



TOWN OF PORT HEDLAND

AUDIT, RISK AND GOVERNANCE COMMITTEE MEETING MINUTES

TUESDAY 6 SEPTEMBER 2016 AT 5:30PM

**COUNCIL CHAMBERS, MCGREGOR STREET,
PORT HEDLAND**

DISCLAIMER

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

Any person or legal entity that acts or fails to act in reliance upon any statement, act or omission occurring in a Council Meeting does so at their own risk. The Town of Port Hedland advises that any person or legal entity should only rely on formal confirmation or notification of Council resolutions.

“A nationally significant, friendly city that people are proud to call home”

*Chris Linnell
Acting Chief Executive Officer*

TERMS OF REFERENCE

1. Purpose of the Terms of Reference

The purpose of the terms of reference is to facilitate the operation of the Audit, Risk and Governance Committee.

2. Introduction

The Audit, Risk and Governance Committee has been established in accordance with Part 7 of the Local Government Act 1995.

The Audit, Risk and Governance Committee is an advisory committee formally appointed by the Council and is responsible to the Council. The Audit, Risk and Governance Committee does not have executive powers or authority to implement actions in areas over which management has responsibility and does not have any financial responsibility. The Audit, Risk and Governance Committee does not have any management functions and is therefore independent of management.

The ARG committee will primarily focus on relevant matters relating to Audit (internal and external), Risk and Governance.

The Audit, Risk and Governance Committee objective is to assist the Town of Port Hedland Council in liaising with the auditor and overseeing the external audit function and promoting the transparency and accountability of the Town's financial management systems and reporting. The role of the Committee is to report to the Council and provide appropriate advice and recommendations on matters relevant to its terms of reference in order to facilitate decision making by the Council in relation to the discharge of its responsibilities.

3. Objectives

The objectives of the Audit, Risk and Governance Committee are to oversee:

- 3.1 The integrity of external financial reporting, including accounting policies.
- 3.2 The scope of work, objectivity, performance and independence of the external auditor.
- 3.3 The establishment, effectiveness and maintenance of controls and systems to safeguard the Town's financial and physical resources.
- 3.4 The systems or procedures that are designed to ensure that the Town and its subsidiaries comply with relevant statutory and regulatory requirements.
- 3.5 The process for recognising risks arising from the Town's operations and strategies, and consider the adequacy of measures taken to manage those risks.
- 3.6 The process and systems which protect the Council against fraud and irregularities.

The Audit, Risk and Governance Committee must also add to the credibility of Council by promoting ethical standards through its work.

4. Authority

The Audit, Risk and Governance Committee has the authority to:

- 4.1 Review and suggest improvements to the internal and external auditor's annual audit plans and the outcomes/results of all audits undertaken.
- 4.2 Formally meet with the Town's appointed external auditor as necessary.
- 4.3 Seek resolution on any disagreements between management and the external auditors on financial reporting.
- 4.4 Advise Council on any or all of the above as deemed necessary.

5. Composition

- 5.1 The Audit, Risk and Governance Committee will comprise of six members, four Elected Members and two independent members.
- 5.2 The Council will appoint Audit, Risk and Governance Committee members.
- 5.3 The Presiding Member and Deputy Presiding Member will be appointed by the Audit, Risk and Governance Committee, biennially by election by all committee members after the Ordinary Local Government Election.
- 5.4 The members, taken collectively, will have a broad range of skills and experience relevant to the operations of the Town. At least one member of the committee will have accounting or related financial management experience with an understanding of accounting and auditing standards in a public sector environment.
- 5.5 Independent members will be appointed until the next Ordinary Local Government Election.
- 5.6 A quorum will be a minimum of 50% of the membership.
- 5.7 Audit, Risk and Governance Committee members are required by the Local Government Act and Code of Conduct in observing the requirements of declaring any proximity, financial or impartiality interests that relate to any matter to be considered at each meeting.
- 5.8 New members will receive relevant information and briefings on their appointment to assist them to meet their committee responsibilities.

6. Meetings

- 6.1 Meetings may be called by the Presiding Member of the Audit, Risk and Governance Committee, or at the request of the Mayor or Chief Executive Officer.
- 6.2 The Audit, Risk and Governance Committee meetings are generally open to the public unless the Presiding Member or Chief Executive Officer deem it necessary to proceed behind closed doors pursuant to Section 5.23 of the Local Government Act 1995.

- 6.3 All Elected Members are invited to attend each Audit, Risk and Governance Committee meeting.
- 6.4 All Audit, Risk and Governance Committee members are expected to attend each meeting in person.
- 6.5 The Chief Executive Officer will facilitate the meetings of the Audit, Risk and Governance Committee and invite members of management, internal and external auditors or others to attend meetings as observers and to provide pertinent information, as necessary.
- 6.6 The Audit, Risk and Governance Committee will develop a forward meeting schedule that includes the dates, location, and proposed work plan for each meeting for the forthcoming year, that cover all the responsibilities outlined in this terms of reference.
- 6.7 Meeting agendas will be prepared and provided at least one week in advance to members, along with appropriate briefing materials.
- 6.8 Minutes will be taken at each meeting and presented to the subsequent meeting for confirmation.

