

Town of
Port Hedland



TOWN OF PORT HEDLAND

AUDIT, RISK AND GOVERNANCE COMMITTEE MEETING MINUTES

TUESDAY 10 MAY 2016 AT 5:30PM

**COUNCIL CHAMBERS, MCGREGOR
STREET, PORT HEDLAND**

**“A nationally significant, friendly city that people are
proud to call home”**

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

TERMS OF REFERENCE

AIM/PURPOSE:

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

1. Liaise with the Auditor(s) to assist Council in carrying out functions in relation to external audit, including liaising with the Auditor and develop a process for selection and appointment of a person as the Auditor.
2. Receive Quarterly Budget Review Reports;
3. Receive Quarterly Financial Reports on all of the Town of Port Hedland's Managed Community Facilities;
4. Review and suggest improvements to Risk Management within the organisation; and
5. Assist the organization in the development of an internal audit program and make recommendations to Council regarding:
 - Financial Management
 - Risk Management
 - Internal Controls
 - Legislative Compliance
 - Internal and External Audit Planning and Reporting

MEMBERSHIP

Mayor Kelly Howlett
Councillor Camilo Blanco – Presiding Member
Councillor Louise Newbery
Councillor Richard Whitwell

Proxy
Councillor David Hooper
Councillor Julie Arif

Community Members
Ms Nina Pangahas
Mr Ron Attwood – Deputy Presiding Member

QUORUM

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

MEETING FREQUENCY, TIMES AND VENUE

Quarterly on Tuesdays at 5:30pm in Council Chambers or as determined from the Council from time to time.

DELEGATION:

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

TENURE:

Ongoing

RESPONSIBLE OFFICER:

Director Corporate Services

*(Adopted by Council at its Ordinary Meeting held 16 November 2011.
Amended by Council at its Ordinary Meeting held 23 October 2013.
Amended by Council at its Ordinary Meeting held on 11 December 2013.
Amended by Council at its Ordinary Meeting held on 27 May 2015.
Amended by Council at its Ordinary Meeting held on 28 October 2015.)*

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AUDIT, RISK & GOVERNANCE COMMITTEE MEETING MINUTES 10 MAY 2016

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ITEM 1 OPENING OF MEETING

The Presiding Member declared the meeting open at 5.32pm.

ITEM 2 ACKNOWLEDGMENT OF TRADITIONAL OWNERS

The Presiding Member acknowledged the traditional owners, the Kariyarra people.

ITEM 3 RECORDING OF ATTENDANCE AND APOLOGIES**3.1 Attendance**

Elected Members:

Councillor Camilo Blanco – Presiding Member – left at 6:38pm

Councillor Louise Newbery

Councillor Richard Whitwell

Community Members

Mr Ron Attwood – Deputy Presiding Member

Ms Nina Pangahas

Officers

Mal Osborne Chief Executive Officer

Peter Kocian Executive Officer

Dale Stewart Acting Director Corporate Services

Grace Waugh Coordinator Governance

Tammy Wombwell Minute Taker

Elected Members 1

Public 0

Media 0

ToPH Officers 6

3.2 Apologies

Nil.

3.3 Approved Leave of Absence

Mayor Kelly Howlett – 20 April to 20 May 2016

3.4 Declarations of Interest

Name	Item no.	Type	Nature
Dale Stewart, Acting Director Corporate Services	11.1.3	Financial	Item '11.1.3 Notice of Motion 3 – Engagement of Mr D Stewart' relates to Mr Stewarts short term contract.

ITEM 4 RESPONSE TO PREVIOUS QUESTIONS

4.1 Questions from Public at Audit, Risk and Governance Committee Meeting held on Tuesday 12 April 2016

Nil.

4.2 Questions from Committee Members at Audit, Risk and Governance Committee Meeting held on Tuesday 12 April 2016

Nil.

ITEM 5 PUBLIC TIME

Important note:

'This meeting is being recorded on audio tape as an additional record of the meeting and to assist with minute-taking purposes which may be released upon request to third parties. If you do not give permission for recording your participation please indicate this at the meeting. The public is also reminded that in accordance with Section 6.16 of the Town of Port Hedland Local Law on Standing Orders nobody shall 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 Local Law on Standing Orders mobile telephones must be switched off and not used during the meeting.'

Presiding Member opened Public Question Time at 5:38pm.

5.1 Public Question Time

Nil

Presiding Member closed Public Question Time at 5:38pm.

Presiding Member opened Public Statement Time at 5:38pm.

5.2 Public Statement Time

Nil

Presiding Member closed Public Statement Time at 5:38pm.

ITEM 6 QUESTIONS FROM MEMBERS WITHOUT NOTICE

6.1 Ms Pangahas

In future, can notice of motions be supported with rationale or reason behind it?

