



AGENDA

Dear Mayor and Councillors,

I respectfully advise that a SPECIAL COUNCIL MEETING will be held in the Civic Centre, McGregor St, Port Hedland, on **Thursday 2 April** commencing at **6:00pm**.

The purpose of the Special Meeting is consideration of the election of a Deputy Mayor and the appointment of three Councillors to the Audit Risk and Improvement Committee (ARIC).

MEETING AGENDA ATTACHED

Yours faithfully

Kenneth Donohoe
Temporary Chief Executive Officer
30 March 2026

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.

DISCLOSURE OF FINANCIAL/ IMPARTIALITY/ PROXIMITY INTERESTS

Local Government Act 1995 – Section 5.65, 5.70 and 5.71

Local Government (Model Code of Conduct) Regulations 2021

<i>This form is provided to enable members and officers to disclose an Interest in a matter in accordance with the regulations of Section 5.65, 5.70 and 5.71 of the Local Government Act and Local Government (Model Code of Conduct) Regulations 2021</i>	
Name	
Position	
Date of Meeting	
Type of Meeting (Please circle one)	Council Meeting/ Committee Meeting/ Special Council Meeting Workshop/ Public Agenda Briefing/ Confidential Briefing
Interest Disclosed	
Item Number and Title	
Nature of Interest	
Type of Interest (please circle one)	Financial Proximity Impartiality
Interest Disclosed	
Item Number and Title	
Nature of Interest	
Type of Interest (please circle one)	Financial Proximity Impartiality

Signature: _____ **Date:** _____

Important Note: Should you declare a **Financial or Proximity Interest**, in accordance with the Act and Regulations noted above, you are required to leave the room while the item is being considered.

For an **Impartiality** Interest, you must state the following prior to the consideration of the item:

"With regard to agenda item (read item number and title), I disclose that I have an impartiality interest because (read your reason for interest). As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."

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1 Declaration by Newly Appointed Members of Council

In accordance with section 2.29 of the *Local Government Act 1995* and Regulation 13 of the *Local Government (Constitution) Regulations 1998* a person elected as Mayor or Councillor has to make a declaration, in the prescribed form, before acting in the Office and that the statutory declaration is to be taken or made before an authorised person under the *Oaths, Affidavits and Statutory Declarations Act 2005*.

Each newly Elected Member will be called upon by Mr Kenneth Donohoe, Temporary Chief Executive Officer to make their declaration in the prescribed form.

2 Opening of Meeting

The Presiding Member is to declare the meeting open at 6pm.

3 Acknowledgement of Traditional Owners and Dignitaries

The Mayor acknowledges the Kariyarra people as the Traditional Custodians of the land that we are meeting on and recognises their strength and resilience and pays respect to elders past and present.

4 Recording of Attendance

Important note:

This meeting is being live-streamed and audio recorded to facilitate community participation and for minute-taking purposes, which may be released upon request to third parties. In accordance with clause 6.16 of the Town of Port Hedland Local Law on Standing Orders members of the public are not permitted to 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 clause 6.17(4) of the Town of Port Hedland Standing Orders Local Law mobile telephones must be switched off and not used during the meeting.

4.1 Attendance

Scheduled Present:

Mayor Jacinta Behrend

Cr Russell McDowall

Cr Adrian McRae

Cr Rachael Baxter

Cr Zoe Little

Cr Sharon Todd

Cr Frank Edwards

Cr Troy Melville

Cr Lorraine Butson

Scheduled for Attendance:

Kenneth Donohoe (Temporary Chief Executive Officer)

Florian Goessmann (Acting Director Corporate Services)

Alison Banks (Director Community Services)

Rhiannon Smith (Acting Governance Officer)

Sophie Marlow (Governance Support Officer)

Maree Cutler-Naroba (Senior Governance Advisor)

Andrew Hammond (Monitor)

4.2 Attendance by Telephone / Instantaneous Communications

4.3 Apologies

4.4 Approved Leave of Absence

4.5 Disclosures of Interest

Name	Item No	Interest	Nature

5 Public Time

5.1 Public Question Time

5.2 Public Statement Time

6 Questions from Members without notice

7 Election of the Deputy Mayor

The Presiding Member will call for nominations for Deputy Mayor and declare the close of nominations.

