



AGENDA

FOR THE SPECIAL MEETING

OF COUNCIL

TO BE HELD ON

TUESDAY 27 MAY 2014

AT 1.00 pm

SHIRE OF YALGOO

NOTICE OF SPECIAL COUNCIL MEETING

A SPECIAL MEETING OF COUNCIL WILL BE HELD IN THE COUNCIL CHAMBERS ON TUESDAY
27 MAY 2014 AT 1.00 PM.

The purpose of the Special Meeting is to:

- 1/. Discuss the Annual Review of Delegations by Council 2014/15 Financial Year which was laid on the table at the previous Ordinary meeting of Council held in Paynes Find on 22 May 2014 (2014-0504).
- 2/. Consideration of a matter affecting an employee 5.23 (2) (a)

N Grinham

President, Yalgoo Shire Council.

26 May 2014

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Agenda for the Special Meeting of the Yalgoo Shire Council,
To be held in the Council Chambers, 37 Gibbons Street, Yalgoo,
on 27 May 2014, commencing at 1:00pm.

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

MEMBERS

STAFF

GUESTS

OBSERVERS

LEAVE OF
ABSENCE

APOLOGIES

3. DISCLOSURE OF INTERESTS

Disclosures of interest made before the Meeting

4. PUBLIC QUESTION TIME

4.0 RESPONSE TO QUESTIONS TAKEN ON NOTICE

4.1 QUESTIONS WITHOUT NOTICE

5. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Item 14.1 Consideration of a matter affecting an employee 5.23 (2) (a)

6. BUSINESS AS NOTIFIED

6.0 Purpose of Meeting

The purpose of the Special Meeting is to:

- Discuss the Annual Review of Delegations by Council 2014/15 Financial Year which was laid on the table at the previous Ordinary meeting of Council held in Paynes Find on 22 May 2014 (2014-0504).
- Consideration of a matter affecting an employee 5.23 (2) (a)

7. MATTERS FOR DECISION

7.1 Brought Forward - Annual Review of Delegations 2013/14

File:	Delegations Register (Section 1 of Councillor’s Manual 2)
Author:	Heather Boyd, EMC & A/CEO with Neil Mitchell Consultant
Interest Declared:	No interest to disclose
Date:	May 26, 2014
Attachments:	Draft Delegations Register (Appendix 1 – Blue)

Matter laid on the table 22 May 2014

This item was opened for debate at the Council meeting held Thursday 22 May 2014 and laid on the table after councillors requested further clarification.

Council called a special meeting to be held on Tuesday 27 May 2014 to reconsider and discuss the Annual Review of Delegations 2013/14.

Purpose

To review delegations made by Council to the CEO and other Officers under the Local Government Act and other Acts as required.

Background

Section 546(2) of the Local Government Act 1995 requires Council to review any delegation/s of its powers at least once per financial year.

The Shire of Yalgoo Delegations Register was adopted on 17 April 2008 and last reviewed on 21 June 2012, in the 2011/12 financial year. The delegations were meant for review in the 2012/13 financial year and therefore it is necessary to carry out a review as soon as possible to bring us back into compliance.

Section 5.18 of the Local Government Act 1995 also requires a local government to keep a register of the delegations made to any Committees of Council and review the delegations at least once every financial year. While Council has two committees, it has not delegated any of its powers or function to those committees.

Comment

Rather than trying to go through current delegations and make amendments, the approach which has been taken is to write a complete new set of delegations based on the Local Government Guidelines and in keeping with a number of other Shire Councils of similar size and regional demography. The officer recommendation therefore includes a resolution to revoke previous delegations.

The delegation register attached as ([Appendix1](#)) was presented to the workshop for Councillors on May 1st as draft 4. Only a very few minor adjustments have been made in keeping with discussions on that day except to add delegation 15.6- Acquisition and Disposal of Land- this delegation was formerly a policy of Council.

Once these new delegations are adopted by Council, an instrument of delegation has to be made and signed by the Shire President and the relevant officer. In the case of the CEO where a sub-delegation is made, an instrument of each delegation has to be made and signed by the CEO and the relevant officer.

A delegation of a Council power or duty under section 5.42 of the Local Government Act 1995 can only be made to the CEO.

Section 5.43 of the Local Government Act sets limits of any delegation to the CEO. All of the delegations recommended in Appendix 1 are in keeping with those limits.

The recommended delegations also include delegations under other Acts including the Building Act, Bushfires Act 1954, the Dog Act 1976, the Food Act 2008, the Health Act 1911 and the Planning and Development Act 2005.

NB: At the time of preparing the agenda, we have been waiting on our EHO/Building Consultant Bill Atyeo to make sure that '10.1 Control of Building Matters' is in keeping with the Building Act. We will confirm this delegation at the meeting.

Strategic Implications

To ensure legislative compliance and provide for the efficient discharge of the functions of the local government.

Policy Implications

These delegations have been formulated to be consistent with policy and where any policy is a quasi delegation, it has been included in the recommended delegations.

Financial Implications

None

Consultation

Neil Mitchell Consultant

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION

To Return to the Table - Review of Delegations 2014/15

That Council returns this item to the table for discussion.