Presiding Member advised that notice of motions are an opportunity for any Committee Member to put any motion up at any meeting.

Chief Executive Officer advised that notice of motions may be provided at any time. The Chief Executive Officer will then determine whether the notice of motion will be dealt with administratively or be created into an agenda item, and presented to a Committee or Council.

6.2 Mr Attwood

When will the third quarter budget review be issued?

Chief Executive Officer advised that a summary of the significant changes will be provided to Council. The budget review is only required to be completed and presented to Council once annually, and that the third quarterly budget review will not be issued to the committee, due to the timing of the 2016/17 Budget.

After the recent rains, I have noticed a lot of potholes. Is there a current policy in place that states how often Town officers check the roads?

Chief Executive Officer advised that Town officers frequently check the condition of the Town's roads, and that if there are any specific locations of concern, Mr Attwood is encouraged to report the locations via the Town's website.

On Good Friday, I had noticed that the solar lights at Finucane Island boat ramp were damaged and not working. Does the Town have a policy to ensure that the Town's assets are checked regularly?

Chief Executive Officer advised that generally speaking, all of the Town's assets should be inspected.

Acting Director Corporate Services advised that two days after the issue was raised, a request for inspection was initiated and an electrician conducted an investigation, which revealed that due to the vandalism, it would be an insurance matter. The Town is sourcing the appropriate equipment and awaiting insurance approval.

Chief Executive Officer advised that when damage to assets are reported, the Town may look into placing a marker on the asset to inform the community that the damage has already been reported, similar to what is used on reported abandoned vehicles.

ITEM 7 DECLARATION BY MEMBERS TO HAVE GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPER PRESENTED BEFORE THE MEETING

Councillor Blanco	Mr Attwood
Councillor Newbery	Ms Pangahas
Councillor Whitwell	

ITEM 8 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

8.1 Confirmation of Minutes of the Audit, Risk and Governance Committee Meeting held on Tuesday 12 April 2016

201516/221 RECOMMENDATION/ AUDIT, RISK AND GOVERNANCE COMMITTEE DECISION

MOVED: CR WHITWELL

SECONDED: CR NEWBERY

That the Audit, Risk and Governance Committee confirm that the Minutes of the Audit, Risk and Governance Committee Meeting held on Tuesday 12 April 2016 are a true and correct record.

CARRIED 5/0

ITEM 9 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Presiding Member announced he will be leaving at 6:20pm due to having to attend another meeting.

ITEM 10 PETITIONS/ DEPUTATIONS/ PRESENTATIONS/ SUBMISSIONS

Nil.

Disclaimer

Members of the public are cautioned against taking any action on Committee decisions, on items on today's Agenda in which they may have an interest, until formal notification in writing by the Town has been received. Decisions made at this meeting can be revoked, pursuant to the Local Government Act 1995.

ITEM 11 REPORTS OF OFFICERS

11.1 Corporate Services

11.1.1 Notice of Motion 1 – Policy 1/015 ‘Audio Recording of Council and Committee Meetings’

Author: Grace Waugh, Coordinator Governance
Authorising Officer: Dale Stewart, Acting Director Corporate Services
File No. 13/06/0004

DISCLOSURE OF INTEREST BY OFFICER

Nil

CR BLANCO NOTICE OF MOTION

The Audit, Risk and Governance Committee recommend the Chief Executive Officer correct Policy 1/015 'Audio Recording of Council and Committee Meetings' and present to council for review and consideration.

Regardless of whether the Councillor Notice of Motion is moved, withdrawn, lost or carried, the following additional officer recommendation is proposed to give more immediate effect to the intent of the proposed motion.

201516/222 RECOMMENDATION/ AUDIT, RISK AND GOVERNANCE COMMITTEE DECISION

MOVED: MS PANGAHAS

SECONDED: CR BLANCO

That with respect to the notice of motion received by Councillor Blanco on policy 1/015 ‘Audio Recording of Council and Committee Meetings’, the Audit, Risk and Governance Committee note that the policy has been drafted to reflect the current Standing Orders Local Law 2014 and is proposed to be presented to Council at its Meeting of 25 May 2016.

CARRIED 5/0

EXECUTIVE SUMMARY

At the Audit, Risk and Governance Committee Meeting on Tuesday 12 April 2016 the Presiding Member, Councillor Blanco raised seven notice of motions. Each notice of motion has been considered by the Town and individual reports are being presented to the Committee on each motion. This report is on the first motion on policy 1/015 ‘Audio Recording of Council and Committee Meetings’ as outlined below:

“The Audit, Risk and Governance Committee recommend the Chief Executive Officer correct Policy 1/015 'Audio Recording of Council and Committee Meetings' and present to council for review and consideration.”

