



MINUTES

Special Audit, Risk and Compliance Committee Meeting Monday 15 April 2024

Time: 4:30pm

**Location: Council Chambers, McGregor Street
Port Hedland WA 6721**

Distribution Date: 19 April 2024

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1 Opening of Meeting

The Presiding Member declared the meeting open at 4:34pm.

2 Acknowledgement of Traditional Owners and Dignitaries

The Presiding Member acknowledged 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, present and emerging.

3 Recording of Attendance

Important note:

This meeting is being audio recorded to facilitate community participation and for minute-taking purposes, which may be released upon request to third parties. In accordance with Section 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 section 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.

3.1 Attendance

Scheduled Present:

Cr Camilo Blanco (Presiding Member)
Cr Lorraine Butson
Cr Tim Turner

Scheduled for Attendance:

Carl Askew (Chief Executive Officer)
Steve Leeson (Director Corporate Services)
Tom Kettle (Manager Governance)
Kaleena Cruickshank (Manager Financial Services)
Jessica Hunt (Audit, Risk & Insurance Support Officer)

Media: 0

Public: 6

3.2 Attendance by Telephone / Instantaneous Communications

Aram Madnack (Acting Senior Director Financial Audit – Office of the Auditor General of WA)

Amit Kabra (Director Assurance & Advisory – RSM Australia)

Domenic Zappa (Senior Manager Assurance & Advisory – RSM Australia)

3.3 Apologies

Nil.

3.4 Approved Leave of Absence

Nil.

3.5 Disclosures Of Interest

Nil.

4 Applications for Leave of Absence

Nil.

5 Response to Previous Questions

5.1 Response to Questions taken on notice from Elected Member at the Audit, Risk and Compliance Committee Meeting held on 12 March 2024

Nil.

5.2 Response to Questions taken on notice from Public at the Audit, Risk and Compliance Committee Meeting held on 12 March 2024

Nil.

6 Public Time

6.1 Public Question Time

The Presiding Member declared Public Question Time open at 4:38pm.

6.1.1	John Ashenden
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Question 1

My question, as a resident ratepayer in the Town, I can take this on notice, but could I get the breakdown of the salaries of the CEO and the Directors of the Town? I want a complete breakdown of all the bits and bobs, extras they get for housing or whatever else?

Cr Blanco provided the following response

We are going to have to take that one on Notice. I think you'll find that might be on the Confidential side, but the Annual Report does list bracket that the CEO and Directors are paid in, within a ten thousand dollar range.

And where do I find that?

Cr Blanco provided the following response

You can look that up in the Annual Reports. I suppose when the Audit is finalised and the ARC completes it, then our Annual Report will determine. In the Annual Report you will have the 2022-2023.

I see the heads nodding, but I don't understand why it's so confidential since the ratepayers are the ones that actually pay those wages. We should have a right to know what it is.

Cr Blanco provided the following response

I tend to agree with you but there are limitations to what we can. We will take that question on notice and get a response from the Administration for you.

The Presiding Member declared Public Question Time closed at 4:41pm.

6.2 Public Statement Time

The Presiding Member declared Public Statement Time open at 4:41pm

Nil.

The Presiding Member declared Public Statement Time closed at 4:42pm

6.3 Petitions / Deputations / Presentations / Submissions

Nil.

7 Questions from Members without Notice

Nil.

8 Announcements by Presiding Member without Discussion

Well much the same, as like I've said before, it's great to see a lot of people in the Gallery, even though they are all Councillors hopefully you can get all your team mates to come down and see what's going on in the Audit & Finance Committee because it is the most important Committee. It is where we scrutinise the expenditure of the Town and without Finance, clearly, we can't do much within the Town. So, it's always good to have an understanding of what is going on within the budget and I know all Councillors will be across all areas of our budget. Thank you.

9 Declarations of All Members to have given due consideration to all matters contained in the Agenda before the Meeting

The following Audit, Risk and Compliance Committee Members declared that they had given due consideration to all matters contained in the agenda.

Cr Camilo Blanco
Cr Tim Turner

10 Reports of Officers**10.1 Audited Financial Statements - Financial Year 2022-2023****Author:** Manager Financial Services**Authorising Officer:** Director Corporate Services**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****That the Audit, Risk and Compliance Committee:**

- 1. Receive the Audited Annual Financial Report, Independent Auditor's Closing Report, and Management Letter of Audit Findings for the Financial Year ended 30 June 2023; and**
- 2. Recommend Council adopt the Audited Annual Financial Report, Independent Auditor's Closing Report, and Management Letter of Audit Findings for the financial year ended 30 June 2023.**

CR BLANCO PROPOSED AN ALTERNATE MOTION**ARC202324/020 ALTERNATE MOTION****MOVED:** Cr Camilo Blanco**SECONDED:** Cr Lorraine Butson**That the Audit, Risk & Compliance Committee:**

- 1. Receive the Audited Annual Financial Report, Independent Auditor's Closing Report, and Management Letter of Audit Findings for the Financial Year ended 30 June 2023; and**
- 2. Do Not Recommend Council adopt the Audited Annual Financial Report, Independent Auditor's Closing Report, and Management Letter of Audit Findings for the financial year ended 30 June 2023.**
- 3. Recommend Council conduct an independent forensic review into the towns Procurement processes and compliances with laws and regulations within the 21/22 and 22/23 budgets.**
- 4. Recommend Council conduct an independent review into the Delegated authority processes within the 21/22 and 22/23 budgets.**
- 5. Recommends the council applies the appropriate resources that funds this independent review.**
- 6. Recommend the council conduct an independent review on Credit Cards, Fuel cards, sundry payments from 2022-23 budgets**

CARRIED BY SIMPLE MAJORITY (2/1)

For: Cr Camilo Blanco, Cr Lorraine Butson

Against: Cr Tim Turner

PURPOSE

The purpose of this report is for the Audit, Risk and Compliance Committee (Committee) to consider the Audited Annual Financial Report, Independent Auditor's Closing Report and Management Letter for the financial year ended 30 June 2023, and to endorse all reports to Council.