Moved: _____ **Seconded:** _____ **Motion put and carried /**

Voting Requirements

Absolute Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Review of Delegations 2014/15

1. That the Delegations adopted April 2008 and amended as per Edition 1 of the History Summary on page 59 of Appendix 1 all be revoked.
2. That Council delegate such of its powers and duties as listed in the Draft Delegations Register at Appendix 1 [in blue] to this agenda and subsequent minutes.

Moved: _____ **Seconded:** _____ **Motion put and carried by absolute majority /**

7.2 Delegate to Conference

File:	
Author:	Karen Malloch EA
Interest Declared:	No interest to disclose
Date:	27 May 2014
Attachments	Nil

Matter for Consideration

To nominate a Councillor as delegate to the Conference – Resources for Future Food Planning and Diversification for WA.

Background

Council nominates representatives for a range of regional organisations and nominates delegates to other organisations from time to time.

Statutory Environment

Local Government Act 1995

s.5.8 to s.5.18 – requirements for the appointment of Committees, membership, delegations etc

Business Implications

Strategic Community Plan	
Corporate Business Plan	
Long Term Financial Plan	
Asset Management Plan	
Workforce Plan	
Policy	Policy 1.7 – Representatives to Organisations
Financial (short term/ annual budget)	

Financial Implications

Under current policy, nominated delegates to committees may be entitled to reimbursement of necessary travelling expenses only to attend meetings.

Consultation

Neil Grinham, Shire President

Bruce Walker, Acting CEO

Comment

This conference intends to form a team which will bring together resources to help diversify WA's food future and assist in shaping and directing sustainable diversification of WA.

This will assist all of the Shires to apply for funding and planning grants where available.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION

Nomination of a Councillor to Attend the Conference for Integrated and Sustainable Land-Use Diversification in WA.

That Council nomination Neil Grinham as Shire delegate to the Conference for Integrated and Sustainable Land-Use Diversification in WA and that a fee equal to the committee meeting fee of Council be paid to the delegate for attending the meeting.

Moved:

Seconded:

Motion put and carried/lost

8. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

8.0 STATUTORY ENVIRONMENT – MEETING CLOSED TO THE PUBLIC

Councillors are obliged to maintain the confidentiality of matters discussed when the meeting is closed. Fines of up to \$10,000 or two years imprisonment apply to certain offences relating to misuse of information.

The following legislative extracts were downloaded from www.auslii.edu.au on 8 November 2010.

Local Government Act 1995

5.23. Meetings generally open to the public

- (1) Subject to subsection (2), the following are to be open to members of the public —
- (a) all council meetings; and
 - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
- (a) a matter affecting an employee or employees;
 - (b) the personal affairs of any person;
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret;
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) a matter that if disclosed, could be reasonably expected to —
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
 - (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971* ; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

5.92. Access to information by council, committee members

- (1) A person who is a council member or a 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.
- (2) Without limiting subsection (1), a council member can have access to —

- (a) all written contracts entered into by the local government; and
- (b) all documents relating to written contracts proposed to be entered into by the local government.

5.93. Improper use of information

A person who is a council member, a committee member or an employee must not make improper use of any information acquired in the performance by the person of any of his or her functions under this Act or any other written law —

- (a) to gain directly or indirectly an advantage for the person or any other person; or
- (b) to cause detriment to the local government or any other person.

Penalty: \$10 000 or imprisonment for 2 years.

Local Government (Rules of Conduct) Regulations 2007

6. Use of information

- (1) In this regulation —

closed meeting means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;

confidential document means a document marked by the CEO to clearly show that the information in the document is not to be disclosed;

non-confidential document means a document that is not a confidential document.

- (2) A person who is a council member must not disclose —

- (a) information that the council member derived from a confidential document; or
- (b) information that the council member acquired at a closed meeting other than information derived from a non-confidential document.

(3) Subregulation (2) does not prevent a person who is a council member from disclosing information —

- (a) at a closed meeting; or
- (b) to the extent specified by the council and subject to such other conditions as the council determines; or
- (c) that is already in the public domain; or
- (d) to an officer of the Department; or
- (e) to the Minister; or
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

8.1 Consideration of a matter (detail) 5.23 (2) (a)

Motion to Close the Meeting to the Public

Voting Requirements - Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

S2014-0501 Close Meeting to the Public

That the meeting be closed to the public to discuss (detail) (LGA s. 5.23 (2) (a)).

Moved:

Seconded:

Motion put and carried/lost

The meeting was closed to the public at _____.

Remaining in the meeting were:

▪

Motion to Open the Meeting to the Public

Voting Requirements - Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

S2014-0502 Open Meeting to the Public

That the meeting be re-opened to the public.

Moved:

Seconded:

Motion put and carried/lost

The meeting was reopened to the public at _____.

9. MEETING CLOSURE

There being no further business, Shire President Neil Grinham declared the meeting closed at 4:08pm.

DECLARATION

These minutes were confirmed by Council at the Ordinary Meeting held on _____.

Signed: _____
Person presiding at the meeting at which these minutes were confirmed