It is recommended that the Audit, Risk and Governance Committee note that the policy has been updated (attachment 2) and will be presented to the May 2016 Ordinary Council Meeting for consideration and recommended adoption.

DETAILED REPORT

Policy 1/015 'Audio Recordings of Council and Committee Meetings' was adopted at the 25 November 2012 Ordinary Council Meeting.

The Standing Orders Local Law at the time referred to section 20.3 which related to audio recordings of meetings. Since the policy was originally adopted the Standing Orders Local Law was reviewed and a new local law was adopted. The Standing Orders Local Law 2016 reflected the audio recording section under 6.16 however this wasn't updated in the Council policy.

The Standing Orders Local Law 2016 also includes a section under 6.17 that relates to mobile telephones not being switched on or used during Council or Committee Meetings which has also been included in the updated policy (attached 2).

It should be noted however that Policy 1/015 'Audio Recording of Council and Committee Meetings' is not presented to the Audit, Risk and Governance Committee for consideration and recommendation to Council as the policy is outside of the current Audit, Risk and Governance Committee's terms of reference.

Consultation

- Executive Leadership Team

FINANCIAL AND RISK IMPLICATIONS

There are no financial implications in the Council adopting this policy. The risk associated with this policy is if it isn't adopted the policy will be inconsistent with the Standing Orders Local Law however the local law will still prevail.

STATUTORY AND POLICY IMPLICATIONS

Sections 6.16 and 6.17(4) of the Town of Port Hedland Standing Orders Local Law 2016 applies to this policy as these are the relevant sections of the local law that discuss using visual and vocal devices to record meetings and having mobile telephones switched off and not used during meetings.

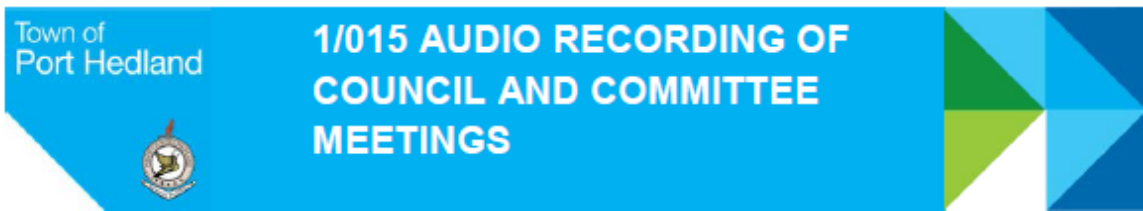
There are no provisions within the Local Government Act 1995 or associated Regulations in relation to recording Council or Committee Meetings.

Section 4.1 'Strategic and best practice local government administration' of the 2014-2024 Strategic Community Plan relates to this report as recording Council and Committee meetings assists with minute taking and also provides another record of the meeting.

ATTACHMENTS

1. Current policy 1/015 'Audio Recording of Council and Committee Meetings'
2. Amended policy 1/015 'Audio Recording of Council and Committee Meetings' to be recommended for adoption by Council

27 April 2016



1/015 AUDIO RECORDING OF COUNCIL AND COMMITTEE MEETINGS

Objective

The objective of this policy is to set out how audio recordings of Council and Committee meetings are created, stored, used, accessed and disposed of in accordance with legislative and policy requirements.

Policy

1. Purpose of Audio Recordings of Meetings

Audio recordings of Council and Committees meetings will be made for the purpose of:

- assisting in the preparation of minutes
- ensuring decisions are accurately recorded
- verifying the accuracy of minutes prior to their confirmation.

2. Public Notification of Recording of Meetings

Advice will be provided to the members of the public attending meetings that an audio recording of the meeting will be made and that their voice and details may be released to a third party other than people in the room. The wording of the advice will be as follows:

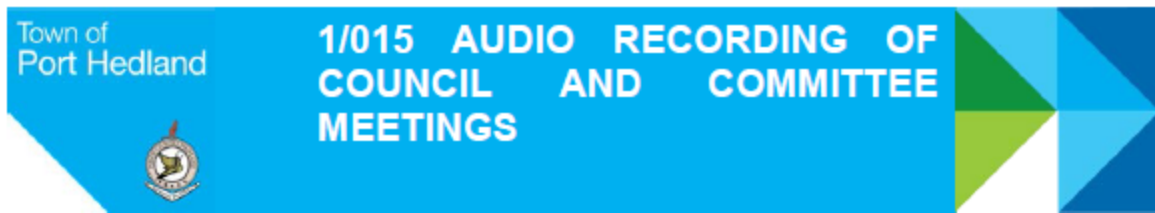
'This meeting is being recorded on audio tape as an additional record of the meeting and to assist with minute-taking purposes which may be released upon request to third parties. If you do not give permission for recording your participation please indicate this at the meeting. The public is also reminded that in accordance with Section 20.3 of the Town of Port Hedland Local Law on Standing Orders nobody shall 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 chairperson to do so'.

