



Town of Port Hedland

MINUTES

OF THE

AUDIT AND FINANCE COMMITTEE OF THE TOWN OF PORT HEDLAND COUNCIL

HELD ON

**WEDNESDAY, 13 MARCH 2013
AT 1:30PM**

**IN COUNCIL CHAMBERS
McGREGOR STREET, PORT HEDLAND**

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Any person or legal entity that acts or fails to act in reliance upon any statement, act or omission occurring in a Committee 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 Committee resolutions.

*M.J. (Mal)
Chief Executive Officer*

Terms of Reference

The Audit and Finance Committee has been established in accordance with Part 7 of the Local Government Act 1995 to:

1. liaise with the Auditor(s);
2. receive Quarterly Budget Review Reports;
3. recommend Donations as per Council's Policy;
4. periodically consider alternatives for potential staff housing options;
5. receive Quarterly Financial Reports on all of the Town of Port Hedland's Managed Community Facilities; and
6. review and suggest improvements to Risk Management within the organisation.

Membership:

The membership of the committee be as follows:

- Mayor Kelly A Howlett;
- Councillor Arnold A Carter (Presiding Member)
- Councillor Michael B Dziombak (Deputy Presiding Member)
- Councillor Gloria A Jacob

Quorum:

The quorum for the Committee be a minimum of 50% of its membership.

Delegation:

The Town of Port Hedland Council provides delegated authority to the Audit and Finance Committee to meet annually with the Town's auditor(s) as required by Section 7.12A(2) of the Local Government Act 1995.

Tenure:

Ongoing

Responsible Officer:

Director Corporate Services

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

OUR COMMITMENT

To enhance social, environmental and economic well-being through leadership and working in partnership with the Community.

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ITEM 1 OPENING OF MEETING**1.1 Opening**

The Presiding Member declared the Meeting of the Audit and Finance Committee open at 1:37pm and acknowledged the traditional owners, the Kariyarra people.

ITEM 2 RECORD OF ATTENDANCE**2.1 Attendance***Elected Members*

Mayor Kelly A Howlett

Councillor Arnold A Carter (Presiding Member)

Councillor Michael B Dziombak (Deputy Presiding Member)

Officers

Malcolm Osborne

Chief Executive Officer

Russell Dyer

Director Engineering Services

Gordon MacMile

Director Community Development

Debra Summers

Manager Organisational Development

Josephine Bianchi

Governance Coordinator

Grace Waugh

Administration Officer, Governance

2.2 Apologies

Councillor Gloria A Jacob

2.3 Approved Leave of Absence

Nil

ITEM 3 RESPONSE TO PREVIOUS QUESTIONS - ON NOTICE

Nil

ITEM 4 PUBLIC TIME

Presiding Member opened Public Question Time at 1:37pm.

4.1 Public Question Time

Nil

Presiding Member closed Public Question Time at 1:38pm.

Presiding Member opened Public Statement Time at 1:38pm.

4.2 Public Statement Time

Nil

Presiding Member closed Public Statement Time at 1:38pm.

ITEM 5 QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

ITEM 6 DECLARATION BY MEMBERS TO HAVE GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPER PRESENTED BEFORE THE MEETING

Mayor Howlett	Councillor Carter
Councillor Dziombak	

ITEM 7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**7.1 Confirmation of Minutes of Audit and Finance Committee of Council held on Wednesday 6 March 2013**

AFC201213/022 Officer's Recommendation/Audit and Finance Committee Decision

Moved: Cr Dziombak

Seconded: Cr Carter

That the Minutes of the Audit and Finance Committee Meeting of the Town of Port Hedland Council held on Wednesday, 6 March 2013 be confirmed as a true and correct record of proceedings.

CARRIED 3/0

ITEM 8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

ITEM 9 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

Nil

- (i) *of a financial nature or not; or*
- (ii) *under this Act or another written law.”*

Regulation 14 of the Local Government (Audit) Regulations requires the following:

14. Compliance audits by local governments

(1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.