7. Responsibilities

The Audit, Risk and Governance Committee will carry out the following responsibilities:

7.1 Risk management

- 7.1.1 Review and suggest improvements to whether management has in place a current and comprehensive enterprise risk management framework and associated procedures for effective identification and management of the Town's business and financial risks, including fraud.
- 7.1.2 Determine whether a sound and effective approach has been followed in managing the Town's major risks including those associated with individual projects, program implementation, and activities.
- 7.1.3 Assess the impact of the Town's enterprise risk management framework on its control environment and insurance arrangements.
- 7.1.4 Review and suggest improvements to the process of developing and implementing the Town's fraud control arrangements and satisfy itself the Town has appropriate processes and systems in place to detect, capture and effectively respond to fraud-related information.

7.2 Business continuity

- 7.2.1 Determine whether a sound and effective approach has been followed in establishing the Town's business continuity planning arrangements, including whether business continuity and disaster recovery plans have been periodically updated and tested.

7.3 Internal Control

- 7.3.1 Review and suggest improvements to whether management's approach to maintaining an effective internal control framework is sound and effective.
- 7.3.2 Review and suggest improvements to whether management has in place relevant policies and procedures and that they are periodically reviewed and updated.
- 7.3.3 Determine whether the appropriate processes are in place to assess, at least once a year, whether key policies and procedures are complied with.
- 7.3.4 Review and suggest improvements to whether appropriate policies and supporting procedures are in place for the management and exercise of delegations.
- 7.3.5 Consider how management identifies any required changes to the design or implementation of key internal controls.

7.4 Financial Report

- 7.4.1 Review and suggest improvements to significant accounting and reporting issues, including complex or unusual transactions and highly judgemental areas, and recent accounting, professional and regulatory pronouncements and legislative changes, and understand their effect on the financial report.
- 7.4.2 Review with management and the external auditors the results of the audit, including any difficulties encountered, and suggest improvements if required..
- 7.4.3 Review and suggest improvements to the annual financial report and performance report of the Town of Port Hedland and its subsidiaries, and consider whether it is complete, consistent with information known to Audit, Risk and Governance Committee members, and reflects appropriate accounting principles.
- 7.4.4 Review and suggest improvements to the process for the consolidation of financial information of the Town related entities into the financial reports of the Town.
- 7.4.5 Review with management and the external auditors all matters required to be communicated to the Audit, Risk and Governance Committee under the Australian Auditing Standards, and suggest improvements if required..
- 7.4.6 Review and suggest improvements to the draft Annual Financial Statements and recommend the adoption of the Annual Financial Statements to Council.
- 7.4.7 Receive the quarterly budget review.

7.5 Compliance

- 7.5.1 Review and suggest improvements to the systems and processes to monitor effectiveness of the system for monitoring compliance with legislation and regulations and the results of management's investigation and follow-up (including disciplinary action) of any instances of non-compliance.

7.5.2 Keep informed of the findings of any examinations by regulatory agencies and any auditor (internal or external) observations and monitor management's response to these findings.

7.5.3 Obtain regular updates from management about compliance matters.

7.5.4 Review and suggest improvements to the annual Compliance Audit Return and report to the Council the results of the review.

7.6 Internal Audit

7.6.1 Review with management and the internal auditor the terms of reference, activities and resourcing of the internal audit function and suggest improvements if required.

7.6.2 Review, suggest improvements to and recommend the annual internal audit plan for approval by the Council and all major changes to the plan.

7.6.3 Monitor that the internal auditor's annual plan is linked with and covers the material business risks.

7.6.4 Monitor processes and practices to ensure that the independence of the audit function is maintained.

7.6.5 Annually review the performance of the internal audit including the level of satisfaction with internal audit function having consideration of the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing and suggest improvements if required..

7.6.6 Review and suggest improvements to all audit reports and provide advice to the Council on significant issues identified in audit reports and action to be taken on issues raised, including identification and dissemination of good practice.

7.6.7 Monitor management's implementation of internal audit recommendations.

7.7 External Audit

7.7.1 Review and suggest improvements to the external auditor's proposed audit scope and approach for financial performance audits, including any reliance on internal auditor activity.

7.7.2 Consider the findings and recommendations of relevant Performance Audits undertaken by the external auditor and ensure the Town implements relevant recommendations.

7.7.3 Provide an opportunity for the Audit, Risk and Governance Committee to meet with the external auditors to discuss any matters that the Audit, Risk and Governance Committee or the external auditors believe should be discussed privately.