The Committee is to report to Council and provide appropriate advice and recommendations on matters relevant to the Committee's terms of reference. One of the Committee's principal duties is to make recommendations to Council regarding external audit reporting.

RSM Australia Pty Ltd ("the Town's Auditors") have advised that the Office of the Auditor General (OAG) intends to issue a modified audit opinion for the financial year ended 30 June 2023.

DETAIL

Each year, the Town of Port Hedland (the "Town") is required to prepare general purpose financial statements and refer them to its Auditors as soon as practicable, no later than 30 September following the end of the financial year (Section 6.4 of the *Local Government Act 1995*). The draft Annual Financial Report for the year-ended 30 June 2023 was submitted to its Auditors on 30 September 2023.

The Annual Financial Report is prepared in accordance with Australian Accounting Standards; the *Local Government Act 1995*; and the *Local Government (Financial Management) Regulations 1996*. Management are responsible for preparing the Annual Financial Report in accordance with the Standards, Act and Regulations and to ensure that it fairly reflects the financial performance and position of the Town.

The Town's Auditors conducted the end of year audit onsite between 2-6 October 2023. The role of the Auditor is to provide an opinion based on their audit as to whether Management has fulfilled these obligations. The Auditors also prepare a separate, more detailed report for Management, identifying any issues arising from the conduct of the audit, and recommending any corrective actions.

The Town's Auditors issued the Town with a modified audit opinion with respect to the Annual Financial Report. Infrastructure Assets forms a significant part of the Total Assets of the Town, the Auditors found they were unable to obtain sufficient appropriate audit evidence regarding the completeness and accuracy of the Town's asset management system records to reliably value these assets within its accounting records. Due to the proportion of the Town's Infrastructure assets to the total assets,

and the uncertainty of the size of any potential misstatement arising, the impact on the financial statements is considered material.

The Auditors have presented several matters for consideration by management as identified in Confidential Attachment 3.

Under section 5.54 of the *Local Government Act 1995*, the Annual Financial Report and Independent Auditor's Report must be accepted by the local government by 31 December, provided the Independent Auditor's Report is available. If the Independent Auditor's Report is not available in time for the Annual Financial Report for a financial year to be accepted by 31 December after that financial year, the Annual Financial Report is to be accepted by the local government no later than 2 months after the Independent Auditor's Report becomes available.

The Audited Annual Financial Report and Management Letter are expected to be signed off by the Auditor's on 10 April 2023, during the Exit Meeting. The ARC Committee has delegated authority to liaise with the Auditor, receive and examine the Auditor's report and any Management issues arising from the conduct of the audit.

SUMMARY OF FINANCIAL REPORT FOR THE YEAR ENDED 30 JUNE 2023

Continuing Operations

The Town reports a net result deficit of \$6,165,281 (refer to page 3 of the Annual Financial Report), this is favourable to budget by \$2,207,719.

The Town's operating revenue streams in financial year 2022-2023 is favourable to budget by 24%. Specifically, this relates to grants received for cyclone restoration works, contributed assets and interest revenue.

The Town's operating expenses increased by 8%. Notable variances from budget include:

- Materials and contract costs increased by 14%, due to contributing \$12M towards the Spoilbank Landside development; and
- Depreciation on non-current assets increased by 27% due to an increase in the amount of capital assets.

AUDIT FINDINGS

The Town's Auditors have identified several matters for improvement to be addressed by Management. Please refer to Confidential Attachment 3 for these findings.

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of medium significance as it summarises the financial position of the Town for the financial year ended 30 June 2023 and reflects performance against the Strategic Community Plan and Corporate Business Plan in existence at the time. Risks associated with the audit findings are set out in this report under the heading 'Risk Management Considerations'.

CONSULTATION

Internal

The Annual Financial Reports and audit were completed with the input and assistance of the Executive Leadership team, the Financial Services team and the Governance team.

External Agencies

- RSM Australia
- The Office of the Auditor General

Community

Not applicable.

LEGISLATION AND POLICY CONSIDERATIONS

Part 7 of the *Local Government Act 1995* and the *Local Government (Audit) Regulations 1996* details the requirements for audit.

The Department of Local Government, Sport and Cultural Industries has also prepared Operational Guideline Number 9 to provide guidelines for the Committee relating to Audit in Local Government.

Regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996* details the CEO's duties in relation to financial management.

Under section 5.54 of the *Local Government Act 1995*, the annual financial statements and audit report must be accepted by 31 December, provided the auditor's report is available. If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.