(2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.

(3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.

(3) After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —

(a) presented to the council at a meeting of the council; and

(b) adopted by the council; and

(c) recorded in the minutes of the meeting at which it is adopted.

[Regulation 14 inserted in Gazette 23 Apr 1999 p. 1724-5; amended in Gazette 30 Dec 2011 p. 5580-1.]

Policy Implications

Nil

Strategic Planning Implications

6.4 Local Leadership

6.4.1 Strategic

Deliver high quality corporate governance, accountability and compliance.

Budget Implications

Nil.

Officer's Comment

The Compliance Audit is one of the tools utilised by the Department of Local Government to monitor how the local government functioned throughout the previous calendar year from a legislative compliance perspective.

It identifies areas of non-compliance that provide guidance to officers as to where processes may be reviewed to ensure improved compliance.

Council's compliance systems and structures are generally well developed with a high degree of observance with the required statutes being evident.

A total of 78 items were audited in the 2012 Compliance Audit process. A total of two areas of non-compliance were identified. These are briefly tabled below:

Area	Legislation	Reference	Non-compliance
Disclosure of Interest	s5.76(1) Admin Reg 23 Form 3	Was an annual return lodged by all continuing elected members by 31 August 2012	An annual return was not lodged by 31 August 2012 by 2 continuing elected members
Finance	S7.9(1)	Was the Auditor's report for 2011/2012 received by the local government by 31 December 2012	The Auditor's report for 2011/2012 was not received by the local government by 31 December 2012. An extension was sought from the Department and subsequently denied.

The non-compliance in the Disclosure of Interest area was due to two Elected Members not submitting their annual returns within the statutory timeframe.

To address and rectify this issue the Town will hold a concept forum with all Elected Members to highlight the importance of complying with legislation. The outcome to be achieved is that all Elected Members are fully aware of their roles and responsibilities and also of the penalties associated with incidences of non compliance which could affect the status of their membership on the local government.

The non-compliance in the Finance area was due to a high level of staff turnover and a reduced level of understanding of legislative requirements.

The Town sought an extension to submit its Annual Financial Report from the Department of Local Government which was subsequently denied.

To address and rectify this issue the Town will ensure that all staff are fully trained in all aspects of compliance associated with all requirements contained in the Local Government Act and associated Regulations.

Attachments

1. Town of Port Hedland Compliance Audit Report 2012

AFC201213/023 Officer's Recommendation/Audit and Finance Committee Decision

Moved: Cr Dziombak

Seconded: Mayor Howlett

That the Audit and Finance Committee:

- 1. Notes the outcomes of the 2012 Compliance Audit Return;
and**
- 2. Recommends that Council consider adopting the 2012
Compliance Audit Return.**

CARRIED 3/0

ATTACHMENT 1 TO AGENDA ITEM 10.1.1

Department of Local Government - Compliance Audit Return



Government of **Western Australia**
Department of **Local Government**

Port Hedland - Compliance Audit Return 2012

Commercial Enterprises by Local Governments					
No	Reference	Question	Response	Comments	Respondent
1	s3.59(2)(a)(b)(c) F&G Reg 7,9	Has the local government prepared a business plan for each major trading undertaking in 2012.	Yes		Malcolm Osborne
2	s3.59(2)(a)(b)(c) F&G Reg 7,10	Has the local government prepared a business plan for each major land transaction that was not exempt in 2012.	Yes		Malcolm Osborne
3	s3.59(2)(a)(b)(c) F&G Reg 7,10	Has the local government prepared a business plan before entering into each land transaction that was preparatory to entry into a major land transaction in 2012.	Yes		Malcolm Osborne
4	s3.59(4)	Has the local government given Statewide public notice of each proposal to commence a major trading undertaking or enter into a major land transaction for 2012.	Yes		Malcolm Osborne
5	s3.59(5)	Did the Council, during 2012, resolve to proceed with each major land transaction or trading undertaking by absolute majority.	Yes		Malcolm Osborne

