**Minutes**

**Audit & Risk Committee Meeting**

**7 March 2023**

**Attention**

**These Minutes are subject to confirmation.**

Prior to acting on any resolution of the Council contained in these minutes, a check should be made of the Ordinary Meeting of Council following this meeting to ensure that there has not been a correction made to any resolution.

**Information**

Audit & Risk Committee Meetings are run in accordance with the City of Nedlands Standing Orders Local Law. If you have any questions in relation to items on the agenda, procedural matters, public question time, addressing the Committee or attending meetings please contact the Executive Officer on 9273 3500 or council@nedlands.wa.gov.au

**Public Question Time**

Public question time at an Audit & Risk Committee Meeting is available for members of the public to ask a question about items on the agenda. Questions asked by members of the public are not to be accompanied by any statement reflecting adversely upon any Council Member, Committee Member or Employee.

Questions should be submitted as early as possible via the online form available on the City’s website: [Public question time | City of Nedlands](https://www.nedlands.wa.gov.au/public-question-time)

Questions may be taken on notice to allow adequate time to prepare a response and all answers will be published in the minutes of the meeting.

**Addresses by Members of the Public**

Members of the public wishing to address the Audit & Risk Committee in relation to an item on the agenda must complete the online registration form available on the City’s website: [Public Address Registration Form | City of Nedlands](https://www.nedlands.wa.gov.au/public-address-registration-form)

The Presiding Member will determine the order of speakers to address the Council and the number of speakers is to be limited to 2 in support and 2 against any particular item on a Special Council Meeting Agenda. The Public address session will be restricted to 15 minutes unless the Council, by resolution decides otherwise.

**Disclaimer**

Members of the public who attend Committee meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council’s position. For example, by reference to the confirmed Minutes of Council meeting. Members of the public are also advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

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# Declaration of Opening

The Presiding Member declared the meeting open at 4:30pm and drew attention to the disclaimer below and advise that the meeting is being livestreamed.

# Present and Apologies and Leave of Absence (Previously Approved)

**Councillors** Councillor L J McManus (Presiding Member) Coastal Districts Ward

 Mayor F E M Argyle

 Councillor A W Mangano Dalkeith Ward

 Councillor O Combes Hollywood Ward

 Councillor Smyth (online from 4.32pm observer) Coastal Districts Ward

**Staff** Mr W R Parker Chief Executive Officer

 Mr M R Cole Director Corporate Services

 Mrs N M Ceric Executive Officer

 Ms L J Kania Coordinator Governance & Risk

**Public** There were no members of the public present and 1 online.

**Press** Nil.

**Leave of Absence** Nil.

**(Previously Approved)**

**Apologies** Councillor R Senathirajah Melvista Ward

# Public Question Time

Public questions submitted were read at this point.

Nil.

# Addresses by Members of the Public

Addresses by members of the public who had completed Public Address Registration Forms to be made at this point.

Nil.

# Disclosures of Financial Interest

The Presiding Member reminded Council Members and Staff of the requirements of Section 5.65 of the *Local Government Act* to disclose any interest during the meeting when the matter is discussed.

There were no disclosures of financial interest.

# Disclosures of Interests Affecting Impartiality

The Presiding Member reminded Council Members and Staff of the requirements of Council’s Code of Conduct in accordance with Section 5.103 of the *Local Government Act*.

There were no disclosures affecting impartiality.

# Declarations by Members That They Have Not Given Due Consideration to Papers

Nil.

# Confirmation of Minutes

**8.1 Audit & Risk Committee Meeting Minutes – 20 February 2023**

Moved – Councillor Combes

Seconded – Councillor McManus

The Minutes of the Audit & Risk Committee Meeting 20 February 2023 are to be accepted as a true and correct record of that meeting.

**CARRIED 3/1**

**(Against: Cr. Mangano)**

# Items for Discussion

**9.1 ARC05.03.23 City of Nedlands Compliance Audit Return 2022**

|  |  |
| --- | --- |
| **Meeting & Date** | Audit Risk Committee Meeting – 7 March 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995**  | Nil. |
| **Report Author** | Libby Kania – Coordinator Governance and Risk |
| **CEO** | Bill Parker  |
| **Attachments** | 1. City of Nedlands Compliance Audit Return 2022
 |

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Mayor Argyle

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 3/1**

**(Against: Cr. Mangano)**

**Committee Recommendation / Recommendation**

**That the Committee recommends that Council adopts the Local Government 2022 Compliance Audit Return for the City of Nedlands for the period 1 January 2022 to 31 December 2022, as attached to this report.**

**Purpose**

The purpose of this report is for the Audit and Risk Committee to consider the Local Government 2022 Compliance Audit Return (CAR) for the City of Nedlands for the period 1 January 2022 to 31 December 2022 and recommend that Council adopt the Return.