7.7.4 Annually review and suggest improvements to the performance of external audit including the level of satisfaction with external audit function.

7.7.5 Monitor management's implementation of external audit recommendations.

7.8 Reporting Responsibilities

7.8.1 Report regularly to the Council about Audit, Risk and Governance Committee activities, issues, and related recommendations through circulation of minutes.

7.8.2 Monitor that open communication between the internal auditor, the external auditors, and the Town's management occurs.

7.9 Other Responsibilities

7.9.1 Perform other activities related to this terms of reference as requested by the Council.

7.9.2 Annually review, suggest improvements to and assess the adequacy of the Audit, Risk and Governance Committee terms of reference, request Council approval for proposed changes, and ensure appropriate disclosure as might be required by legislation or regulation.

(Adopted by Council at its Ordinary Meeting held 16 November 2011.

Amended by Council at its Ordinary Meeting held 23 October 2013.

Amended by Council at its Ordinary Meeting held on 11 December 2013.

Amended by Council at its Ordinary Meeting held on 27 May 2015.

Amended by Council at its Ordinary Meeting held on 28 October 2015.

Amended by Council at its Ordinary Meeting held on 22 June 2016.)

Item 1	Opening of Meeting	10
Item 2	Acknowledgement of Traditional Owners	10
Item 3	Recording of Attendance	10
	3.1 Attendance.....	10
	3.2 Apologies.....	11
	3.3 Approved Leave of Absence.....	11
	3.4 Disclosure of Interests.....	11
Item 4	Response to Previous Questions	11
	4.1 Questions taken on notice from Public at Audit, Risk and Governance Committee Meeting held on Tuesday 9 August 2016.....	11
	4.2 Questions taken on notice from Committee Members at Audit, Risk and Governance Committee Meeting held on Tuesday 9 August 2016.....	11
	4.2.1 Ms Nina Pangahas.....	11
Item 5	Applications for Leave of Absence	12
Item 6	Attendance by Telephone/Instantaneous Communications	12
Item 7	Public Time	12
	7.1 Public Question Time.....	12
	7.1.1 Mrs Mary Attwood.....	12
	7.1.2 Ms Nina Pangahas.....	13
	7.1.3 Mr Ron Attwood.....	14
	7.2 Public Statement Time.....	17
	7.2.1 Mrs Mary Attwood.....	17
	7.2.2 Mr Ron Attwood.....	18
	7.3 Petitions/Deputations/Presentations/Submissions.....	18
Item 8	Questions from Members without Notice	19
	8.1 Councillor Louise Newbery.....	19
8.2	Councillor Richard Whitwell	19
Item 9	Declarations of All Members to Have Given Due Consideration to All Matters Contained in the Business Paper before the Meeting	19
Item 10	Confirmation of Minutes of Previous Meeting	20
	10.1 Confirmation of Minutes of the Audit, Risk and Governance Committee Meeting held on Tuesday 9 August 2016.....	20
Item 11	Announcements by Presiding Member without Discussion	20
Item 12	Reports of Officers	21
	12.1 Corporate Services.....	21

	12.1.1 Monthly Reports: Status of Audit, Risk and Governance Committee Decisions; Completed Decisions and Risk Register	21
Item 13	Motions of Which Previous Notice Has Been Given	24
Item 14	New Business of an Urgent Nature.....	24
Item 15	Matters for Which Meeting May Be Closed (Confidential Matters)	24
Item 16	Closure	24
	16.1 Date of Next Meeting	24
	16.2 Closure	24

Item 1 Opening of Meeting

The Presiding Member declared the meeting open at 5:30pm.

Item 2 Acknowledgement of Traditional Owners

The Presiding Member acknowledged the traditional custodians, the Kariyarra people. And recognised the contribution of Kariyarra elders past, present and future, in working together for the future of Port Hedland.

At the Audit, Risk and Governance Committee Meeting held on 6 November 2016 (ARG201617/013) the Committee made a decision to amend the minutes, to include the writing in red.

“Councillor Newbery called for point of order asking the presiding member who gave him the right to change the status from Traditional Owners to Custodians”.

“The Presiding Member responding that he was the chair of the meeting and that he would run the meeting how he wanted to”.

“Councillor Newbery advised that she had recently attended a meeting where mining companies had recognised Kariyarra people as the Traditional Owners”.

“Mr Attwood and Ms Pangahas both raised their hands to ask questions in respect to this issue and the chair gave directions to them that they could not ask any questions until Public Question Time as they are Community Members. In accordance with Standing Orders they are only permitted to ask questions during Public Question Time”.