The advice will be displayed in the following manner:

- On the notice of agenda for meetings of Council, Electors and Committees
- On notices at the entry to the Council Chambers or place where meetings are held
- On paperwork associated with Public Question and Public Statement Time
- On the Town of Port Hedland website

Verbally by the Chairperson at the commencement of the ordinary, special and committee meeting of Council and Annual General Meeting of Electors

3. Storage of Recordings and requests for recordings



1/015 AUDIO RECORDING OF COUNCIL AND COMMITTEE MEETINGS

Policy Objective

The objective of this policy is to set out how audio recordings of Council and Committee meetings are created, stored, used, accessed and disposed of in accordance with legislative and policy requirements.

Policy Content

1. Purpose of Audio Recordings of Meetings

Audio recordings of Council and Committees meetings will be made for the purpose of:

- assisting in the preparation of minutes
- ensuring decisions are accurately recorded
- verifying the accuracy of minutes prior to their confirmation.

2. Public Notification of Recording of Meetings

Advice will be provided to the members of the public attending meetings that an audio recording of the meeting will be made and that their voice and details may be released to a third party other than people in the room. The wording of the advice will be as follows:

'This meeting is being recorded on audio tape as an additional record of the meeting and to assist with minute-taking purposes which may be released upon request to third parties. If you do not give permission for recording your participation please indicate this at the meeting. The public is ~~also~~ reminded that in accordance with Section 20-36.16 of the Town of Port Hedland Local Law on Standing Orders nobody shall 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 chairperson to do so. Members of the public are also reminded that in accordance with section 6.17(4) of the Town of Port Hedland Local Law on Standing Orders mobile telephones must be switched off and not used during the meeting.'

The advice will be displayed in the following manner:

- On the notice of agenda for meetings of Council, Electors and Committees
- On notices at the entry to the Council Chambers or place where meetings are held
- On paperwork associated with Public Question and Public Statement Time



- On the Town of Port Hedland website
- Verbally by the Chairperson at the commencement of the ordinary, special and committee meeting of Council and Annual General Meeting of Electors

3. *Storage of Recordings and requests for recordings*

Audio recordings of the entire meeting will be stored in accordance with State Records Act 2000 and General Disposal Authority (GDA) 2010.

Any request for audio recordings of Council or Committee meetings made available to members of the Council, or the public will be maintained in Council's records.

4. *Access to Recordings*

Council Members may obtain a copy of the recorded proceedings of the business of the Council or Committee Meeting, upon request to the Chief Executive Officer, free of charge.

Members of the public may access an audio recording of the Council or Committee Meeting that reflects the written record of the business of the meeting. This will exclude recording of discussion of items that are considered behind closed doors. Audio copies of Council and Committee Meetings available to the public will be provided on the Town's website together with the written record of that meeting, free of charge. This will be within 10 working days of the relevant Council or Committee meeting.

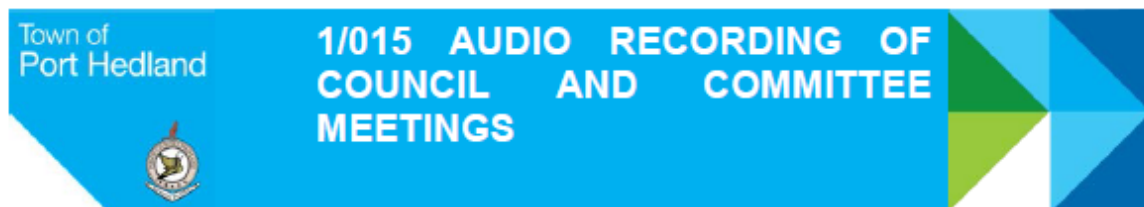
Costs of providing CD audio recordings of Council and Committee Meetings available to the public will be advertised in the Town's Schedule of Fees and Charges each year.

Definitions

Audio Recording

Means any recording made by any electronic device capable of recording sound. This includes but is not limited to recordings made by video camera, cassette recorder, or DAT recorder, and stored on compact disc (CD), Digital Audio Tape (DAT), or in any other format (such as WAV, MP3, etc).

This policy does not impinge on any person's access to public records under the Freedom of information Act.