**Voting Requirement**

Simple Majority.

**Background**

All Local Governments are required to submit an annual Compliance Audit Return (CAR) to the Department of Local Government, Sport and Cultural Industries by 31 March each year for the previous calendar year. The CAR is used to measure the level of compliance with the *Local Government Act 1995* and associated Regulations.

**Discussion**

Each Local Government Authority is required to complete a CAR for the period 1 January 2022 to 31 December 2022. The CAR must be submitted to the Director General of the Department by 31 March 2023. The return is one of the tools that allows Council to monitor how the organisation is functioning. It places emphasis on the need to bring to Council’s attention issues of noncompliance, or issues where full compliance was not achieved. In addition to explaining or qualifying cases of noncompliance, the return also requires Council to endorse any remedial action taken or proposed to be taken in regard to instances of non-compliance. The document contains over 100 questions in order to assess a local government’s compliance with the legislative framework. Under regulation 14 of the *Local Government (Audit) Regulations 1996*, sub regulation (3A) the audit committee is to review the CAR and report to council the results of that review. The CAR is then to be presented to the Council and adopted by Council and the resolution recorded in the minutes. The compliance areas include:

|  |  |
| --- | --- |
| **TOPIC** | **NUMBER OF QUESTIONS** |
| Commercial Enterprises by Local Governments | 5 |
| Delegation of Power / Duty | 13 |
| Disclosure of Interest | 22 |
| Disposal of Property | 2 |
| Elections | 3 |
| Finance | 7 |
| Integrated Planning & Reporting | 3 |
| Local Government Employees | 5 |
| Official Conduct | 4 |
| Optional Questions | 9 |
| Tenders for Providing Goods and Services | 22 |

In the reporting period the City identified areas of non-compliance.

These refer to the following –

**1. Delegation of Power/Duty – Question 5**

**5. Has Council reviewed delegations to its committees in the 2021/2022 financial year?**

An audit was conducted of the City’s Delegations Register to ascertain any delegation that had been provided to a committee of Council pursuant to s. 5.16 of the Act. The following committees include in their terms of reference a delegation from Council:

* Audit and Risk Committee under Part 7

The Audit and Risk Committee will have delegated authority to meet with the auditor in accordance with Section 7.12A(2) of the Local Government Act 1995.

* Public Arts Committee

The Committee has delegated authority to implement public artworks of not more than $10,000 each to the value of up to, in all, the budget allocation approved by Council within the current financial year’s budget. Artworks over $10,000 shall be recommended to Council for approval.

* The CEO Performance Review Committee acting under delegated authority

Under delegated authority to manage the performance appraisal process of the Chief Executive Officer in order to meet both Council’s statutory obligations in accordance with the provisions of Section 5.38(1) of the Local Government Act 1995 and any terms and conditions of the employment contract of the Chief Executive Officer.

Council considered the delegations to its Committees on 22 June 2021 (2020/2021 financial year) when it reviewed its Register of Delegations. This was outside the reporting period stated in Q5.

Council next considered its Delegations Register on 22 September 2022 (2022/2023 financial year). The Register did not include the delegations to the Committees and as a consequence did not form part of the review.

Notwithstanding, on 22 September 2022 the delegation to the Audit and Risk Committee was considered by Council when it reviewed the Terms of Reference of the Committee. On 13 December 2022 the delegation to the CEO Performance Review Committee was reviewed when Council considered the terms of reference of that Committee.

The delegation to the Public Arts Committee has not been reviewed in the 2022/2023 financial year. This will need to be considered by Council prior to the end of the current financial year and it is intended that a report will be provided to Council prior to June 2023.

**2. Disclosure of Interest – Questions 4 and 11**

**4. Was a primary return in the prescribed form lodged by all relevant persons within three months of their start day?**

There was one officer who did not submit their primary return on time, being one day late. There are email exchanges between members of governance and the officer to indicate that the officer attempted to do so but was unable to provide the document. This matter will be reported to the CCC by the CEO due to the fact that s. 5.75 is a reportable offence.