Item 3 Recording of Attendance

3.1 Attendance

Committee Members:

Acting Mayor Camilo Blanco – Presiding Member
 Acting Deputy Mayor Troy Melville
 Councillor Louise Newbery
 Councillor Richard Whitwell

Community Members:

Ms Nina Pangahas
 Mr Ron Attwood – Deputy Presiding Member

Officers:

Chris Linnell	Acting Chief Executive Officer
Kathryn Crothers	Acting Director Corporate Services
Adam Majid	Acting Director Community and Development Services
Tammy Wombwell	Minute Taker/ Governance Administration Officer

Public	1
Media	0
Town Officers	1

3.2 Apologies

Nil

3.3 Approved Leave of Absence

Nil

3.4 Disclosure of Interests

Nil

Item 4 Response to Previous Questions

4.1 Questions taken on notice from Public at Audit, Risk and Governance Committee Meeting held on Tuesday 9 August 2016

Nil

4.2 Questions taken on notice from Committee Members at Audit, Risk and Governance Committee Meeting held on Tuesday 9 August 2016

4.2.1 Ms Nina Pangahas

What is the specific section of the Town of Port Hedland Standing Orders Local Law 2014 which relates to what can and can't be asked at the Audit, Risk and Governance Committee meetings?

Item 8 on the agenda is questions from members without notice. In accordance with the Standing Orders Local Law 2014 a member has the meaning given to it in the *Local Government Act 1995*, which is defined as a member of Council. Community Committee Members are therefore required to ask any questions they may have during public question time, and must abide by part 6 of the Standing Orders Local Law 2014.

Section 6.7(6) of the Standing Orders Local Law 2014 outlines that the Presiding Member may decide that a question is out of order and not to be recorded or responded to if the question does not relate to the function of the Audit, Risk and Governance Committee being the functions outlined in the terms of reference.

To amend any clauses within the Standing Orders Local Law 2014 Council must abide by the process for amending local laws outlined in part 3, division 2, subdivision 2 of the *Local Government Act 1995*. The process for an amendment to local laws is summarised below and takes approximately 4 – 8 months until completion:

- Council decision to endorse the amendment for public advertising
- Public advertising (state wide) for six weeks
- Send the proposed amendment to the Minister for Local Government
- Council decision to consider the public submissions and adopt the amendment to the local law
- Gazette the amendment to the local law
- Provide the amendment to the Parliament's Joint Standing Committee on Delegated Legislation

- Advertise the amendment to the local law

At the previous Audit, Risk and Governance Committee meetings there have been questions asked by committee members that do not relate to anything within the agenda. Is this a breach of the Standing Orders Local Law 2014?

In accordance with section 6.7(6) of the Standing Orders Local Law 2014 the Presiding Member may decide whether a question is out of order and is not to be responded to therefore this may not be considered a breach if it was allowed by the Presiding Member.

Item 5 Applications for Leave of Absence

Nil

Item 6 Attendance by Telephone/Instantaneous Communications

Nil

Item 7 Public Time

Important note:

'This meeting is being recorded on audio tape as an additional record of the meeting and to assist with minute-taking purposes which may be released upon request to third parties. If you do not give permission for recording your participation please indicate this at the meeting. The public is reminded that in accordance with Section 6.16 of the Town of Port Hedland Local Law on Standing Orders nobody shall use any visual or vocal electronic device or instrument to record the proceedings of any meeting unless that person has been given permission by the presiding member to do so. Members of the public are also reminded that in accordance with section 6.17(4) of the Town of Port Hedland Local Law on Standing Orders mobile telephones must be switched off and not used during the meeting.'

The Presiding Member opened Public Question Time at 5:40pm.

7.1 Public Question Time

7.1.1 Mrs Mary Attwood

In relation to item 2 'Acknowledgement of Traditional Owners' in this agenda, was the change that was made from 'owners' to 'custodians' discussed with the Kariyarra people?

The Presiding Member advised that a meeting has been requested with the traditional owners, and that the meeting has not taken place yet.

Did the Town receive any legal advice on the change from 'owner' to 'custodian'?

The Presiding Member advised that there is no legal requirement for the acknowledgement of traditional owners within the agenda, and that Council exceeds the requirement in stating acknowledgement of the traditional owners.

Did the Town receive legal advice on changing the status of Committee members, in the Audit, Risk and Governance Committee, to a member of the public?

The Acting Chief Executive Officer asked Mrs Attwood if her question related to Committee members asking questions during Public Question Time.

Mrs Attwood advised in the affirmative.

The Acting Chief Executive Officer advised that Governance undertook research to ensure that the Town was providing accurate advice, and identified that under the Standing Orders Local Law 2014 and the Local Government Act 1995, in respect to the definitions of 'member' versus 'committee member', it does not give any recognition of 'member' status to Community committee members.

Did the Town receive legal advice on the matter?

The Acting Chief Executive Officer advised that the Town does not require legal advice to interpret the Local Government Act 1995.

7.1.2 Ms Nina Pangahas

Ms Pangahas asked the Presiding Member if she was able to ask her questions as a member of the public.

The Acting Chief Executive Officer advised that all members of the public are required to give their name, address and then ask their question.