Department of Local Government - Compliance Audit Return



Government of Western Australia
Department of Local Government

Delegation of Power / Duty					
No	Reference	Question	Response	Comments	Respondent
1	s5.16, 5.17, 5.18	Were all delegations to committees resolved by absolute majority.	Yes		Malcolm Osborne
2	s5.16, 5.17, 5.18	Were all delegations to committees in writing.	Yes		Malcolm Osborne
3	s5.16, 5.17, 5.18	Were all delegations to committees within the limits specified in section 5.17.	Yes		Malcolm Osborne
4	s5.16, 5.17, 5.18	Were all delegations to committees recorded in a register of delegations.	Yes		Malcolm Osborne
5	s5.18	Has Council reviewed delegations to its committees in the 2011/2012 financial year.	Yes		Malcolm Osborne
6	s5.42(1),5.43 Admin Reg 18G	Did the powers and duties of the Council delegated to the CEO exclude those as listed in section 5.43 of the Act.	Yes		Malcolm Osborne
7	s5.42(1)(2) Admin Reg 18G	Were all delegations to the CEO resolved by an absolute majority.	Yes		Malcolm Osborne
8	s5.42(1)(2) Admin Reg 18G	Were all delegations to the CEO in writing.	Yes		Malcolm Osborne
9	s5.44(2)	Were all delegations by the CEO to any employee in writing.	Yes		Malcolm Osborne
10	s5.45(1)(b)	Were all decisions by the Council to amend or revoke a delegation made by absolute majority.	Yes		Malcolm Osborne
11	s5.46(1)	Has the CEO kept a register of all delegations made under the Act to him and to other employees.	Yes		Malcolm Osborne
12	s5.46(2)	Were all delegations made under Division 4 of Part 5 of the Act reviewed by the delegator at least once during the 2011/2012 financial year.	Yes		Malcolm Osborne
13	s5.46(3) Admin Reg 19	Did all persons exercising a delegated power or duty under the Act keep, on all occasions, a written record as required.	Yes		Malcolm Osborne

Disclosure of Interest					
No	Reference	Question	Response	Comments	Respondent
1	s5.67	If a member disclosed an interest, did he/she ensure that they did not remain present to participate in any discussion or decision-making procedure relating to the matter in which the interest was disclosed (not including participation approvals granted under s5.68).	Yes		Malcolm Osborne
2	s5.68(2)	Were all decisions made under section 5.68(1), and the extent of participation allowed, recorded in the minutes of Council and Committee meetings.	Yes		Malcolm Osborne

Department of Local Government - Compliance Audit Return



Government of Western Australia
Department of Local Government

No	Reference	Question	Response	Comments	Respondent
3	s5.73	Were disclosures under section 5.65 or 5.70 recorded in the minutes of the meeting at which the disclosure was made.	Yes		Malcolm Osborne
4	s5.75(1) Admin Reg 22 Form 2	Was a primary return lodged by all newly elected members within three months of their start day.	N/A		Malcolm Osborne
5	s5.75(1) Admin Reg 22 Form 2	Was a primary return lodged by all newly designated employees within three months of their start day.	Yes		Malcolm Osborne
6	s5.76(1) Admin Reg 23 Form 3	Was an annual return lodged by all continuing elected members by 31 August 2012.	No	2 Elected members did not lodge an annual return by 31 December 2012.	Malcolm Osborne
7	s5.76(1) Admin Reg 23 Form 3	Was an annual return lodged by all designated employees by 31 August 2012.	Yes		Malcolm Osborne
8	s5.77	On receipt of a primary or annual return, did the CEO, (or the Mayor/ President in the case of the CEO's return) on all occasions, give written acknowledgment of having received the return.	Yes		Malcolm Osborne
9	s5.88(1)(2) Admin Reg 28	Did the CEO keep a register of financial interests which contained the returns lodged under section 5.75 and 5.76	Yes		Malcolm Osborne
10	s5.88(1)(2) Admin Reg 28	Did the CEO keep a register of financial interests which contained a record of disclosures made under sections 5.65, 5.70 and 5.71, in the form prescribed in Administration Regulation 28.	Yes		Malcolm Osborne
11	s5.88 (3)	Has the CEO removed all returns from the register when a person ceased to be a person required to lodge a return under section 5.75 or 5.76.	Yes		Malcolm Osborne
12	s5.88(4)	Have all returns lodged under section 5.75 or 5.76 and removed from the register, been kept for a period of at least five years, after the person who lodged the return ceased to be a council member or designated employee.	Yes		Malcolm Osborne
13	s5.103 Admin Reg 34C & Rules of Conduct Reg 11	Where an elected member or an employee disclosed an interest in a matter discussed at a Council or committee meeting where there was a reasonable belief that the impartiality of the person having the interest would be adversely affected, was it recorded in the minutes.	Yes		Malcolm Osborne
14	s5.70(2)	Where an employee had an interest in any matter in respect of which the employee provided advice or a report directly to the Council or a Committee, did that person disclose the nature of that interest when giving the advice or report.	Yes		Malcolm Osborne