FINANCE AND RESOURCE IMPLICATIONS

The costs associated with conducting the interim and end of financial year audit are included in the 2022-2023 budget and financial statements.

STRATEGIC SUSTAINABILITY IMPLICATIONS

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

Access and Inclusion

There are no significant identifiable outcome/outcomes of the Town’s Access and Inclusion Plan 2023-2026 relating to this item

Corporate Business Plan

The following action/actions of the Town’s Corporate Business Plan 2018-2022 apply in relation to this item:

Our Corporate Services:

Governance and Procurement - Provide high standards of governance and leadership

Financial Management and Rates - Financial management services compliant with legislation to enable the Town to sustainably provide services to the community

Audit and Risk Management - Committed to organisation wide risk management principles, systems and processes that ensure consistent, efficient and effective assessment of risk in all planning, decision making and operational processes

RISK MANAGEMENT CONSIDERATIONS

Risk Type	Operational
Risk Category	Compliance
Cause	Regulated financial and reporting requirements
Effect	Non-compliance
Risk Treatment	Management controls and external support and overview
<p>There is an operational risk associated with this item caused by regulated financial and reporting requirements, leading to potential for non-compliance.</p> <p>The risk rating is considered to be Medium (6) which is determined by a likelihood of Possible (3) and a consequence of Minor (2).</p> <p>This risk will be accepted by the managements accounting practices, with external support services and overview by audit agencies.</p>	

OPTIONS

Option 1 – Adopt officer’s recommendation

Option 2 – Do not adopt officer’s recommendation

CONCLUSION

The 2022-2023 Financial Year Annual Financial Report, Independent Auditor’s Closing Report, Management Letters along with supporting schedules, are attached for the ARC Committee’s review.

The Town is continuously working towards improvements in the financial management area and there will be a focus on creating stronger internal controls within financial management and processes in accordance with the Town’s values and long-term sustainability.

ATTACHMENTS

1. ToPH – Financial Report FY 2022-2023 [**10.1.1** - 48 pages]
2. Management Representation Letter [**10.1.2** – 7 pages]
3. Town of Port Hedland- Auditor's Closing Report - 30 June 2023 (Final 10 April 2024) [**10.1.3** - 22 pages]
4. CONFIDENTIAL - Findings Identified During the Financial Audit 2022-2023 [**10.1.4** - 16 pages]
5. CONFIDENTIAL - Findings Identified During the Information Systems Audit 2022-2023 [**10.1.5** - 28 pages]

10.2	Audit, Risk and Compliance Committee - Amended Terms of Reference
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Author: Senior Audit, Risk & Insurance Advisor
Authorising Officer: Manager Governance
Disclosure of Interest: The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

ARC202324/021 COMMITTEE DECISION

MOVED: Cr Tim Turner

SECONDED: Cr Lorraine Butson

That the Audit, Risk and Compliance Committee:

- 1. Endorse the amended Audit, Risk and Compliance Committee Terms of Reference, as per Attachment 2; and**
- 2. Recommend Council adopt the amended Audit, Risk and Compliance Committee Terms of Reference.**

MOTION WAS LOST (2/1)

For: Cr Tim Turner

Against: Cr Camilo Blanco, Cr Lorraine Butson

PURPOSE

The purpose of this report is for the Audit, Risk and Compliance Committee (ARC Committee) to endorse the amended ARC Committee Terms of Reference (TOR) and recommend that Council adopt the same.

DETAIL

In accordance with Section 7 of the *Local Government Act 1995* (the Act), an Audit Committee is to be established to offer guidance and assistance to the local government, operating with accountability to the Council.

The ARC Committee Terms of Reference were initially adopted by the Council in November 2011, and the most recent review occurred in September 2022. These TOR delineate the Committee's purpose, authority, membership, functions, reporting requirements, and responsibilities.

As stipulated in clause 8.2 of the TOR (Version 11), the Committee requests the Chief Executive Officer to review the TOR after an election. Any proposed changes necessitate Council approval, with consideration given to ensuring appropriate disclosures as mandated by legislation or regulation.

Attachment 2 highlights all modifications to the current TOR through track changes, providing a transparent and accessible overview of the amendments made.

Notable amendments to the TOR include:

- The incorporation of a provision allowing a proxy to attend meetings should a committee member be unavailable. This addition serves to ensure seamless continuity in the Committee's proceedings.
- The Authority and Independence section has been restructured to align with the Town's Register of Delegated Authority – Statutory, thereby enhancing clarity and conformity.
- The composition was revised to include at least three members and a maximum of five members, with emphasis on having at least one independent member when feasible.
- Guidelines pertaining to Committee member resignations. This inclusion facilitates a structured and transparent process for resignations, contributing to the effective functioning of the Committee.

Another noteworthy aspect of the amendments is the overarching effort to streamline and simplify the document. The Council continues its commitment to promoting transparency, efficiency, and accountability within the ARC Committee through these refined and purposeful amendments.

The ARC Committee TOR was presented to the 28 November 2023 committee meeting and the ARC Committee resolved to let the motion lie on the table (ARC202324/007).

The amended TOR was returned to the agenda for the 12 March 2024 meeting and, subject to discussion at the ARC Committee feedback session on 5 March 2024, a further briefing was held with the ARC Committee on 11 March 2024. ARC Committee members have sought amendments to the TOR to include additional powers, including;

1. Power to appoint auditors,
2. Power to appoint independent legal advisors, and
3. Inclusion of the ability to appoint independent members to the ARC Committee.