Council Adoption Date and Resolution No.	OCM 28 November 2012 201213/189
Date of adoption of amendment and Resolution Number <i>Do not delete previous dates</i>	
Relevant Legislation	State Records Act 2000 General Disposal Authority (GDA) 2010 Local Government Act 1995 ToPH Local Law on Standing Orders
Delegated Authority	N/A
Business Unit	Corporate Information
Directorate	Corporate Services
Review Frequency	Annual

11.1.2 Notice of Motion 2 – Presentation of Accounts Paid

Author: Laura Delaney, Coordinator Financial Services
Authorising Officer: Dale Stewart, Acting Director Corporate Services
File No. 12/14/0003

DISCLOSURE OF INTEREST BY OFFICER

Nil

CR BLANCO NOTICE OF MOTION

The Audit Risk and Governance Committee recommend the Chief Executive Officer review the way the financial accounts are presented to the public, full disclosure by electronic means, the full list (or full invoice) of 'financial activity' with all associated attached comments by officers on any line item be included and easily accessible on the towns website. This needs to be done in a timely manner because of public concern.

Regardless of whether the Councillor Notice of Motion is moved, withdrawn, lost or carried, the following additional officer recommendation is proposed to give more immediate effect to the intent of the proposed motion.

201516/223 RECOMMENDATION/ AUDIT, RISK AND GOVERNANCE COMMITTEE DECISION

MOVED: CR NEWBERY

SECONDED: MR ATTWOOD

That the Audit, Risk and Governance Committee recommend to Council that the report which is provided to Council on a monthly basis detailing the list of payments be amended to include an additional column for the invoice amount, as displayed in the example below:

Reference Number	Date	Name	Description	Invoice Amount	Payment Amount
EFT00001	05/02/2016	XYZ Pty Ltd	Payment		230,000.00
INV 124	07/01/2016	XYZ Pty Ltd	Progress Payment Part 1 of Contract 123 as per Tender awarded at 01/01/15 Ordinary Council Meeting. Council Decision no. 123456	150,000.00	
INV 123	17/11/2015	XYZ Pty Ltd	Final Progress Payment Part 2 of Contract 123 as per Tender awarded at 01/01/15 Ordinary Council Meeting. Council Decision no. 123456	80,000.00	

CARRIED 5/0

EXECUTIVE SUMMARY

At the Audit, Risk and Governance Committee Meeting on Tuesday 12 April 2016 the Presiding Member, Councillor Blanco raised seven notice of motions. Each notice of motion has been considered by the Town and individual reports are being presented to the Committee on each motion. This report is on the second motion on the review of the presentation of the financial accounts as outlined below:

“The Audit Risk and Governance recommend the Chief Executive Officer review the way the financial accounts are presented to the public, full disclosure by electronic means, the full list (or full invoice) of ‘financial activity’ with all associated attached comments by officers on any line item be included and easily accessible on the towns website. This needs to be done in a timely manner because of public concern.”

It is recommended that the Audit, Risk and Governance Committee note the Officers recommendation to include an additional column for the invoice amount.

DETAILED REPORT

Regulation 13(1) Local Government (Financial Management) Regulations 1996 requires the Town to prepare each month a list of accounts paid which includes the following:

- (a) the payee’s name;
- (b) the amount of the payment; and
- (c) the date of the payment; and
- (d) sufficient information to identify the transaction.

This motion was raised in response to recent public attention and criticism regarding the list of payments report relating to the month of September 2015. Since this time the Finance team has undertaken significant process improvement of the presentation accuracy of the payments made by the Town.

The payment listing report is a standard report generated from the Town’s Enterprise Management System, SynergySoft. The previous selections made to generate this report in a concise and time efficient manner would result in incomplete information being presented. In November 2015, the process changed to produce the report to ensure an increased level of information is provided. This removed the autonomy of this process and involves a greater time commitment by staff.

The payment listing is a report of what has already been processed and paid for the month. The procurement process requires that all Town of Port Hedland employees with purchasing authority to procure goods and services in line with the procurement policy (available on the Town’s website). Once the goods and/or services are received the invoice is provided to the Accounts Payable team for processing for payment. The Accounts Payable officers ensure that the procurement is in line with the Town’s Policies and that sufficient supporting evidence is provided (e.g. evidence of quotes, contract documentation, tender etc.) prior to processing for payment. The creditors’ payment run is then collated and reviewed by a Senior Finance team member. Once the review is complete

dual authorisation by authorised signatories is required to process the payments with the bank.