Department of Local Government - Compliance Audit Return



Government of Western Australia
Department of Local Government

No	Reference	Question	Response	Comments	Respondent
15	s5.70(3)	Where an employee disclosed an interest under s5.70(2), did that person also disclose the extent of that interest when required to do so by the Council or a Committee.	Yes		Malcolm Osborne
16	s5.103(3) Admin Reg 34B	Has the CEO kept a register of all notifiable gifts received by Council members and employees.	Yes		Malcolm Osborne

Disposal of Property

No	Reference	Question	Response	Comments	Respondent
1	s3.58(3)	Was local public notice given prior to disposal for any property not disposed of by public auction or tender (except where excluded by Section 3.58(5)).	Yes		Malcolm Osborne
2	s3.58(4)	Where the local government disposed of property under section 3.58(3), did it provide details, as prescribed by section 3.58(4), in the required local public notice for each disposal of property.	Yes		Malcolm Osborne

Elections

No	Reference	Question	Response	Comments	Respondent
1	Elect Reg 30G (1)	Did the CEO establish and maintain an electoral gift register and ensure that all 'disclosure of gifts' forms completed by candidates and received by the CEO were placed on the electoral gift register at the time of receipt by the CEO and in a manner that clearly identifies and distinguishes the candidates.	Yes		Malcolm Osborne

Finance

No	Reference	Question	Response	Comments	Respondent
1	s7.1A	Has the local government established an audit committee and appointed members by absolute majority in accordance with section 7.1A of the Act.	Yes		Malcolm Osborne
2	s7.1B	Where a local government determined to delegate to its audit committee any powers or duties under Part 7 of the Act, did it do so by absolute majority.	Yes		Malcolm Osborne
3	s7.3	Was the person(s) appointed by the local government to be its auditor, a registered company auditor.	Yes		Malcolm Osborne
4	s7.3	Was the person(s) appointed by the local government to be its auditor, an approved auditor.	Yes		Malcolm Osborne
5	s7.3, 7.6(3)	Was the person or persons appointed by the local government to be its auditor, appointed by an absolute majority decision of Council.	Yes		Malcolm Osborne

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Department of Local Government - Compliance Audit Return