In regards to item 4.2 'Questions Taken on Notice from Committee Members at the Audit, Risk and Governance (ARG) Committee Meeting held on Tuesday 9 August 2016'. The question I asked at that meeting relates to the nature of questions that can be asked at the ARG Committee meetings. The question I asked previously referred to one point in the Terms of Reference of the ARG Committee on compliance. At that point, I was assuming that my question would be answered as it was within the boundaries of the Terms of Reference of the ARG Committee, and contained within the agenda at that time.

The Presiding Member asked Ms Pangahas for her question.

Why did the Presiding Member think that my question was outside the agenda at that time, when the point I was making relates to compliance, which is part of the Terms of Reference of the ARG Committee?

The Acting Chief Executive Officer advised that Ms Pangahas' question at the last committee meeting was in regards to which section of the Standing Orders Local Law 2014 relates to what can and cannot be asked at Committee meetings. In undertaking the research to answer the question, officers determined that committee members must ask questions during public time on matters in relation to the agenda or the Terms of Reference of the committee.

For the benefit of the tape recording, the question arose from another question that was asked in the meeting previous to the last. There was a prequel to that question.

The Presiding Member advised that he recalled the original question from Ms Pangahas. It states in the Standing Orders Local Law 2014, under section 6(6) that the Presiding Member may decide that a question is out of order, and not to be recorded or responded to and if in respect to a Committee meeting, the question does not relate to a function of the Committee. The original question related to the former Chief Executive Officer's employment, and that it is not a function of this Committee.

The Terms of Reference of the ARG Committee includes compliance.

The Acting Chief Executive Officer asked Ms Pangahas where the compliance element applies regarding the former Chief Executive Officers employment.

I have not seen the Chief Executive Officer contract. My original question was "What was the basis of the separation of the Chief Executive Officer and the Town of Port Hedland", and I received two conflicting answers. One that said the matter was confidential, and another reply that the Presiding Member said that the Chief Executive Officer failed to comply with KPI's. I was confused at the time.

The Presiding Member advised that the matter regarding the Chief Executive Officer's employment is confidential, and that it was a Council decision, and is not part of the Audit, Risk and Governance Committee Terms of Reference.

In regards to your suggestion that if Committee members have issues in relation to the answers provided under 4.2.1, that we should research. Does that mean that Committee members get legal advice under our own initiative or can we request that the Town of Port Hedland assists in getting that advice?

The Presiding Member advised that during years of involvement in Council, he has done his own research, and that Ms Pangahas can request assistance from Town Officers. This Committee is an oversight Committee, and members should be undertaking their own research and coming to their own conclusions, and presenting those conclusions to the Committee for review.

Will that research be in my capacity as a member of the public or a member of the Committee?

The Acting Chief Executive Officer advised that members bring their own understanding of an item that is on the agenda, within the Terms of Reference, and that members provide that input into the Committee debate, it is voted on, and the recommendation is put forward to Council for consideration. That is how the Audit, Risk and Governance Committee speaks to Council. Should Council accept that recommendation, it is for Town officers to implement.

The Acting Chief Executive Officer also advised that Town officers are also here to help Committee members as best they can as a collective, be it through a forum or workshop.

7.1.3 Mr Ron Attwood

At the Audit, Risk and Governance Committee Meeting held on 6 November 2016 (ARG201617/013) the Committee made a decision to amend the minutes, to include the writing in red.

"Mr Attwood asked if he had to ask all of his questions while at the podium and the Presiding Member advised in the affirmative. After discussion with the CEO, he replied no. Mr Attwood then asked to confirm whether it was yes or no. The Presiding Member confirmed it was no".

Mr Attwood asked the Presiding Member if there would be a limit on the number of questions he would be able to ask.

The Presiding Member advised in the affirmative.

In the Local Government Act 1995 section 5.92(1) it states that a person who is a council member or committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law. The Local Government Act 1995 supersedes the Standing Orders Local Law 2014. Why did you stop me from asking questions about items 8.3 and 8.5?

The Presiding Member clarified that in regards to section 5.92(1) of the Local Government Act 1995, the terms 'members' or 'member' are defined in the Act as an Elected Mayor or President of the Local Government, or a Councillor on the Council.

In this section it states a Committee member can have access to the information.

The Presiding Member asked the Coordinator Governance to further clarify the terms to Mr Attwood.

The Coordinator Governance advised that section 5.92 of the Local Government Act 1995 refers to the access of information by Council or Committee members. The section that the Town has referred to in item 4.2.1, is in regards to questions at Committee meetings. Section 5.92 of the Act is in regards to Council or Committee members asking for access to information to help them perform the functions of their duties as a Council or Committee member. Council and Committee members can ask for information at any point in time, and it will be determined by the Chief Executive Officer if the requested information will help them perform their function.

I am asking about items 8.3 and 8.5 of the minutes.