The ARC Committee was advised that points 1 and 2 are powers outside the legislative functions under the *Local Government (Audit) Regulations 1996* and Council delegation 1.1.1. The ARC Committee report to the Council and may implement these powers through a decision of the Council subject to the relevant legislation. The TOR has been amended to include point 3.

The TOR was considered at the 13 March 2024 ARC Committee meeting and the recommendation proposed that the Committee endorse the revised TOR and recommend its adoption by the Council. While Councilor Turner supported the motion, its lack of a seconder and subsequent absence of debate led to the item lapsing.

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is of low significance because the amendments introduced to the ARC Committee Terms of Reference, as part of the review process, are not anticipated to yield any financial implications for the Town or result in social, economic, or environmental impacts for the community.

CONSULTATION

Internal

- Director Corporate Services
- Manager Governance
- ARC Committee

External Agencies

- Consultant

Community

- Nil

LEGISLATION AND POLICY CONSIDERATIONS

- *Local Government Act 1995*
- *Local Government (Administration) Regulations 1996*
- *Local Government (Audit) Regulations 1996*

FINANCE AND RESOURCE IMPLICATIONS

- There are no financial implications associated with this item. Moreover, it is important to emphasise that the ARC Committee does not hold any financial delegation.

STRATEGIC SUSTAINABILITY IMPLICATIONS

The following sections of the Town's Strategic Community Plan 2018-2028 are applicable in the consideration of this item:

Our Leadership:

4.2.2 Transparent and regular financial reporting and communication to the community is undertaken.

4.2.3 Transparent and regular governance reporting and communication to the community is undertaken.

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.

Corporate Business Plan

The following action of the Town’s Corporate Business Plan 2018-2022 apply in relation to this item:

Our Corporate Services:

Audit and Risk Management - Committed to organisation wide risk management principles, systems and processes that ensure consistent, efficient and effective assessment of risk in all planning, decision making and operational processes

RISK MANAGEMENT CONSIDERATIONS

Risk Type	Operational
Risk Category	Service Interruption
Cause	Terms of reference not endorsed
Effect	Without clear terms of reference endorsed by the ARC Committee, there may be a lack of clear guidance on its scope, responsibilities, and objectives, leading to inefficiencies or oversight gaps in the meeting process.
Risk Treatment	Workshop with the ARC Committee to offer education and resources on the rationale behind the structure of the Terms of Reference and recent legislative changes pertaining to Audit Committees over the last few years.
Failure by the Committee to endorse the amended TOR poses a risk of service interruption, potentially resulting in unclear guidelines regarding their scope, responsibilities, and objectives. This could lead to inefficiencies, oversight gaps in meetings, and operational disruptions.	

The risk rating is medium (6) which is determined by a likelihood of possible (3) and a consequence of minor (2).

This risk will be mitigated by the Committee’s endorsement of the amended TOR.

Risk Type	Operational
Risk Category	Compliance
Cause	ARC Committee request further amendments to TOR
Effect	If the ARC Committee declines to endorse the Terms of Reference and requests additional amendments, there is a possibility that the Terms of Reference may not align with the legislative framework.
Risk Treatment	Workshop with the ARC Committee to offer education and resources on the rationale behind the structure of the Terms of Reference and recent legislative changes pertaining to Audit Committees over the last few years.

Failure by the Committee to endorse the amended TOR poses a compliance risk as the recommended TOR are compliant with the legislative framework. Further amendments to the TOR could lead to non-compliance with the legislative framework.

The risk rating is medium (9) which is determined by a likelihood of possible (3) and a consequence of moderate (3).

This risk will be mitigated by the Committee’s endorsement of the amended TOR.

OPTIONS

- Option 1 – Adopt officer’s recommendation
- Option 2 – Amend officer’s recommendation
- Option 3 – Do not adopt officer’s recommendation

CONCLUSION

In conclusion, this report is intended to guide the Committee in endorsing the revised ARC Committee Terms of Reference (TOR) and recommending the Council's adoption. The thorough review aligns with the *Local Government Act 1995*, ensuring clarity on the Committee's purpose and responsibilities. Noteworthy amendments, such as proxy provisions and streamlined documentation, enhance operational efficiency. The commitment to transparency, efficiency, and accountability is evident in the strategic considerations outlined. Despite the low significance of this item, proactive risk management measures are critical for mitigating potential compliance risks. The

Committee's endorsement of the amended TOR is essential for maintaining strategic objectives and regulatory adherence. The TOR is intended to help Committee members fulfill their obligations in line with the Act and supporting regulations.

ATTACHMENTS

1. 20240306 Audit, Risk and Compliance Committee Terms of Reference No Track Changes [**10.2.1** - 8 pages]
2. 20240306 Audit, Risk and Compliance Committee Terms of Reference With Track Changes [**10.2.2** - 12 pages]

10.3	2023 Compliance Audit Return
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Author: Senior Audit, Risk & Insurance Advisor

Authorising Officer: Manager Governance

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

ARC202324/022 COMMITTEE DECISION

MOVED: Cr Tim Turner

SECONDED: Cr Lorraine Butson

That the Audit, Risk and Compliance Committee:

- 1. Notes the outcome of the 2023 Compliance Audit Return;**
- 2. Notes the actions the Town will undertake to ensure future compliance;**
- 3. Recommends Council adopt the 2023 Compliance Audit Return; and**
- 4. Recommends Council authorise the Mayor and Chief Executive Officer to sign and submit the Town's Compliance Audit Return 2023 to the Department of Local Government, Sport and Cultural Industries.**

MOTION WAS LOST (2/1)

For: Cr Tim Turner

Against: Cr Camilo Blanco, Cr Lorraine Butson

PURPOSE

The purpose of this report is for the Audit, Risk and Compliance Committee (ARC Committee) to consider the Town's 2023 Compliance Audit Return (CAR).