Government of Western Australia
Department of Local Government

No	Reference	Question	Response	Comments	Respondent
6	Audit Reg 10	Was the Auditor's report for the financial year ended 30 June 2012 received by the local government within 30 days of completion of the audit.	N/A	Audit not completed as at 31 December 2012.	Malcolm Osborne
7	s7.9(1)	Was the Auditor's report for 2011/2012 received by the local government by 31 December 2012.	No	Department was notified. Extension sought but denied. Received by Council on 6 March 2013.	Malcolm Osborne
8	S7.12A(3), (4)	Where the local government determined that matters raised in the auditor's report prepared under s7.9 (1) of the Act required action to be taken by the local government, was that action undertaken.	N/A	Auditor's Report not received as at 31 December 2012. Auditor's Report received by Council on 6 March 2013. Actions recommended from the Auditor's Report will be acted upon accordingly.	Malcolm Osborne
9	S7.12A(3), (4)	Where the local government determined that matters raised in the auditor's report (prepared under s7.9 (1) of the Act) required action to be taken by the local government, was a report prepared on any actions undertaken.	N/A	Auditor's Report not received as at 31 December 2012. Auditor's Report received by Council on 6 March 2013. Actions recommended from the Auditor's Report will be acted upon accordingly.	Malcolm Osborne
10	S7.12A(3), (4)	Where the local government determined that matters raised in the auditor's report (prepared under s7.9 (1) of the Act) required action to be taken by the local government, was a copy of the report forwarded to the Minister by the end of the financial year or 6 months after the last report prepared under s7.9 was received by the local government whichever was the latest in time.	N/A	Auditor's Report not received as at 31 December 2012. Auditor's Report received by Council on 6 March 2013. Actions recommended from the Auditor's Report will be acted upon accordingly.	Malcolm Osborne
11	Audit Reg 7	Did the agreement between the local government and its auditor include the objectives of the audit.	Yes		Malcolm Osborne
12	Audit Reg 7	Did the agreement between the local government and its auditor include the scope of the audit.	Yes		Malcolm Osborne
13	Audit Reg 7	Did the agreement between the local government and its auditor include a plan for the audit.	Yes		Malcolm Osborne
14	Audit Reg 7	Did the agreement between the local government and its auditor include details of the remuneration and expenses to be paid to the auditor.	Yes		Malcolm Osborne
15	Audit Reg 7	Did the agreement between the local government and its auditor include the method to be used by the local government to communicate with, and supply information to, the auditor.	Yes		Malcolm Osborne

Department of Local Government - Compliance Audit Return



Government of **Western Australia**
Department of **Local Government**

Local Government Employees					
No	Reference	Question	Response	Comments	Respondent
1	Admin Reg 18C	Did the local government approve the process to be used for the selection and appointment of the CEO before the position of CEO was advertised.	Yes		Malcolm Osborne
2	s5.36(4) s5.37(3), Admin Reg 18A	Were all vacancies for the position of CEO and other designated senior employees advertised and did the advertising comply with s.5.36(4), 5.37(3) and Admin Reg 18A.	Yes		Malcolm Osborne
3	s5.37(2)	Did the CEO inform council of each proposal to employ or dismiss a designated senior employee.	Yes		Malcolm Osborne
4	Admin Reg 18F	Was the remuneration and other benefits paid to a CEO on appointment the same remuneration and benefits advertised for the position of CEO under section 5.36(4).	Yes		Malcolm Osborne
5	Admin Regs 18E	Did the local government ensure checks were carried out to confirm that the information in an application for employment was true (applicable to CEO only).	Yes		Malcolm Osborne

Official Conduct					
No	Reference	Question	Response	Comments	Respondent
1	s5.120	Where the CEO is not the complaints officer, has the local government designated a senior employee, as defined under s5.37, to be its complaints officer.	Yes		Malcolm Osborne
2	s5.121(1)	Has the complaints officer for the local government maintained a register of complaints which records all complaints that result in action under s5.110(6)(b) or (c).	Yes		Malcolm Osborne
3	s5.121(2)(a)	Does the complaints register maintained by the complaints officer include provision for recording of the name of the council member about whom the complaint is made.	Yes		Malcolm Osborne
4	s5.121(2)(b)	Does the complaints register maintained by the complaints officer include provision for recording the name of the person who makes the complaint.	Yes		Malcolm Osborne
5	s5.121(2)(c)	Does the complaints register maintained by the complaints officer include provision for recording a description of the minor breach that the standards panel finds has occurred.	Yes		Malcolm Osborne
6	s5.121(2)(d)	Does the complaints register maintained by the complaints officer include the provision to record details of the action taken under s5.110(6)(b) (c).	Yes		Malcolm Osborne