All nominations must be in writing and can be given to the Presiding Member either before the meeting or at this point in the meeting.

Any Councillor can nominate another Councillor for a position. In this case, the person conducting the election must also receive confirmation, either written or verbal, from the nominated Councillor that they are willing to be nominated.

Election will take place by secret ballot, using Optional Preferential Voting.

The Presiding Member is to declare the result of the election, the declaration is to include the names of the candidates and the name and term of office of the candidate declared elected.

The newly elected Deputy Mayor will make their declaration before Mr Kenneth Donohoe, Temporary Chief Executive Officer.

Legislation: Local Government Act 1995

Section 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.*

Schedule 2.3 Clause 7 - When council elects deputy mayor or deputy president

- (1) If the local government has an elected 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.*

Schedule 2.3 Clause 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.*

Schedule 2.3 Clause 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.*

Method of Optional Preferential Voting

The Department of Local Government, Industry Regulation and Safety (DLGIRS) provides guidance on conducting council elections using Optional Preferential Voting (OPV) for the election of a Deputy Mayor / Deputy President.

Where there are two candidates

- The candidate who receives the most votes is elected.
- If there is a tie, the council must:
 - adjourn the meeting and conduct a second vote in accordance with Schedule 2.3 of the Local Government Act 1995; and
 - if the second vote is also tied, determine the result by drawing lots.

Where there are more than two candidates

1. Count the first-preference votes for each candidate and set aside any informal votes.
2. Calculate the majority of votes required to be elected, being:
 - a. half of the total number of formal, non-exhausted votes, rounded down, plus one
(also referred to as an absolute majority or 50% + 1).
3. Determine whether a candidate has achieved the required majority:
 - a. Yes – the candidate is elected.
 - b. No – proceed to step 4.
4. Eliminate the candidate with the lowest number of votes and distribute that candidate's votes to the next available preference, if any.
 - a. If the lowest-placed candidate cannot be determined due to a tie:
 - i. where the tied candidates are the only remaining candidates, the count is discontinued and the council must follow Schedule 2.3 of the Act to conduct a second vote; or
 - ii. in any other case, the result is determined by drawing lots in accordance with regulation 75E and the relevant provisions of regulation 75N or 75O, as applicable.

5. Repeat steps 2 to 4 until a result is determined.
 - a. Where votes become exhausted, the majority required must be recalculated, which may reduce.