The Acting Chief Executive Officer advised that the Coordinator Governance will finish her reply in regards to the section of the Act that refers to the definition of a member.

The Coordinator Governance advised that a member is defined in the Standing Orders Local Law 2014 as the meaning given to it in the Local Government Act 1995 (the Act). 'Member' in the Act is defined as a member of Council being an Elected Mayor or President and a Councillor who holds the office of Councillor. Committee member as defined in the Act, is an Elected member who is elected to a Committee by Council, a Community member who is on a Committee, or an employee who is on a Committee. As the questions from members within the Standing Orders Local Law 2014 states 'members' the Town has to take the definition that is given in the Act, being Elected Members. This is why Community Committee members cannot ask questions under item 8 'Questions from Members without Notice'.

Why was item 4.2.1 answered in the minutes of 9 August 2016, and 8.3 and 8.5 not answered?

The Presiding Member advised that in relation to item 8.3, the Town has not sent a memo, and the memo is being compiled by officers currently, and that the item should be presented at the next Audit, Risk and Governance Committee meeting.

Why weren't items 8.3 and 8.5 of the 9 August 2016 Audit, Risk and Governance Committee minutes included in item 4.2 of this agenda?

The Presiding Member advised that section 4.2 answers questions that were taken on notice at the previous meeting. Question 8.3 in the previous minutes is still on notice, and when it is answered it will then be included into the agenda. Questions taken on notice may not have an answer by the time the agenda is printed.

It has been a month since the last meeting. Why was the question in 4.2.1 answered and questions under 8.3 and 8.5 not answered?

The Acting Chief Executive Officer advised that questions 8.3 and 8.5 from the previous Committee meeting were not taken on notice, and that answers were given at the meeting and information will be coming back to the Committee when it is available. In regards to item 4.2.1 in the current agenda, the questions were taken on notice and an answer has been provided.

Is item 4.2.1 of this agenda going to be included in the minutes of this meeting?

The Presiding Member advised in the affirmative.

In the minutes of 9 August 2016, are the items in 4.2 going to be clarified in those minutes, or tonight's minutes?

The Presiding Member advised that the confirmation of the minutes of 9 August 2016 will be done in item 10.1 of tonight's agenda.

Will item 4.2.1 be included in the minutes of this meeting?

The Presiding Member advised that it is in tonight's agenda, so it will be confirmed at the next Audit, Risk and Governance Committee meeting.

Are you saying that in the minutes of 9 August 2016, item 4.2.1 will not be included?

The Presiding Member advised in the negative.

In the Local Government Act, section 3.7 is 'Inconsistency with written laws'. The Standing Orders Local Law 2014 is inconsistent with the Act, or any other written law.

The Presiding Member advised that his interpretation is that the Committee has followed the correct process. Mr Attwood is welcome to research it, and bring his research to the next Committee meeting for discussion. Mr Attwood can also write a notice of motion to have it included in the next Audit, Risk and Governance meeting.

The Presiding Member also advised that the Audit, Risk and Governance Committee over the last 6 months has tried to follow all the rules correctly. As issues arise with previous processes, they have been repaired.

Can I clarify things in the minutes or the agenda when it comes to those items?

The Presiding Member advised in the negative. They are not part of the agenda.

Can't I ask for clarification on the agenda items?

The Presiding Member advised that clarification can be sought on agenda items.

The Acting Chief Executive Officer advised that the intent of the Standing Orders Local Law 2014 (Standing Orders), at the time of drafting, did not include Committee or Community members as being part of it. Ensuring that the Committee is following Standing Orders correctly, this is the process that has to be undertaken. There is always the opportunity for Council to review Standing Orders, and there is a process to do that. That can happen in time, to ensure that Community members are provided the same level of opportunity as Council members. Currently, Community members are able to debate, but would not normally be able to ask questions during points of clarification prior to the debate of the item.

The Local Government Act section 5.92, have you read the [expletive] thing?

The Acting Chief Executive Officer advised Mr Attwood that his language is unacceptable.

The Presiding Member advised Mr Attwood that he is still required to follow the Standing Orders Local Law 2014 section 9 in relation to conduct at meetings.

The Presiding Member closed Public Question Time at 6:05pm.

The Presiding Member opened Public Statement Time at 6:05pm.

7.2 Public Statement Time

7.2.1 Mrs Mary Attwood

My statement is in reference to item 2 on this agenda, change to the acknowledgement of traditional owners.

I am a Kariyarra traditional owner who is a registered claimant of the Kariyarra native title claim which is currently before the Federal Court seeking a determination.

I wish to advise the person or persons who have made the changes to the Council acknowledgement to the traditional owners that your actions do not comply with the Native Title Act 1993 which is federal legislation acknowledging the rights and interests of the Aboriginal people of Australia.

