



City of Nedlands

Minutes

Audit and Risk Committee Meeting

3 March 2015

ATTENTION

These minutes are subject to confirmation

This is a committee which has only made recommendations to Council. No action should be taken on any recommendation contained in these Minutes. The Council resolution pertaining to an item will be made at the Ordinary Council Meeting next following this meeting.

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City of Nedlands

Minutes of a meeting of the Audit and Risk Committee held at the City of Nedlands in the Council Meeting Room at 71 Stirling Hwy, Nedlands on Tuesday 3 March 2015 at 5.30 pm.

Declaration of Opening

The Presiding Member will declare the meeting open at 5.30 pm and will draw attention to the disclaimer below.

Present and Apologies and Leave Of Absence (Previously Approved)

| | | |
|-------------------------|-----------------------|-----------------------------------|
| Committee | Councillor I S Argyle | (Presiding Member/ Dalkeith Ward) |
| Members | His Worship the Mayor | R M Hipkins |
| | Councillor T James | Melvista Ward |
| | Councillor L McManus | Costal Districts Ward |
| | (from 5:40) | |
| | Ken Eastwood | Community Member |
| Staff | Mr G Trevaskis | Chief Executive Officer |
| | Mr M Cole | Director Corporate & Strategy |
| Press | Nil. | |
| Leave of Absence | Councillor B Hodsdon | Hollywood Ward |
| | Mr R Senathirajah | Manager Finance |

Disclaimer

Members of the public who attend Council 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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1. Public Question Time

There were no public questions received.

2. Addresses by Members of the Public (only for items listed on the agenda)

There were no addresses by members of the public.

3. Disclosures of Financial Interest

The Presiding Member to remind Councillors 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 interests.

4. Disclosures of Interests Affecting Impartiality

The Presiding Member to remind Councillors 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 interests.

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

There were no declarations by members received.

6. Confirmation of Minutes

6.1 Audit and Risk Committee Meeting 7 October 2014

The minutes of the Audit and Risk Committee held 7 October 2014 are to be confirmed.

Moved – Councillor Argyle
Seconded – Councillor James

The Minutes of the Audit and Risk Committee held 7 October 2014 are confirmed

CARRIED UNANIMOUSLY 4/-

Councillor McManus joined the meeting at 5:40pm.

7. Items for Discussion

Note: Regulation 11(da) of the *Local Government (Administration) Regulations 1996* requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration.

7.1 2014 COMPLIANCE AUDIT RETURN

Executive Summary

The 2014 Compliance Audit Return is an annual return that is required to be adopted by Council and submitted to the Department of Local Government by 31 March 2015. The City's Audit and Risk Committee is required to review the return and submit the results of that review to Council.

Moved – Councillor James
Seconded – Councillor Argyle

Recommendation to Committee

(Printed below for ease of reference)

CARRIED UNANIMOUSLY 5/-

Recommendation to Committee / Council

Council

Council adopts the 2014 Compliance Audit Return.

Strategic Plan

KFA: Governance and Civic Leadership

The completion of the 2014 Compliance Audit Return provides a measure of compliance with certain statutory requirements under the *Local Government Act 1995* and related regulations.

Background

Local governments are required to complete the annual Compliance Audit Return. The attached return for the City of Nedlands is for the period 1 January 2014 to 31 December 2014. This includes the completion and audit of the annual financial statements of the year ended 30 June 2014. It is required to be considered and adopted by Council, and submitted to the Department of Local Government and Communities by 31 March 2015. The Audit and Risk Committee is required to review the return and is to submit the results of that review to Council.

Key Relevant Previous Council Decisions:

Not applicable.

Consultation

Required by legislation: Yes No
Required by City of Nedlands policy: Yes No

The Audit and Risk Committee is required to review the return and is to submit the results of that review to Council.