Related reforms – mayor and president elections

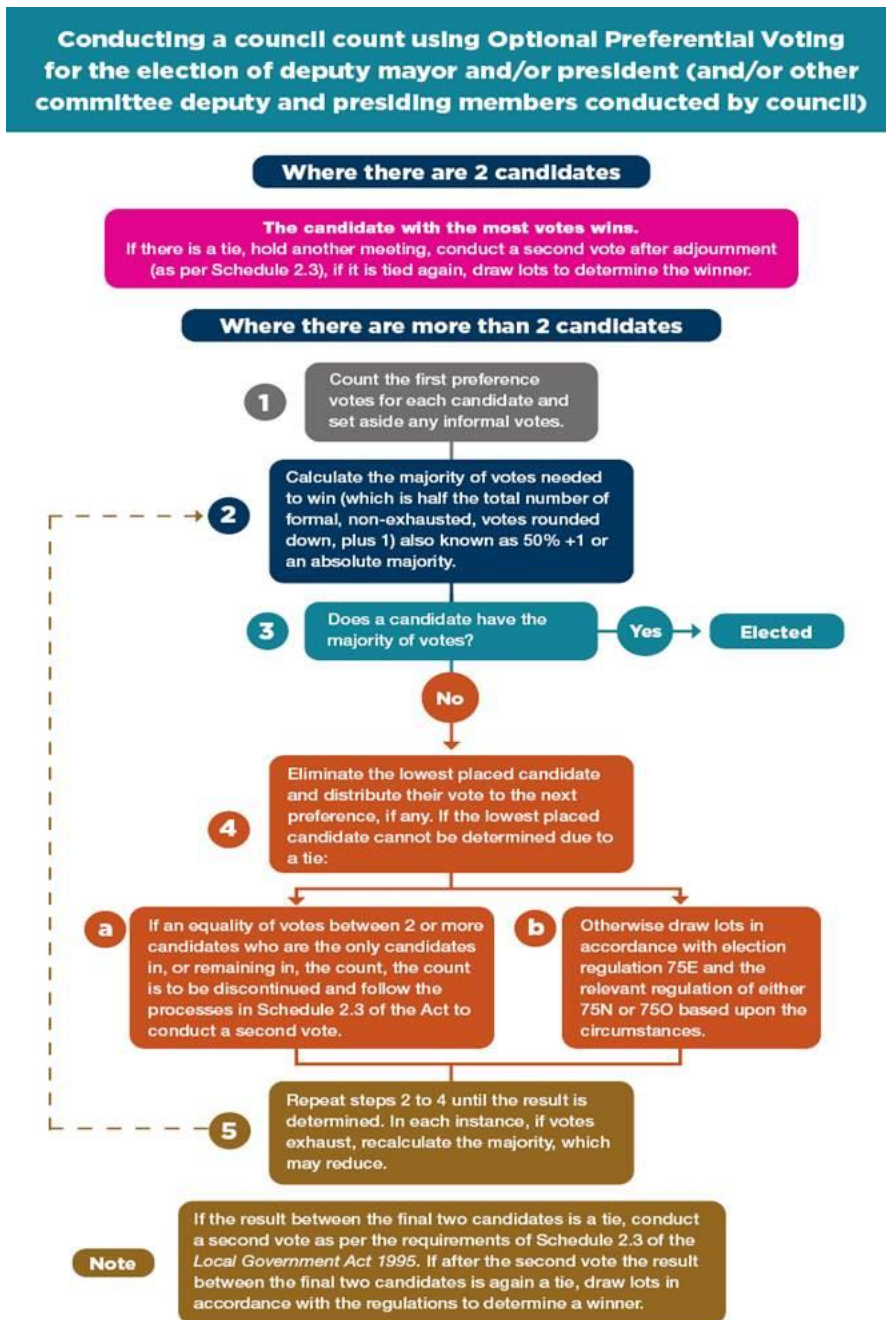
Recent legislative reforms require Band 1 and Band 2 local governments (as determined by the Salaries and Allowances Tribunal) to elect the Mayor or President by a vote of the electors, where this was not already the case.

These changes reflect the leadership role and heightened responsibilities of the Mayor or President and are intended to ensure that, in larger local governments, the role is directly elected by and accountable to the community.

Note: These reforms do not affect the method used by council to elect a Deputy Mayor.

Source:

Local Government Inspector and electoral guidance material is published by the **Department of Local Government, Industry Regulation and Safety (LGIRS)**: <https://www.wa.gov.au/organisation/departments-of-local-government-industry-regulation-and-safety>



8.1 Assignment of Elected Member Seating

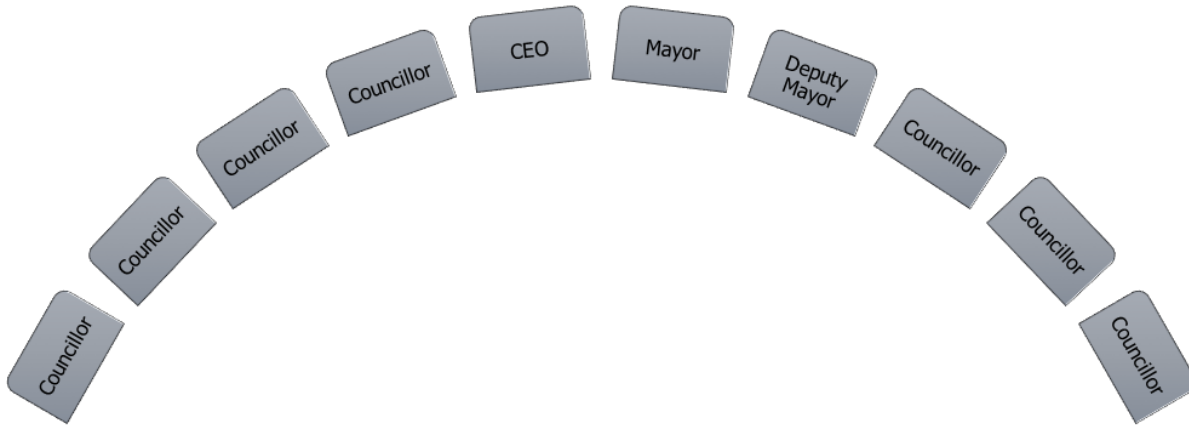
In accordance with the Town of Port Hedland’s *Standing Orders Local Law 2014*:

Section 9.1 - Members to be in their proper places

At the first meeting held after each election day, the CEO is to allot a position at the council table to each member.

Each Member is to occupy his or her allotted position at each council meeting.

Councillor seating will be arranged so the Deputy Mayor is seated to the left of the Mayor and Councillors will be seated clockwise in alphabetical order of their surnames, starting from the left of the Deputy Mayor as shown below:



Councillor Seating – Surname A-Z clockwise, starting from the Deputy Mayor

9 Reports of Officers

9.1	Appointment of Elected Members to the Audit, Risk and Improvement Committee
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Author: Senior Audit, Risk & Insurance Advisor

Authorising Officer: Temporary Chief Executive Officer

Disclosure of Interest: The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

OFFICER'S RECOMMENDATION 1

That Council, pursuant to section 5.8 of the Local Government Act 1995, establish an Audit, Risk and Improvement Committee as a committee of Council, to operate in accordance with Part 7 of the Act.

ABSOLUTE MAJORITY VOTE REQUIRED

OFFICER'S RECOMMENDATION 2

That Council:

1. Pursuant to section 5.10 of the Local Government Act 1995, appoint the following Elected Members to the Audit, Risk and Improvement Committee with effect from 2 April 2026, for a term expiring on 16 October 2027:

- Councillor XXX
- Councillor XXX
- Councillor XXX

2. Pursuant to section 5.11A of the Local Government Act 1995, appoint the following Elected Member as a Deputy Member of the Audit, Risk and Improvement Committee with effect from 2 April 2026, for a term expiring on 16 October 2027:

- Councillor XXX

ABSOLUTE MAJORITY VOTE REQUIRED

OFFICER'S RECOMMENDATION 3

1. That Council notes that the selection process for independent Audit, Risk and Improvement Committee positions is currently in progress, with a further report to be presented to the 29 April 2026 Ordinary Council Meeting to consider appointment of:

a. An Independent Presiding Member;

b. An Independent Deputy Presiding Member; and

c. An Independent Deputy to the Presiding Member,

In accordance with the Local Government Act 1995.

2. That Council notes that the Terms of Reference for the Audit, Risk and Improvement Committee are currently under review to ensure alignment with the amended legislative framework and that a further report will be presented to the 29 April 2026 Ordinary Council Meeting for Council's consideration of the updated Terms of Reference.

SIMPLE MAJORITY VOTE REQUIRED

PURPOSE

The purpose of this report is to appoint Elected Members to the Town of Port Hedland (the Town) Audit, Risk and Improvement Committee (ARIC) as part of the Town's implementation of the reformed audit, risk and improvement committee framework introduced under the Local Government Act 1995 (the Act).

DETAILOfficer's Recommendation 1 – Establishment of the Committee

The Local Government Amendment Act 2024 introduced reforms to governance and accountability requirements for Western Australian local governments, including the replacement of former audit committees with ARICs with expanded statutory functions.

Under the amended framework, local governments were required to commence transition to the ARIC model from 1 January 2026, with a six-month transition period provided to enable establishment and implementation. Full compliance is required by 30 June 2026, at which point all local governments must have an ARIC established and operating in accordance with the updated legislative requirements.

During the transition period, existing audit committees may continue to operate to ensure continuity of assurance and oversight activities until the ARIC is formally established by Council resolution.