The Town Officers are always striving to improve processes and ensure that business is conducted in the most efficient manner. Therefore, the following change to the list of payments report is recommended:

- Include an additional column titled Invoice Amount to include each individual invoice detail

Reference Number	Date	Name	Description	Invoice Amount	Payment Amount
EFT00001	05/02/2016	XYZ Pty Ltd	Payment		230,000.00
INV 124	07/01/2016	XYZ Pty Ltd	Progress Payment Part 1 of Contract 123 as per Tender awarded at 01/01/15 Ordinary Council Meeting. Council Decision no. 123456	150,000.00	
INV 123	17/11/2015	XYZ Pty Ltd	Final Progress Payment Part 2 of Contract 123 as per Tender awarded at 01/01/15 Ordinary Council Meeting. Council Decision no. 123456	80,000.00	

An alternative would be to provide a copy of each invoice as an attachment to the report. This would result in a large administrative burden on officers and would require additional resourcing. However, this approach is not recommended and providing the full invoice on a case by case basis, to those that wished to view it, would be more cost effective. The Town of Port Hedland Corporate Services Directorate and Finance Team have an overriding objective of providing quality corporate governance; accountability; transparency and compliance and welcome any questions or queries on the comprehensive, yet for brevity, still summarised, list of transactions from not just elected members, but the public in general.

Consultation

- Manager Financial Services
- Director Corporate Services

FINANCIAL AND RISK IMPLICATIONS

There are no known major financial implications.

The risk associated with list of payments is that if it is not completed and presented in a timely manner then the regulation would not be satisfied, however if Officers do not review and amend the automatically generated report from the system then private and personal and, indeed, sometimes confidential information, would be displayed.

STATUTORY AND POLICY IMPLICATIONS

Regulation 13 of the *Local Government (Financial Management) Regulations 1996* requires the Town to prepare a list of accounts paid each month.

A review of treatment by a number of other local governments in WA indicates that the addition of a line or disclosure for each and every invoice would be a better but still reasonably practical approach to providing sufficient information to identify the transaction, in accordance with the legislation.

ATTACHMENTS

Nil

26 April 2016

6:04pm Dale Stewart, Acting Director Corporate Services, declared a financial interest in item '11.1.3 Notice of Motion 3 – Engagement of Mr D. Stewart' as the item relates to Mr Stewarts' short term contract.

Acting Director Corporate Services left the room.

11.1.3 Notice of Motion 3 - Engagement of Mr D. Stewart

Author: Nicholas Ross, Manager People & Culture

Authorising Officer: Dale Stewart, Acting Director Corporate Services

File No. 13/05/0002

DISCLOSURE OF INTEREST BY OFFICER

The author - Nil

The authorising officer declares a financial interest in that the report relates to conditions of his short term contract.

CR BLANCO NOTICE OF MOTION

The Audit Risk and Governance Committee request the information relating to the qualifications of the acting Director of Finance 'Dale Stuart' and how the qualifications presented in the interview led the Chief Executive Officer to believe that he is suitably qualified for such a key role at the Town. This information be presented to council for its consideration at the April Ordinary Council Meeting.

Given the Notice of Motion is not achievable given its lodgement and consideration by the Committee being held after the April Ordinary Council meeting, treatment via the following suggested Officer Recommendation is proposed.

RECOMMENDATION/ MOTION

MOVED: CR WHITWELL

SECONDED: MS PANGAHAS

That the Audit Risk and Governance Committee receive the report in relation to the qualifications and appointment process of the Acting Director of Corporate Services.

LOST 2/3

Record of votes

For	Against
Councillor Whitwell	Councillor Blanco
Ms Pangahas	Councillor Newbery
	Mr Attwood

MOTION

MOVED: CR BLANCO

That the Audit, Risk and Governance Committee recommend that council direct the CEO undertake recruitment of a permanent Director Corporate Services in accordance with the Local Government Act 1995 and associated regulations.

MOTION LAPSED FOR WANT OF A SECONDER

6:29pm Acting Director Corporate Services re-entered the room.

EXECUTIVE SUMMARY

At the Audit, Risk and Governance Committee Meeting on Tuesday 12 April 2016 the Presiding Member, Councillor Blanco raised seven notice of motions. Each notice of motion has been considered by the Town and individual reports are being presented to the Committee on each motion. This report is on the third motion on the Acting Director of Finance, Dale Stewart and how the qualifications presented in the interview led the CEO to believe that he is suitably qualified for such a key role at the Town, as outlined below:

“The Audit Risk and Governance request the information relating to the qualifications of the acting Director of Finance 'Dale Stuart' (sic) and how the qualifications presented in the interview led the CEO to believe that he is suitably qualified for such a key role at the Town. This information be presented to council for its consideration at the April OCM.”

It is recommended that the Audit, Risk and Governance Committee receive the report in relation to the qualifications and appointment process of the Acting Director of Corporate Services.

DETAILED REPORT

The Town of Port Hedland is currently recruiting for a permanent Director of Corporate Services (DSC) following the departure of Mr. Sid Jain. Mr. Dale Stewart has been engaged to assist with managing the Corporate Services directorate reporting to the CEO. Mr. Stewart, who commenced with the Town on 8 March 2016 is temporarily relieving in the Director role until a permanent appointment is made.