1. The Mabo 2 - A majority of the High Court decided that the Meriam people were entitled as against the whole world to the possession, occupation, use and enjoyment of (most of the) land of the Murray Island in the Torres Strait.
2. In reaching this conclusion, the majority of the Court held that the common law of Australia recognises a form of native title to land, and indicated that the principles applied to the mainland as well as Murray Island. Such native title exists in accordance with the laws and customs of indigenous people.

The Council has made a decision to change the acknowledgement of traditional owners from "The Presiding Member respectfully acknowledged the traditional owners, the Kariyarra people", to "The Presiding Member acknowledged the traditional custodians"

By redefining your interpretation of the following words:

"Traditional owners" – Defined in High Court decision Mabo 2;

"Custodians" – Persons or person who has responsibility of taking care of, or protecting something.

The Presiding Member has used his discretion to make changes to the acknowledgment of my people, the Kariyarra people, which is inconsistent with the Federal Native Title Act 1993, to recognise and protect the rights and interests of my people by changing our status as owners of the land, to persons who are carers and protectors of our land.

The Native Title Act states that the Crown has a fiduciary duty to recognise and protect the asserted traditional land rights and interests of the people. It was argued that the fiduciary duty would be breached if, among other things, the Crown were to exercise any discretionary powers in a manner which did not recognise and protect those rights and interests.

Local Government Act 1995, section 3.7 states inconsistency with written laws. A Local Law made under this Act is inoperative to the extent that it is inconsistent with the Act or any other written law.

I might remind you that the Port Hedland Town Council did a heads of agreement between the Kariyarra people in 2002, in that agreement, it states that the Kariyarra people are the traditional owners of the land and waters in the application for the native title.

The changes you have made could be breaching this agreement, it could also be breaching the Native Title Act 1993 and I will be seeking legal advice, and the Presiding Member should get legal advice.

I just want to talk about changing the status of Committee members, making them come up to this podium to ask their questions. It's discriminating. These members were appointed by the Council, under the Local Government Act 1995 they are identified as members. The Standing Orders Local Law 2014 is a law made by the Local Government and the Council. It is in conflict with the Local Government Act 1995, there is an inconsistency again. I believe your proposal, Acting Mayor, is null and void.

7.2.2 Mr Ron Attwood

I'd like to put a motion up here that funds be found, or contingency used to appoint or employ an internal auditor. I think an internal auditor here is a necessity. The number of staff the Town has lost over the last three months highlights what the problem within the Town. If an internal auditor is not employed the Town will fall deeper into the mire. It's hard that the rules are changed at the last minute and I have to get up here and give my statement.

The Presiding Member corrected Mr Attwood that the Committee has received advice through Governance and that the rules have not been changed. The Committee are in compliance with the Local Government Act 1995 and the Standing Orders Local Law 2014.

Mr Attwood asked the Presiding Member if he can put up a motion later in the agenda.

The Presiding Member advised Mr Attwood that is it currently Public Statement Time.

The Presiding Member closed Public Statement Time at 6:14pm

7.3 Petitions/Deputations/Presentations/Submissions

Nil

Item 8 Questions from Members without Notice

8.1 Councillor Louise Newbery

Can I put up a notice of motion tonight, that Community members under item 8, can have their own separate agenda item so that they don't have to stand at a podium, as they have been elected in by Council as members?

The Presiding Member advised that as stated in agenda item 4.2.1, there is a process that has to be followed to change the Standing Orders Local Law 2014. The process takes between four and eight months. Notice of motion is an option for you to put forward so that the process can begin.

8.2 Councillor Richard Whitwell

In regards to the proposed Spoilbank marina.

The Presiding Member advised Councillor Whitwell that the question would not be considered as it does not relate to anything contained within this agenda.

Item 9 Declarations of All Members to Have Given Due Consideration to All Matters Contained in the Business Paper before the Meeting

The following Committee Members declared that they had given due consideration to all matters contained in the agenda:

- Acting Mayor Camilo Blanco
- Acting Deputy Mayor Melville
- Community Member Nina Pangahas
- Councillor Louise Newbery
- Councillor Richard Whitwell
- Community Member Ron Attwood

Item 10 Confirmation of Minutes of Previous Meeting

10.1 Confirmation of Minutes of the Audit, Risk and Governance Committee Meeting held on Tuesday 9 August 2016**ARG201617/008 OFFICER RECOMMENDATION/ COMMITTEE DECISION****MOVED: CR WHITWELL****SECONDED: ACTING MAYOR BLANCO**

That the Audit, Risk and Governance Committee confirm that the Minutes of the Audit, Risk and Governance Committee Meeting held on Tuesday 9 August 2016 are a true and correct record.

CARRIED 4/2

For: Acting Mayor Blanco, Acting Deputy Mayor Melville, Cr Newbery, Cr Whitwell
Against: Ms Pangahas, Mr Attwood

Item 11 Announcements by Presiding Member without Discussion

Nil

Disclaimer

Members of the public are cautioned against taking any action on Committee decisions, on items on this evening's Agenda in which they may have an interest, until formal notification in writing by the Town has been received. Decisions made at this meeting can be revoked, pursuant to the Local Government Act 1995.