**11. Did the CEO keep a register of gifts which contained a record of disclosures made under sections 5.87A and 5.87B of the Local Government Act 1995, in the form prescribed in the Local Government (Administration) Regulations 1996, regulation 28A?**

The City does have a gift register on the website but it is not a cumulative register and is slightly modified from form 4. The register also includes notifiable gifts by an officer other than the CEO. This is not required under the Act.

While the City is compliant with the legislation in that it has a publicly disclosed gift register, it is considered prudent to amend the gift register to reflect form 4 and to remove the officer notifiable gifts and place those onto another register, so that there is no ambiguity with the content of the legislation.

**3. Elections – Question 3**

**3. Did the CEO publish an up-to-date version of the electoral gift register on the local government’s official website in accordance with regulation 30G(5) of the Local Government (Elections) Regulations 1997?**

The gift register was removed from the City’s website in July 2022 when the website was upgraded and does not appear to have been reloaded. The electoral gift register will be reloaded to the website, along with the cumulative gift register.

**4. Finance - Question 3**

**3. Was the auditor’s report for the financial year ended 30 June 2022 received by the local government by 31 December 2022?**

The auditor’s report was not received prior to 31 December 2022. This has impacted the City’s ability to answer Question 4, 5, 6 and 7 of the CAR. Those questions could not be answered as they required the auditor’s report, and although the City supplied the information to the auditor in the reporting period, there was insufficient time for the auditor to complete the audit report prior to 31 December.

**5. Integrated Planning and Reporting – Questions 2 and 3**

**2. Has the local government adopted by absolute majority a corporate business plan?**

The City does not have a current CBP in place as the previous CBP 2013 – 2017 was never reviewed or updated. Further, the CBP does not reflect the SCP adopted by Council. The City does not meet its compliance obligations under the legislation.

**3. Does the corporate business plan comply with the requirements of Local Government (Administration) Regulations 1996 19DA(2) & (3)?**

The City does not have a CBP, refer response above.

**6. Official Conduct - Question 4**

**4. Has the CEO published an up-to-date version of the register of the complaints on the local government’s official website?**

While the City has a register in accordance with the legislation, there have been no reportable complaints that resulted in a finding. A copy of the register will be uploaded to the website.

**7. Other - Question 7**

**7. Did the local government prepare a report on the training completed by council members in the 2021/2022 financial year and publish it on the local government’s official website by 31 July 2022?**

While the City maintains a register of the training completed by Council members, it was not placed on the City’s website. A copy of the register will be uploaded to the website.

The City has taken the following steps to deal with the non-compliance:

1. Gift registers – s. 5.87A and electoral will be uploaded to the website.

2. Training register will be uploaded to the website.

3. Statutory complaints register to be uploaded to the website.

4. Delegation to the Public Arts committee and other delegation matters to be brought to Council prior to the end of the financial year.

5. Report to the CCC on the non-compliance with the primary return disclosure.

**Consultation**

Relevant staff were requested to complete those questions of the CAR that related to their service areas. All responses were then collated and incorporated into the CAR by the designated officer. The CAR was then tabled at the 22 February 2022 Executive Management Team meeting for consideration and approval.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**

We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Budget/Financial Implications**

No financial implications to consider or recommend for adoption.

**Legislative and Policy Implications**

[*Local Government (Audit) Regulations 1996*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45249.pdf/%24FILE/Local%20Government%20%28Audit%29%20Regulations%201996%20-%20%5B02-k0-00%5D.pdf?OpenElement)

Regulation 14

(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.

15. Certified copy of compliance audit return and other documents to be given to Departmental CEO

(1) After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —

(a) a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and

(b) any additional information explaining or qualifying the compliance audit, is to be submitted to the Departmental CEO by 31 March next following the period to which the return relates.

(2) In this regulation — certified in relation to a compliance audit return means signed by -

(a) the mayor or president; and

(b) the CEO.

**Decision Implications**

Failure to adopt the Compliance Audit Return within the statutory timeframes will place the City in breach of the Act. This could lead to reputational damage both within the community and with the Department.

**Conclusion**

That the Committee recommend Council adoption of the Compliance Audit Return 2022.

**Further Information**

The Presiding Member advised he would be writing to KPMG to express his disappointment with the delay in the annual audit and seeking feedback on the reasons for the delay.

# Date of Next Meeting

The date of the next meeting of the Audit & Risk Committee Meeting will be on Monday 22 May at 5.30pm.

# Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 4.56pm.