Legislation / Policy

In accordance with Regulation 14 and 15 of the *Local Government (Audit) Regulations 1996* the Compliance Audit Return 2014 must be:

1. Presented to the Audit and Risk Committee for review and then presented to Council;
2. Adopted by Council;
3. Recorded in the minutes of the meeting at which it was adopted; and
4. A certified copy of the return, along with a copy of the minutes recording its adoption, to be submitted to the Department of Local Government and Communities by 31 March 2015.

Budget/Financial Implications

Within current approved budget: Yes No
Requires further budget consideration: Yes No

The Compliance Audit Return 2014 is conducted using internal resources and there are no other financial impacts.

Risk Management

The completion of the 2014 Compliance Audit Return provides a measure of compliance with a number of statutory requirements under the *Local Government Act 1995* and related regulations. Completion of the return minimises the risk of legislative non-compliance.

Discussion

The City's 2014 Compliance Audit Return was completed in January by the Director Corporate and Strategy in consultation with the Policy and Projects Officer after reviewing and assessing:

- Council meeting agendas and minutes;
- Performance plans, media advertisements, procedures and policies, local laws; and
- Interviews with responsible officers.

The review identified one area of non-compliance. Items 6 and 7 refer to the requirement for elected members and designated employees to submit annual returns by 31 August of that year. Due to Administrative oversight, these returns were not distributed to employees and elected members prior to the deadline for submission. This omission has already been reported to the Department of Local Government and Communities, and all returns have since been completed and submitted.

Conclusion

In accordance with Regulation 14 and 15 of the *Local Government (Audit) Regulations 1996* the Compliance Audit Return 2014 must be:

1. Presented to Council;
2. Adopted by Council;
3. Recorded in the minutes of the meeting at which it was adopted; and
4. A certified copy of the return, along with a copy of the minutes recording its adoption, to be submitted to the Department of Local Government by 31 March 2015.

The report is attached for the Committee's review.

Attachments

1. Compliance Audit Return 2014



Nedlands - Compliance Audit Return 2014

Certified Copy of Return

Please submit a signed copy to the Director General of the Department of Local Government and Communities together with a copy of section of relevant minutes.

| 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 2014. | N/A | | Phoebe Huigens |
| 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 2014. | N/A | | Phoebe Huigens |
| 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 2014. | N/A | | Phoebe Huigens |
| 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 2014. | N/A | | Phoebe Huigens |
| 5 | s3.59(5) | Did the Council, during 2014, resolve to proceed with each major land transaction or trading undertaking by absolute majority. | N/A | | Phoebe Huigens |



| 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 | | Phoebe Huigens | |
| 2 | s5.16, 5.17, 5.18 | Were all delegations to committees in writing. | Yes | Register of Delegations of Authority | Phoebe Huigens | |
| 3 | s5.16, 5.17, 5.18 | Were all delegations to committees within the limits specified in section 5.17. | Yes | | Phoebe Huigens | |
| 4 | s5.16, 5.17, 5.18 | Were all delegations to committees recorded in a register of delegations. | Yes | | Phoebe Huigens | |
| 5 | s5.18 | Has Council reviewed delegations to its committees in the 2013/2014 financial year. | Yes | | Phoebe Huigens | |
| 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 | | Phoebe Huigens | |
| 7 | s5.42(1)(2) Admin Reg 18G | Were all delegations to the CEO resolved by an absolute majority. | Yes | | Phoebe Huigens | |
| 8 | s5.42(1)(2) Admin Reg 18G | Were all delegations to the CEO in writing. | Yes | Register of Delegations of Authority | Phoebe Huigens | |
| 9 | s5.44(2) | Were all delegations by the CEO to any employee in writing. | Yes | Register of Delegations of Authority | Phoebe Huigens | |
| 10 | s5.45(1)(b) | Were all decisions by the Council to amend or revoke a delegation made by absolute majority. | Yes | | Phoebe Huigens | |
| 11 | s5.46(1) | Has the CEO kept a register of all delegations made under the Act to him and to other employees. | Yes | Register of Delegations of Authority | Phoebe Huigens | |
| 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 2013/2014 financial year. | Yes | | Phoebe Huigens | |
| 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 | | Phoebe Huigens | |