The initial contract of engagement was until the 8 April 2016, with having been extended for another month to the 6 May 2016. With the recent decision of the CEO to re-advertise the position, at the date of writing this report, the CEO has commenced discussions with the Mr Stewart regarding a further extension until such time as the commencement of a permanent replacement or the 31 August 2016, whichever is the earlier.

Mr. Stewart has extensive local government experience having worked in the industry in WA for more than 30 years. Mr. Stewart's experience includes 12 years as a CEO in two local authorities and 10 years as a Deputy CEO/ Director of Finance in two local authorities (see attached CV).

Mr. Stewart was engaged by the CEO to temporarily act in the DCS position after Mr. Stewart had commenced advertising his services. Mr. Stewart's strengths in finance, strategic planning and governance at the executive level confirmed his suitability to provide short-term support and relief.

Consultation

- Acting Director Corporate Services

FINANCIAL AND RISK IMPLICATIONS

The risks associated with the temporary appointment relate to ensuring that the Town is able to provide continuity of executive oversight of the financial and governance functions of the Town to a satisfactory and expected minimum level.

STATUTORY AND POLICY IMPLICATIONS

The Local Government Act 1995 (Section 5.39) outlines the conditions to appoint officers to roles designated as senior officers. This includes appointment to senior officer roles and the length of tenure allowable under the Act (noting that an acting or temporary position cannot be for a term exceeding one year pursuant to Section 5.39(1)(a)).

Section 5.37 states further that the CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), as is the case in this circumstance (being a tenure less than 12 months).

ATTACHMENTS

Provided to Committee Members under separate cover due to it relating to the personal and private details of an individual.

1. Mr D. Stewart – CV (Confidential – Under Separate Cover)

29 May 2016

11.1.4 Notice of Motion 5 – Foreshadowed Motions’ Outcome

Author: Anna Duffield, Manager Corporate Information
Authorising Officer: Dale Stewart, Acting Director Corporate Services
File No. 13/05/0003

DISCLOSURE OF INTEREST BY OFFICER

Nil

CR BLANCO NOTICE OF MOTION

The Audit, Risk and Governance Committee request the Chief Executive Officer provide an explanation as to ‘how or why, 5 previous motions here not presented in the Audit, Risk and Governance agenda and the compliance with Standing Order 5.4(4)(a).

Regardless of whether the Councillor Notice of Motion is moved, withdrawn, lost or carried, the following additional officer recommendation is proposed to give more immediate effect to the intent of the proposed motion.

201516/224 RECOMMENDATION/ AUDIT, RISK AND GOVERNANCE COMMITTEE DECISION

MOVED: CR WHITWELL

SECONDED: MS PANGAHAS

That, with respect to the notice of motion received by Councillor Blanco regarding the outcome of previously foreshadowed motions, the Audit, Risk and Governance Committee note the explanation provided by the Chief Executive Officer in an email dated 22 February 2016, which outlined why the motions raised at the 9 February 2016 Audit, Risk and Governance Committee Meeting were not included in the agenda for the March 2016 Audit, Risk and Governance Committee Meeting.

CARRIED 5/0

EXECUTIVE SUMMARY

At the Audit, Risk and Governance Committee Meeting on Tuesday 12 April 2016 the Presiding Member, Councillor Blanco raised seven notice of motions. Each notice of motion has been considered by the Town and individual reports are being presented to the Committee on each motion. This report is on the fifth motion on the outcome of previously foreshadowed motions as outlined below:

“The Audit Risk and Governance requests the CEO provide an explanation as to ‘how or why’ 5 previous foreshadowed motions were not presented in the ‘Audit Risk and Governance’ agenda and the compliance with standing order 5.4(4)(a).”

It is recommended that the Audit, Risk and Governance Committee note the explanation provided by the Chief Executive Officer in an email dated 22 February 2016, which outlined why the motions raised at the 9 February 2016 Audit, Risk and Governance Committee Meeting were not included in the agenda for the March 2016 Audit, Risk and Governance Committee Meeting.