In accordance with section 5.8 of the Act, a committee of Council must be established by an absolute majority decision of Council. While the Town's existing Audit Committee Terms of Reference, adopted by Council on 10 December 2025, reflect the transition to the ARIC naming requirement, a formal Council decision is required to legally establish the ARIC as a committee of Council under the Act.

Officer's Recommendation 1 therefore proposes the formal establishment of the Audit, Risk and Improvement Committee in accordance with section 5.8, satisfying the statutory requirement for committee establishment within the prescribed reform timeframe.

Officer's Recommendation 2 – Appointment of Elected Members to the Committee

Once a committee has been established under section 5.8, section 5.10 of the Act requires Council, by absolute majority, to determine the term of appointment and to appoint members to the committee.

Officer's Recommendation 2 proposes the appointment of three (3) Elected Members to the ARIC for a term commencing 2 April 2026 and expiring 16 October 2027, aligning with the remainder of the current Council term. These appointments ensure elected member oversight is appropriately integrated into the ARIC during the Town's transition back to elected governance following the Commissioner period.

In addition, section 5.11A of the Act permits Council to appoint deputy members to committees. The appointment of a Deputy Member supports continuity of quorum and participation in committee business in the event of member unavailability and is consistent with good governance practice for statutory committees.

All appointments under Officer's Recommendation 2 are required to be made by absolute majority.

Officer's Recommendation 3.1 – Appointment of Independent Members to the Committee

Officer's Recommendation 3 relates to the independent membership and leadership positions of the ARIC and is presented to Council for noting only at this stage.

The Act, as amended, requires that an ARIC include independent members and that the Presiding Member be an independent person who is not an Elected Member of any local government. The Act also provides for the appointment of:

- An Independent Deputy Presiding Member (optional); and

- An Independent Deputy to the Presiding Member, which is mandatory under section 7.1B.

Consistent with these requirements, the Town has commenced a formal selection process to identify suitable independent candidates with appropriate skills and experience in audit, risk management, financial accountability and governance. This process is being managed separately from the appointment of Elected Members to ensure compliance with statutory independence requirements and to support transparency and probity in the recruitment process.

At the time of preparation of this report, the Town has selected a preferred presiding member and deputy presiding member and is yet to select a preferred deputy to the presiding member. As the selection process has not yet been finalised, no appointments of independent members or presiding officers are proposed for determination at this meeting.

Officer's Recommendation 3 therefore seeks Council's acknowledgement that:

- The selection process for independent ARIC positions is currently underway; and
- A further report will be presented to the 29 April 2026 Ordinary Council Meeting seeking Council's consideration of the appointment of:
 - An Independent Presiding Member;
 - An Independent Deputy Presiding Member; and
 - An Independent Deputy to the Presiding Member

in accordance with the Local Government Act 1995.

Noting this process at this stage provides clarity to Council to the sequencing of the Committee's establishment.

Officer's Recommendation 3.2 – Terms of Reference of the Committee

The amended Act and regulations commencing 30 June 2026 introduce expanded and requirements in relation to the functions, composition, independence, and operation of ARICs.

While Council is required to first establish the Committee (Officer's Recommendation 1) and appoint its members (Officer's Recommendations 2 and 3), the operational governance framework for the Committee is set through its Terms of Reference (ToR). The ToR must be aligned with both the revised statutory role of ARICs and the intended committee constitution/structure.

The Town's existing ToR were adopted prior to the full commencement of the ARIC reforms and, while updated in name, they do not yet fully reflect:

- The expanded statutory functions of an ARIC;
- The distinction between committee members and deputy members;
- The mandatory independence requirements for presiding roles; and
- The revised reporting, review, and improvement responsibilities introduced by the amended legislation.

Accordingly, the ToR are currently being reviewed and updated to ensure they:

- Clearly articulate the roles, responsibilities and authority of the ARIC under the amended Act;
- Reflect the proposed committee constitution, comprising three (3) Elected Members, one (1) Elected Member Deputy, two (2) Independent Members, and one (1) Independent Deputy to the Presiding Member;
- Distinguish between committee members and deputy appointments, noting that deputies are not committee members unless acting; and
- Align with statutory provisions.