DETAIL

Annually, every Local Government Authority in Western Australia is required to perform a compliance audit for the preceding calendar year and submit the results to the Department of Local Government, Sport, and Cultural Industries (DLGSC) by March 31. The Compliance Audit Return (CAR) is a self-assessment tool that assesses the local government's compliance with the *Local Government Act 1995* and its subsidiary regulations.

The ARC Committee is required to review the CAR, present its findings to Council for adoption, and recommend the Council authorise the Mayor and Chief Executive Officer sign and submit the CAR to the DLGSC by the statutory deadline of 31 March 2024.

The CAR serves as a tool used by the DLGSC to assess the operational compliance of local governments during the previous calendar year. Areas of identified non-compliance offer valuable insights, guiding officers in reviewing processes to enhance compliance standards.

Evidence based approach

The Town used an evidence-based methodology to complete the 2023 CAR. Management were assigned the responsibility of addressing questions pertaining to their specific business units. Following the receipt of their responses, the Audit, Risk, and Insurance business unit requested sample evidence to verify the accuracy of the provided information. The sample evidence was cited and validated to ensure the accuracy of the responses.

Where a question inquired if a document had been uploaded to the website as mandated by statutory requirements, the Audit, Risk, and Insurance business unit confirmed and validated that the Town had indeed fulfilled this obligation.

Analysis of compliance

For the 2023 calendar year, the Town of Port Hedland attained a compliance rate of 93%, inclusive of all 'Yes' and 'N/A' responses.

A summary of the 2023 CAR results are as follows:

Category	Yes	N/A	No	Total
Commercial Enterprises by Local Governments	5			5
Delegation of Power/Duty	11		2	13
Disclosure of Interest	15	3	3	21
Disposal of Property	2			2
Elections		3		3
Finance	2	4	1	7
Integrated Planning and Reporting	3			3
Local Government Employees	2	3		5
Official Conduct	4			4
Optional Questions	8		1	9
Tenders for Providing Goods and Services	19	3		22
Total	71	16	7	94

Analysis of non-compliance

There were 7 instances of non-compliance for the 2023 calendar year.

The Town intends to address non-compliances over the 2024 calendar year. The CAR will be integrated into the compliance management system and responsible officers will be expected to provide routine updates.

Category	Reference	Question	Comments
Delegation of Power/Duty #5	s5.18	Has Council reviewed delegations to its committees in the 2022/2023 financial year?	The 2023/24 Delegation Review went to the 30 August 2023 OCM, which resulted in an absolute majority council decision. CM202324/118.
Delegation of Power/Duty #12	s5.46(2)	Were all delegations made under Division 4 of the Act reviewed by the delegator at least once during the 2022/2023 financial year?	The 2023/24 Delegation Review went to the 30 August 2023 OCM, which resulted in an absolute majority council decision. CM202324/118.
Disclosure of Interest #4	s5.75 Admin Reg 22, Form 2	Was a primary return in the prescribed form lodged by all relevant persons within three months of their start day?	Not all primary returns were lodged within three months of the relevant person's start date. All but 1 have subsequently been provided to the Town. The employee who did not lodge their return is no longer employed at the Town.
Disclosure of Interest #5	s5.76 Admin Reg 23, Form 3	Was an annual return in the prescribed form lodged by all relevant persons by 31 August 2023?	There were 7 outstanding annual returns. The employees are no longer employed at the Town.
Disclosure of Interest #9	s5.88(3)	When a person ceased to be a person required to lodge a return under sections 5.75 and 5.76 of the Local Government Act 1995, did the CEO remove from the register all returns relating to that person?	This register is maintained by Governance regularly. However, it contains details of people who are no longer required to lodge a return.
Finance #3	s7.9(1)	Was the auditor's report for the financial year ended 30 June 2023 received by the local government by 31 December 2023?	The OAG and RSM as auditors have not completed their reports as of 31 December 2023.
Optional Questions #7	s5.127	Did the local government prepare a report on the training completed by council members in the 2022/2023 financial year and publish it on the local government's official website by 31 July 2023?	The Town maintains a Councillor Training Register; however, the Register was not uploaded to the Town's website in 2023. The register was uploaded to the website in February 2024.

The draft version of the CAR was discussed at an ARC Committee agenda feedback session on 5 March 2024 with further information requested from the ARC Committee. This information was compiled and provided to the ARC Committee, with an ARC Committee briefing held on 11 March 2024 for further discussion of the issues raised.

The CAR was presented for consideration by the ARC Committee at the 27 March 2024 meeting, with Cr Turner moving the recommendation; however, with no seconder and no subsequent debate, the item lapsed. The ARC Committee was advised that the Town would be non-compliant with the deadline stipulated in regulation 15 of the *Local Government (Audit) Regulations 1996*. The Town has received a letter of non-compliance from DLGSC, requiring submission by 19 April 2024 (attachment 2).