| 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 | | Phoebe Huigens | |
| 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 | | Phoebe Huigens | |



| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 6 | s5.76(1) Admin Reg 23 Form 3 | Was an annual return lodged by all continuing elected members by 31 August 2014. | No | This omission has already been reported to the Department | Phoebe Huigens |
| 7 | s5.76(1) Admin Reg 23 Form 3 | Was an annual return lodged by all designated employees by 31 August 2014. | No | This omission has already been reported to the Department | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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. | N/A | | Phoebe Huigens |



| 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. | N/A | | Phoebe Huigens |
| 16 | s5.103(3) Admin Reg 34B | Has the CEO kept a register of all notifiable gifts received by Council members and employees. | Yes | | Phoebe Huigens |

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)). | N/A | | Phoebe Huigens |
| 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. | N/A | | Phoebe Huigens |

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 | | Phoebe Huigens |

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 | | Phoebe Huigens |
| 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. | N/A | | Phoebe Huigens |
| 3 | s7.3 | Was the person(s) appointed by the local government to be its auditor, a registered company auditor. | Yes | | Phoebe Huigens |
| 4 | s7.3 | Was the person(s) appointed by the local government to be its auditor, an approved auditor. | Yes | | Phoebe Huigens |
| 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 | | Phoebe Huigens |



| No | Reference | Question | Response | Comments | Respondent |
|----|----------------|--|----------|-----------------------------|----------------|
| 6 | Audit Reg 10 | Was the Auditor's report for the financial year ended 30 June 2014 received by the local government within 30 days of completion of the audit. | Yes | | Phoebe Huigens |
| 7 | s7.9(1) | Was the Auditor's report for 2013/2014 received by the local government by 31 December 2014. | Yes | | Phoebe Huigens |
| 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 | No matter raised by auditor | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 11 | Audit Reg 7 | Did the agreement between the local government and its auditor include the objectives of the audit. | Yes | | Phoebe Huigens |
| 12 | Audit Reg 7 | Did the agreement between the local government and its auditor include the scope of the audit. | Yes | | Phoebe Huigens |
| 13 | Audit Reg 7 | Did the agreement between the local government and its auditor include a plan for the audit. | Yes | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |



| 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. | N/A | No CEO appointment in 2014 | Phoebe Huigens |
| 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. | N/A | No CEO or senior appointment in 2014 | Phoebe Huigens |
| 3 | 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). | N/A | No CEO appointment in 2014 | Phoebe Huigens |
| 4 | 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). | N/A | No CEO appointment in 2014 | Phoebe Huigens |
| 5 | s5.37(2) | Did the CEO inform council of each proposal to employ or dismiss a designated senior employee. | N/A | No CEO or senior appointment in 2014 | Phoebe Huigens |

| 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. | N/A | CEO is the complaints officer | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |



| 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 | | Phoebe Huigens |
| 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. | N/A | | Phoebe Huigens |
| 3 | F&G Reg 14(1) | Did the local government invite tenders via Statewide public notice. | Yes | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |



| 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 | | Phoebe Huigens |
| 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 | | Phoebe Huigens |
| 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). | N/A | | Phoebe Huigens |
| 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 | | Phoebe Huigens |

I certify this Compliance Audit return has been adopted by Council at its meeting on _____

 Signed Mayor / President, Nedlands

 Signed CEO, Nedlands

8. General Business

There was general discussion about the Crime and Corruption Commission (CCC) report on Misconduct Risk in Local Government Procurement that was tabled in State Parliament by the Minister of Local Government, and reported in the West Australian Newspaper that week.

9. Date of Next Meeting

The Date of the next meeting of this Committee is to be advised.

10. Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 6:07pm.

A handwritten signature in black ink, appearing to read 'Greg Trevaskis', with a long horizontal flourish extending to the left.

Greg Trevaskis
Chief Executive Officer