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 Significant Decision Making, this matter is of high significance due to its statutory, governance and committee composition implications.

CONSULTATION

Internal

- Director Corporate Services
- Senior Audit, Risk and Insurance Advisor

External Agencies

- WA Local Government Association (WALGA)

Community

- Nil.

LEGISLATION AND POLICY CONSIDERATIONS

This matter has been considered with reference to the following legislation:

- Local Government Act 1995:
 - Section 5.8 – establishment of committees
 - Section 5.10 – appointment of committee members
 - Section 5.10(1)(a) – absolute majority decision
 - Section 5.11A – deputy committee members
 - Section 5.12 – presiding member and deputy presiding member

- Section 7.1A – establishment and membership requirements for the ARIC
- Section 7.1B – deputy of the Presiding Member or Deputy Presiding Member
- Local Government (Audit) Regulations 1996
 - Regulation 16 – functions of the Audit, Risk and Improvement Committee

FINANCIAL AND RESOURCE IMPLICATIONS

- As per the adopted budget.
- Administrative support to the Committee will continue to be met from existing operational resources.

STRATEGIC SUSTAINABILITY IMPLICATIONS

Council Plan

The following section of the Town's *Council Plan 2025-2035* applies in consideration of this item:

Our Leadership: We are united in our actions to connect, listen, support and advocate, thereby leveraging the potential of our people, places and resources.

4.2 Transparent and accountable governance and financial sustainability

There are no significant identifiable environmental, social or economic impacts relating to this item.

Access and Inclusion

The following outcome of the Town's *Access and Inclusion Plan 2023-2026* apply in relation to this item:

Nil.

RISK MANAGEMENT CONSIDERATIONS

Risk Type	Strategic
Risk Category	Compliance Reputational
Cause	Delay or incomplete implementation of the ARIC reform requirements, including delayed appointment of committee members and independent presiding office holders during the Town's transition back to elected governance.
Effect (Consequence)	Non-compliance with the revised legislative framework, uncertainty in committee authority and composition, weakened assurance oversight during a period of governance transition, and reputational damage arising from perception that governance reforms have not been implemented in a timely and correct way.
Risk Treatment	Treat

There is a strategic risk associated with this item caused by delayed or incomplete implementation of statutory ARIC requirements, leading to legislative non-compliance, weakened governance oversight and reputational impacts.

The risk rating is considered to be Medium (9) which is determined by a likelihood of Possible (3) and a consequence of Moderate (3).

This risk will be mitigated by the timely establishment of the ARIC by Council resolution, appointment of elected members and deputies, and progression of the independent member recruitment process with further reporting to Council within the statutory timeframe and review of the Committee's Terms of Reference to ensure alignment with the amended legislative framework.

OPTIONS

Option 1 – Adopt officer's recommendation

Option 2 – Amend officer's recommendation

Option 3 – Do not adopt officer's recommendation

CONCLUSION

This report gives effect to the Town's staged transition to the reformed ARIC framework under the Local Government Act 1995 following the return to elected governance. It formally establishes the ARIC as a committee of Council and appoints the elected member component of the Committee for the remainder of the current Council term, in accordance with the amended legislative requirements.

The report recognises that the Act requires the presiding and key leadership roles of the Committee to be held by independent members and confirms that a separate selection process for these independent positions is currently underway. Consistent with good governance practice, the appointment of independent members and presiding member will be brought to Council for determination once the process is complete.

The report further acknowledges that the amended Act and associated regulations introduce expanded and more prescriptive requirements for the operation of ARICs. In this context, the Town is reviewing and updating the Committee's Terms of Reference to ensure alignment with the revised statutory framework and the proposed committee's composition.

The recommendations provide a sequential pathway for the establishment and implementation of the ARIC within the statutory transition period, while maintaining continuity of governance oversight and positioning the Town to meet its obligations under the reformed legislative framework by 30 June 2026.

ATTACHMENTS

Nil

10 Closure

10.1 Date of Next Meeting

The next Ordinary Meeting of Council will be held on Wednesday 29 April commencing at 5:30pm.

10.2 Closure

There being no further business, the Presiding Member declared the meeting closed.