Item 12 Reports of Officers

12.1 Corporate Services**12.1.1 Monthly Reports: Status of Audit, Risk and Governance Committee Decisions; Completed Decisions and Risk Register**

File No:	N/A
Applicant/ Proponent:	N/A
Subject Land/ Locality:	N/A
Date:	31/08/2016
Author:	Grace Waugh, Coordinator Governance
Authorising Officer:	Kathryn Crothers, Acting Director Corporate Services
Disclosure of Interest from Author:	Nil
Authority/Discretion:	<input checked="" type="checkbox"/> Information Purposes - includes items provided to Council for information purposes only, that do not require a decision of Council (i.e. - for 'noting').

Attachments:

1. Monthly Status of Audit, Risk and Governance Committee Decisions (Under Separate Cover)
 2. Monthly Audit, Risk and Governance Committee Decision Completion Report (Under Separate Cover)
 3. Monthly Risk Register Report (Under Separate Cover)
-

ARG201617/009 OFFICER RECOMMENDATION/ COMMITTEE DECISION**MOVED: CR WHITWELL****SECONDED: CR MELVILLE****That the Audit, Risk and Governance Committee receive the following reports:**

1. **Monthly Status of Audit, Risk and Governance Committee Decisions, as at 31 August 2016;**
2. **Monthly Audit, Risk and Governance Committee Decision Completion Report, as at 31 August 2016; and**
3. **Monthly Risk Register Report as at 31 August 2016.**

CARRIED 5/1

For: Acting Mayor Blanco, Cr Melville, Cr Newbery, Cr Whitwell, Ms Pangahas
Against: Mr Attwood

EXECUTIVE SUMMARY

The purpose of this report is to provide the Audit Risk and Governance (ARG) Committee with the monthly status of all outstanding ARG Committee decisions, all completed ARG Committee decisions and an update of the Risk Register within the stated period.

BACKGROUND

To ensure accountability and transparency, an update of all previous ARG decisions and the Risk Register are to be provided to the ARG Committee for review. Committee Members have requested that these be provided monthly.

CONSULTATION

Internal

- Director Corporate Services
- Manager Corporate Information
- Coordinator Governance

LEGISLATIVE IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Policy 1/022 Risk Management applies to this item.

A copy of this policy can be found on the Town’s website at the below location:

http://www.porthedland.wa.gov.au/Profiles/porthedland/Assets/ClientData/Document-Centre/Public_Documents/Policies/201606PolicyManual.pdf

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

The following sections of the Town of Port Hedland Strategic Community Plan applies:

<p>4.1 Strategic and best practice local government administration</p>	<p>Deliver high quality corporate governance accountability and compliance. Maintain a strong and sustainable financial position Be efficient and effective in use of resources, infrastructure, assets and technology Attract, develop and retain an effective workforce to deliver organisational outcomes</p>
--	---

4.2 Engage our community and stakeholders	<p>Lead a community-oriented organisation that delivers responsive and helpful services to our customers</p> <p>Represent our community and provide transparent and accountable civic leadership</p> <p>Facilitate community engagement and civic participation</p> <p>Be a powerful voice and influential partner with Federal and State Governments and major industries for the development of Port Hedland</p> <p>Ensure community members know how to access our services and facilities</p> <p>Promote a positive representation of our community and Town's services</p>
---	---

SUSTAINABILITY IMPLICATIONS

Environmental

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

Economic

There are no significant identifiable economic impacts arising from adoption of the officer's recommendation.

Social

There are no significant identifiable social impacts arising from adoption of the officer's recommendation.

Risk

As this report is only for information purposes only, and the risk assessment table has been removed.

A risk assessment for each item contained in the monthly status update, would have been completed as part of the original agenda item, and can be found in the minutes of the relevant meeting of which it was first tabled.

CONCLUSION

It is recommended that the Audit, Risk and Governance Committee note the attached reports which provide a status on the ARG Committee Decisions and Risk Register.

Item 13 Motions of Which Previous Notice Has Been Given

Nil

Item 14 New Business of an Urgent Nature

Nil

Item 15 Matters for Which Meeting May Be Closed (Confidential Matters)

Nil

Item 16 Closure

16.1 Date of Next Meeting

The next Audit, Risk and Governance Committee Meeting will be held on Tuesday 4 October 2016, commencing at 5:30pm.

16.2 Closure

There being no further business, the Presiding Member declared the meeting closed at 6:54pm.

DECLARATION OF CONFIRMATION OF MINUTES

I certify that these Minutes were confirmed by the Audit, Risk and Governance Committee at its Meeting of _____ 2016.

CONFIRMATION:

PRESIDING MEMBER / MAYOR

DATE