LEVEL OF SIGNIFICANCE

In accordance with Policy 4/009 'Significant Decision Making', this matter is considered to be of medium significance, due to the potential consequences resulting from non-compliance, the potential impact on the Town's service delivery capabilities, the potential effect on the Town's reputation, and the general interest shown by the community in the compliance of the Town's business operations.

CONSULTATION

Internal

- Executive Leadership Team
- Manager Planning & Economic Development
- Manager Governance
- Principal HR Operations
- Senior Economic Development Officer
- Senior Corporate Performance Advisor
- Senior Procurement & Contracting Advisor
- Governance Advisor
- Coordinator Property Management

External Agencies

- Western Australian Local Government Association (WALGA)

Community

- Nil

LEGISLATION AND POLICY CONSIDERATIONS

Regulation 14 of the Local Government (Audit) Regulations 1996 (Audit Regulations) requires that a CAR be completed and submitted to the Department by 31 March 2024.

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 15 of the Audit Regulations requires a joint certification to be completed by the Mayor and Chief Executive Officer. The document is to be forwarded to the Department via its online portal.

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.

FINANCE AND RESOURCE IMPLICATIONS

There are no financial implications related to this item.

STRATEGIC SUSTAINABILITY IMPLICATIONS

The following section of the Town's Strategic Community Plan 2018-2028 is applicable in the consideration of this item:

Our Leadership:

4.2.3 Transparent and regular governance reporting and communication to the community is undertaken.

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.

Corporate Business Plan

The following action of the Town’s Corporate Business Plan 2018-2022 apply in relation to this item:

Our Corporate Services:

Audit and Risk Management - Committed to organisation wide risk management principles, systems and processes that ensure consistent, efficient and effective assessment of risk in all planning, decision making and operational processes

RISK MANAGEMENT CONSIDERATIONS

Risk Type	Operational
Risk Category	Compliance
Cause	ARC Committee failing to reach a resolution to recommend Council’s adoption of the 2023 CAR.
Effect	Non-compliance with Regulation 15 of the Local Government (Audit) Regulations 1996, which requires the Town to submit its CAR to the DLGSC by March 31.
Risk Treatment	<ul style="list-style-type: none"> • An analysis of non-compliance has been conducted, and strategies for improvement will be discussed with the Executive Leadership Team and individual business units to enhance compliance in the 2024 Calendar Year. • The ARC Committee has received detailed commentary on each non-compliance to provide context. • To mitigate the risk, it is essential for the ARC Committee to reach a resolution recommending the Council's adoption.
<p>There is a compliance risk associated with this item if the ARC Committee fails to reach a resolution to recommend Council’s adoption of the 2023 CAR. Such an outcome could result in non-compliance with Regulation 15 of the Local Government (Audit) Regulations 1996, which requires the Town to submit its CAR to the DLGSC by March 31.</p>	

The risk rating is considered Medium (6) determined by a likelihood of Possible (3) and a result of Minor (2).

This risk will be mitigated by the ARC Committee resolving to recommend Council's adoption of the 2023 CAR.

OPTIONS

Option 1 – Adopt officer's recommendation

Option 2 – Amend officer's recommendation

Option 3 – Do not adopt officer's recommendation

CONCLUSION

The CAR is an obligatory requirement imposed on all local governments for statutory compliance. It serves as a tool for the Town to assess its procedures, ascertain compliance, and relay the review outcomes to the DLGSC. The ARC Committee is advised to recommend that Council adopt the 2023 CAR.

ATTACHMENTS

1. 20240226 Compliance Audit Return 2023 [**10.3.1** - 12 pages]
2. E 24050236 - Letter of Non- Compliance - 2023 Compliance Audit Return [**10.3.2** - 1 page]

11 Motions of Which Previous Notice have been given

Nil.

12 New Business of an Urgent Nature (Late Items)

Nil.

13 Matters for Which Meeting May be Closed (Confidential Matters)

Nil.

14 Closure

14.1 Date of Next Meeting

The next Audit, Risk and Compliance Committee Meeting will be held on Tuesday 14 May 2024 commencing at 5:30pm.

14.2 Closure

There being no further business, the Presiding Member declared the meeting closed at 5:44pm.

TERMS OF REFERENCE*7 September 2022***1. Purpose of the Terms of Reference**

The purpose of the terms of reference is to facilitate the operation of the Audit, Risk and Compliance Committee.

2. Introduction

The Audit, Risk and Compliance Committee has been established in accordance with Part 7 of the *Local Government Act 1995*.

The Audit, Risk and Compliance Committee is an advisory committee formally appointed by the Council and is to provide guidance and assistance to Council on matters relevant to its terms of reference. The Audit, Risk and Compliance Committee does not have executive powers or authority to implement actions in areas over which management has responsibility and does not have any financial responsibility. The Audit, Risk and Compliance Committee does not have any management functions and is therefore independent of management.

The Audit, Risk and Compliance Committee will primarily focus on relevant matters relating to Audit (internal and external), Risk and Compliance.

