of the Audit and Risk Management Committee, until the ordinary local government election in October 2023 or such time that Councillors are appointed.

STRATEGIC ALIGNMENT

The following outcomes from the Council Plan relate to this proposal:

Outcome	11	Strong, visionary leadership
Objective	11.1	Provide strategically focused, open and accountable governance
Outcome	12	A well respected, professionally run organisation
Objective	11.1	Deliver effective and efficient operations and service provision

EXECUTIVE SUMMARY

The Shire of Donnybrook Balingup Audit and Risk Management Committee (the Committee) normally comprises two independent Committee members (i.e. non-Councillors) and three Councillor members. With all 9 Councillor positions being vacant and a Commissioner being appointed it is necessary for the Commissioner to be appointed to the committee for it to function.

BACKGROUND

Mr Ian Telfer and Mrs Vivienne MacCarthy are the independent Committee members appointed to the Committee.

FINANCIAL IMPLICATIONS

Nil.

POLICY COMPLIANCE

Not Applicable

STATUTORY COMPLIANCE

Local Government Act 1995:

Division 1A — Audit committee

7.1A. Audit committee

- (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.*

- (2) *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.”*

CONSULTATION

Advice has been obtained from the Director Local Government Support and Engagement, Department of Local Government, Sport and Cultural Industries with the following question being posed:

“Noting the provisions of the LGA 1995 Division 1A how are we to proceed to reform the Audit Committee? The current terms of reference states that the Committee will consist of three (3) Elected Members plus two (2) external members and the Shire President as Ex-Officio. All members shall have full voting rights. We still have the 2 Community members and with one Commissioner I can’t see how we can meet the provisions of the Act.”

The following response was provided by the Director:

“In accordance with section 2.38(2) of the Local Government Act, the Commissioner is regarded as being the council. Our position is that the Commissioner is the council when sitting on the Audit Committee and represents the entire council. On this basis, providing that the Commissioner is a member of the Audit Committee, the entire council is being represented and therefore the provisions of the Local Government Act and the terms of reference are satisfied.”

OFFICER COMMENT / CONCLUSION

It is necessary for the Commissioner to be appointed to the committee for it to function.

COUNCIL RESOLUTION 1/23

Moved: Commissioner G McGowan

That the Commissioner:

Appoint Commissioner, Gail McGowan as Member of the Audit and Risk Management Committee, until the ordinary local government election in October 2023 or such time that Councillors are appointed.

CARRIED 1/0

7 MEETING CLOSED TO THE PUBLIC

7.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil.

8 CLOSURE

The Commissioner spoke before closing the meeting:

“While at this stage the next scheduled meeting will be an Ordinary Council Meeting to be held on Wednesday 22 February 2023 commencing at 5pm in the Shire of Donnybrook Balingup Council Chamber, preliminary planning is in place for a further Special Meeting of Council, at this stage scheduled for the late afternoon on 25 January. This will be confirmed over the next few days.

I have asked for this meeting to enable matters that would ordinarily have been dealt with at the December Ordinary Council Meeting, which did not go ahead, to be progressed. These matters include confirmation of minutes of previous meetings of the former Council; the outcome of the tender for road and path upgrades on Southhampton Road (RFT 01/2223) and routine matters which I do not anticipate to be controversial. Ideally I would also like to deal with the financial statements which would ordinarily have been presented to the December meeting. I am of the view that holding these over to the February meeting is unnecessary.

I am hopeful of convening a meeting of the Audit and Risk Committee next week in order to present the audited accounts now that the Office of the Auditor General has issued its opinion, which was unqualified (or clear in simple terms). If we are able to have that meeting it is possible that the Annual Financial Statements will also be dealt with at the Special Meeting. This will in turn enable the Shire to meet its reporting obligations under the legislation.

In closing the meeting, can I acknowledge the efforts of all those who have been assisting with the fires that have occurred across the Shire over the past few weeks. I am sure I can speak on behalf of us all when I thank them for their efforts and for continuing to protect lives and property. So many are volunteers who spring into action and morph into superheroes – it is amazing to witness. We have a long, hot summer ahead so please remain vigilant and stay safe.”

The Commissioner declared the meeting closed at 9:20am.

These Minutes were confirmed by the Council as a true and accurate record at the Special Council Meeting held 25 January 2023.

Gail McGowan

COMMISSIONER – SHIRE OF DONNYBROOK BALINGUP