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Department of Local Government - Compliance Audit Return



Government of **Western Australia**
Department of **Local Government**

Tenders for Providing Goods and Services					
No	Reference	Question	Response	Comments	Respondent
1	s3.57 F&G Reg 11	Did the local government invite tenders on all occasions (before entering into contracts for the supply of goods or services) where the consideration under the contract was, or was expected to be, worth more than the consideration stated in Regulation 11(1) of the Local Government (Functions & General) Regulations (Subject to Functions and General Regulation 11(2)).	Yes		Malcolm Osborne
2	F&G Reg 12	Did the local government comply with F&G Reg 12 when deciding to enter into multiple contracts rather than inviting tenders for a single contract.	Yes		Malcolm Osborne
3	F&G Reg 14(1)	Did the local government invite tenders via Statewide public notice.	Yes		Malcolm Osborne
4	F&G Reg 14, 15 & 16	Did the local government's advertising and tender documentation comply with F&G Regs 14, 15 & 16.	Yes		Malcolm Osborne
5	F&G Reg 14(5)	If the local government sought to vary the information supplied to tenderers, was every reasonable step taken to give each person who sought copies of the tender documents or each acceptable tenderer, notice of the variation.	Yes		Malcolm Osborne
6	F&G Reg 18(1)	Did the local government reject the tenders that were not submitted at the place, and within the time specified in the invitation to tender.	Yes		Malcolm Osborne
7	F&G Reg 18 (4)	In relation to the tenders that were not rejected, did the local government assess which tender to accept and which tender was most advantageous to the local government to accept, by means of written evaluation criteria.	Yes		Malcolm Osborne
8	F&G Reg 17	Did the information recorded in the local government's tender register comply with the requirements of F&G Reg 17.	Yes		Malcolm Osborne
9	F&G Reg 19	Was each tenderer sent written notice advising particulars of the successful tender or advising that no tender was accepted.	Yes		Malcolm Osborne
10	F&G Reg 21 & 22	Did the local governments's advertising and expression of interest documentation comply with the requirements of F&G Regs 21 and 22.	Yes		Malcolm Osborne
11	F&G Reg 23(1)	Did the local government reject the expressions of interest that were not submitted at the place and within the time specified in the notice.	Yes		Malcolm Osborne

Department of Local Government - Compliance Audit Return



Government of **Western Australia**
Department of **Local Government**

No	Reference	Question	Response	Comments	Respondent
12	F&G Reg 23(4)	After the local government considered expressions of interest, did the CEO list each person considered capable of satisfactorily supplying goods or services.	Yes		Malcolm Osborne
13	F&G Reg 24	Was each person who submitted an expression of interest, given a notice in writing in accordance with Functions & General Regulation 24.	Yes		Malcolm Osborne
14	F&G Reg 24E	Where the local government gave a regional price preference in relation to a tender process, did the local government comply with the requirements of F&G Reg 24E in relation to the preparation of a regional price preference policy (only if a policy had not been previously adopted by Council).	Yes		Malcolm Osborne
15	F&G Reg 11A	Does the local government have a current purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$100,000 or less.	Yes	2/007 Tender Policy	Malcolm Osborne

ITEM 11 LATE ITEMS AS PERMITTED BY PRESIDING MEMBER / COMMITTEE

Nil

ITEM 12 MOTIONS OF WHICH PREVIOUS NOTICE HAVE BEEN GIVEN

Nil

ITEM 13 CONFIDENTIAL ITEMS

Nil

ITEM 14 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

ITEM 15 CLOSURE

15.1 Date of Next Meeting

The next Audit and Finance Committee Meeting of Council will be held at a time at date and time that is to be confirmed by the Presiding Member.

15.2 Closure

There being no further business, the Presiding Member declared the meeting closed at 1:45 pm.

Declaration of Confirmation of Minutes

I certify that these Minutes were confirmed by the Audit and Finance Committee at its Ordinary Meeting held on _____.

CONFIRMATION:

CHAIRPERSON

DATE