The Audit, Risk and Compliance Committee objective is to assist the Town of Port Hedland Council in liaising with the auditors and overseeing the external audit function and promoting the transparency and accountability of the Town's financial management systems and reporting. The role of the Audit, Risk and Compliance Committee is to report to the Council and provide appropriate advice and recommendations on matters relevant to its terms of reference in order to facilitate decision making by the Council in relation to the discharge of its responsibilities.

3. Objectives

The objectives of the Audit, Risk and Compliance Committee are to oversee:

- 3.1 The integrity of internal and external financial reporting, including accounting policies.
- 3.2 The scope of work, objectivity, performance and independence of the external auditor.
- 3.3 The establishment, effectiveness and maintenance of controls and systems to safeguard the Town's financial and physical resources.

- 3.4 The systems or procedures that are designed to ensure that the Town and its subsidiaries comply with relevant statutory and regulatory requirements.
- 3.5 The process for recognising risks arising from the Town's operations and strategies and consider the adequacy of measures taken to manage those risks.
- 3.6 The process and systems which protect the Council against fraud and irregularities.
- 3.7 Compliance with laws and regulations as well as use of best practice guidelines relative to audit, risk management, internal control and legislative compliance.
- 3.8 Provide guidance and assistance to Council as to the carrying out the functions of the local government in relation to audits.

The Audit, Risk and Compliance Committee must also add to the credibility of Council by promoting ethical standards through its work.

4. Authority

The Audit, Risk and Compliance Committee has the authority to:

- 4.1 Review and suggest improvements to the internal and external auditor's annual audit plans and the outcomes/results of all audits undertaken.
- 4.2 Monitor and advise the Chief Executive Officer in reviews conducted under regulation 17(1) of the *Local Government (Audit) Regulations 1996* and regulation 5(2)(c) of *the Local Government (Financial Management) Regulations 1996*.
- 4.3 Formally meet with the Town's appointed external auditor as necessary.
- 4.4 Seek resolution on any disagreements between management and the external auditors on financial reporting.
- 4.5 Advise Council on any or all of the above as deemed necessary.

5. Composition of Committee Members

- 5.1 The Audit, Risk and Compliance Committee will comprise of three Elected Members.
- 5.2 The Council will appoint Audit, Risk and Compliance Committee members.
- 5.3 The Presiding Member and Deputy Presiding Member will be appointed by the Audit, Risk and Compliance Committee Members after an Election.

- 5.4 The members, taken collectively, will have a broad range of skills and experience in accounting or related financial management, with an understanding of accounting and auditing standards in a public sector environment.
- 5.5 Members may seek advice from an external independent advisor. The independent advisor will have a Certified Practising Accountant (CPA), Chartered Accountancy (CA) qualification or relevant discipline or experience in a similar position. The independent advisor must be able to demonstrate expertise and knowledge in at least one of the disciplines of financial risk management, corporate governance, risk management or auditing. The independent advisor will also have demonstrated understanding and/or experience in:
- Accounting Standards (AASB)
 - Tax Legislation
 - *Local Government Act 1995*
 - *Local Government* experience and/or Band 1 Council
- 5.6 As prescribed by Section 5.19 of the Act, the quorum for Committee meetings shall be at least 50% of the number of offices of the Committee (whether vacant or not).
- 5.7 Audit, Risk and Compliance Committee members are required by the Local Government Act and Code of Conduct in observing the requirements of declaring any proximity, financial or impartiality interests that relate to any matter to be considered at each meeting.
- 5.8 New members will receive relevant information and briefings on their appointment to assist them to meet their committee responsibilities.
- 5.9 The Chief Executive Officer and employees are not members of the Committee.

6. Meetings

- 6.1 Meetings may be called by the Presiding Member of the Audit, Risk and Compliance Committee, or at the request of the Mayor or Chief Executive Officer.
- 6.2 The Audit, Risk and Compliance Committee meetings are generally open to the public unless the Presiding Member or Chief Executive Officer deem it necessary to proceed behind closed doors pursuant to Section 5.23 of the *Local Government Act 1995*.
- 6.3 All Elected Members are invited to attend each Audit, Risk and Compliance Committee meeting, but will not be eligible to vote on any items presented at the meeting.

- 6.4 All Audit, Risk and Compliance Committee members are expected to attend each meeting in person.
- 6.5 The Chief Executive Officer will facilitate the meetings of the Audit, Risk and Compliance Committee and invite members of management, internal and external auditors or others to attend meetings as observers and to provide pertinent information, as necessary.
- 6.6 The Audit, Risk and Compliance Committee will develop a forward meeting schedule that includes the dates, location, and proposed work plan for each meeting for the forthcoming year, that cover all the responsibilities outlined in these terms of reference.
- 6.7 Meeting agendas will be prepared and provided at least 72 hours in advance to members, along with appropriate briefing materials.
- 6.8 Minutes will be taken at each meeting and presented to the subsequent meeting for confirmation.
- 6.9 Pursuant to regulation 13 of the *Local Government (Administration) Regulations 1996*, unconfirmed minutes will be made available for inspection by members of the public, within 5 (five) business days after the meeting.
- 6.10 Voting is in accordance with Section 5.21 of the Act.

7. Responsibilities

The Audit, Risk and Compliance Committee will carry out the following responsibilities:

7.1 Risk Management

- 7.1.1 Review and suggest improvements to whether management has in place a current and comprehensive enterprise risk management framework and associated procedures for effective identification and management of the Town's business and financial risks, including fraud.
- 7.1.2 Determine whether a sound and effective approach has been followed in managing the Town's major risks including those associated with individual projects, program implementation, and activities.
- 7.1.3 Assess the impact of the Town's enterprise risk management framework on its control environment and insurance arrangements.
- 7.1.4 Review and suggest improvements to the process of developing and implementing the Town's fraud control arrangements and satisfy itself the

Town has appropriate processes and systems in place to detect, capture and effectively respond to fraud-related information.

- 7.1.5 Determine whether the Town has a sound and effective approach for business continuity planning arrangements, including whether business continuity and disaster recovery plans have been periodically reviewed and tested.

7.2 Internal Control and Internal Audit

- 7.2.1 Ensure adequate systems of internal control are in place to mitigate key business risks and promote the effectiveness and efficiency of operations.
- 7.2.2 Approve, review and suggest improvements to the Internal Audit Plan and ensure the Internal Audit function is operating effectively, independently and in accordance with the Institute of Internal Auditor's International Standards for the Professional Practice of Internal Auditing.
- 7.2.3 Receive and review all audit reports and provide advice to the Council on significant issues identified in audit reports and action to be taken on issues raised, including identification and dissemination of good practice.
- 7.2.4 Monitor management's implementation of internal audit recommendations, processes and practices to ensure that the independence of the audit function is maintained.
- 7.2.5 Oversee the coordination of planned activities between the 4 lines of defence, which outlines the ownership, accountabilities, resources, and governance of risk management activities within the Town.

7.3 Financial Report

- 7.3.1 Review and suggest improvements to significant accounting and reporting issues, including complex or unusual transactions and highly judgmental areas, and recent accounting, professional and regulatory pronouncements and legislative changes, and understand their effect on the financial report.
- 7.3.2 Review with management and the external auditors the results of the audit, including any difficulties encountered, and suggest improvements if required.
- 7.3.3 Review and suggest improvements to the process for the consolidation of financial information of the Town related entities into the financial reports of the Town.
- 7.3.4 Review with management and the external auditors all matters required to be communicated to the Audit, Risk and Compliance Committee under the Australian Auditing Standards, and suggest improvements if required.

- 7.3.5 Review and suggest improvements (subject to legislation) to the draft Annual Financial Statements (subject to legislation) and recommend the adoption of the Annual Financial Statements to Council.

7.4 Compliance

- 7.4.1 Review and suggest improvements to the systems and processes to monitor effectiveness of the system for monitoring compliance with legislation and regulations and the results of management's investigation and follow-up (including disciplinary action) of any instances of non-compliance.
- 7.4.2 Keep informed of the findings of any examinations by regulatory agencies and any auditor (internal or external) observations and monitor management's response to these findings.
- 7.4.3 Obtain regular updates from management about compliance matters.
- 7.4.4 Review and suggest improvements to the annual Compliance Audit Return and report to the Council the results of the review.

7.5 External Audit

- 7.5.1 Meet with the Office of the Auditor General to discuss the audit plan (audit entrance meeting) and the results of the financial audit (audit exit meeting)
- 7.5.2 Consider the findings and recommendations of relevant Performance Audits undertaken by the external auditor and ensure the Town implements relevant recommendations.
- 7.5.3 Provide an opportunity for the Audit, Risk and Compliance Committee to meet with the external auditors to discuss any matters that the Audit, Risk and Compliance Committee or the external auditors believe should be discussed privately.
- 7.5.4 Annually review and suggest improvements to the performance of external audit including the level of satisfaction with external audit function.
- 7.5.5 Monitor management's implementation of external audit recommendations.
- 7.5.6 Monitor the relationship between internal auditors and the Office of the Auditor General.

7.6 Reporting Responsibilities

- 7.6.1 Report regularly to the Council Audit, Risk and Compliance Committee activities, issues, and related recommendations through circulation of minutes.

- 7.6.2 Monitor that open communication between the internal auditor, the external auditors, and the Town's management occurs.

8 Other Responsibilities

- 8.1 Perform other activities related to these terms of reference as requested by the Council.
- 8.2 Request that the Chief Executive Officer perform a review after an Election, suggest improvements to and assess the adequacy of the Audit, Risk and Compliance Committee terms of reference, request Council approval for proposed changes, and ensure appropriate disclosure as might be required by legislation or regulation.

9 Version Control

- V1. Adopted by Council at its Ordinary Meeting held 16 November 2011.
V2. *Amended by Council at its Ordinary Meeting held 23 October 2013.*
V3. *Amended by Council at its Ordinary Meeting held on 11 December 2013.*
V4. *Amended by Council at its Ordinary Meeting held on 27 May 2015.*
V5. *Amended by Council at its Ordinary Meeting held on 28 October 2015.*
V6. *Amended by Council at its Ordinary Meeting held on 22 June 2016.*
V7. *Amended by Council at its Ordinary Meeting held on 24 May 2017.*
V8. *Re-Adopted by Council at its Ordinary Meeting held on 1 November 2017.*
V9. *Re-Adopted by Council at its Ordinary Meeting held on 19 December 2019.*
V10. *Amended by Council at its Ordinary Meeting held on 23 September 2020.*
V11. *Re-Adopted by Council at its Ordinary Meeting held on 7 September 2022.*