DETAILED REPORT

At its 9 February 2016 meeting, the Presiding Member Cr Blanco put forward five motions to be considered at the next Audit, Risk and Governance Committee Meeting. These motions are outlined below:

- Motion 1 - That the Audit, Risk and Governance Committee request the Chief Executive Officer organise a workshop on the audits and reports presented to the Audit, Risk and Governance committee with the auditor as soon as practical.
- Motion 2 - That the Audit, Risk and Governance Committee request the Chief Executive Officer engage the Auditor General of WA to perform an audit of the Town of Port Hedland's procurement arrangements as allowed under the Auditor General Act 2006 and request that the Auditor General of WA report all findings directly to the Audit, Risk and Governance Committee.
- Motion 3 - That the Audit, Risk and Governance Committee request the Chief Executive Officer to develop a Long Term Financial Plan which considers financial risks and conforms with statutory limits set out by section 6.34 of the Local Government Act 1995.
- Motion 4 - That the Audit, Risk and Governance Committee request the Chief Executive Officer provide all records of internal control weakness identified in all internal and external audits and minutes of Executive Leadership Team meetings to the Audit, Risk and Governance Committee for its consideration and review.
- Motion 5 - That the Audit, Risk and Governance Committee request the Chief Executive Officer provide a copy of the recently adopted risk framework and inform the Audit, Risk and Governance Committee of all required actions, listed in priority, with a clear timeline, that anticipates completion dates.

As per the requirements of the Town of Port Hedland's Standing Orders local law, the Chief Executive Officer assessed the motions and subsequently advised the Presiding Member and committee members of how each motion would be addressed. Correspondence to this effect (attached) was distributed on 22 February 2016 date. The outcomes are noted below.

Motion 1

A workshop between the auditors and ARG members was held on Wednesday 20 April 2016. The CEO noted that this was a request to the Administration rather than a motion for the ARG/Council to vote upon. As such it was excluded from the ARG agenda as it did not warrant a report from the Administration.

Motion 2

The Town contacted the Office of the Auditor General to understand their capacity to undertake an audit of the Town's procurement arrangements. The Office of the Auditor General advised that unless mandated by state government through legislation the Auditor General's office have no remits in the local government sector and no power to complete audits on request or on an adhoc basis.

Similar to motion 1, the CEO noted that this was a request to the Administration rather than a motion for the ARG/Council to vote upon, and as such it was excluded from the agenda. It should be noted that the Town has engaged a specialist risk analyst who has undertaken an extensive probity review into the Town's procurement activities. This review was workshopped with the ARG on 16 March 2016 and is being formally presented at this Audit, Risk and Governance Committee Meeting.

Motion 3

While the Town has a Long Term Financial Plan which was endorsed by Council in 2014, the economic climate has changed significantly.

The Town is developing its 2016/17 budget and as part of these deliberations has been hosting a number of workshops with Elected Members about its rating strategy, fees and charges and levels of service. The outcome from these workshops and budget deliberations will go to inform the Town's updated Long Term Financial Plan. It is anticipated that the plan will be presented to ARG in the coming months.

The CEO noted that as the process was already under way, it was determined that a formal report on this matter was not warranted, and as such was excluded from the agenda.

Motion 4

The requested information was included in the 9 February 2016 agenda (item 11.1.2 'Local Government Audit Framework and Audit Work Plan'). The item was lost to the vote, however it was represented to the 8 March 2016 meeting and endorsed (decision 201516/022) and subsequently endorsed by Council at its 23 March 2016 (decision 201516/203) meeting. As part of this consideration, it was endorsed that an internal audit function will be established. The function will go towards the identification and investigation of internal controls weaknesses, and most importantly it will assist the organisation in ensuring that all future controls are appropriate and robust.

The request of minutes from the Executive Leadership Team was excluded as these are documents of an administrative nature which are not intended to inform the decision making process of Council or Committee meetings.

Motion 5

At its April 2016 meeting, the ARG endorsed the adoption of Risk Assessment and Risk Matrix document, the inclusion of risk implications in agenda items, risks with ranking higher than 10 (high/extreme) be included in the Town's risk register, and that the ARG Charter now include a standing risk register item. This was ratified by Council at the 27 April Ordinary Council Meeting (201516/225).

Consultation

- Executive Leadership Team
- Manager Financial Services

FINANCIAL AND RISK IMPLICATIONS

There are no known major financial or risk implications with respect to this item.

STATUTORY AND POLICY IMPLICATIONS

Section 5.4 of the Town of Port Hedland Standing Orders Local Law 2016 applies as it details to process for 'motions of which previous notice has been given'.

The section notes that a member may raise business in the form of a motion and outlines how the Chief Executive Officer is to deal with the motions. In particular, section (4) states that the CEO:

- (a) may, with the concurrence of the Presiding member, exclude from the agenda paper any notice of motion deemed to be, or likely to involve, a breach of this local law or any other written law;*
- (b) will inform members on each occasion that a notice has been excluded and the reasons for that exclusion;*
- (c) may, after consultation with the member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form; and*
- (d) may provide to the council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.*

As noted above the CEO determined that the content of the motions was either of an administrative nature or had already been presented to the ARG Committee or were excluded for the reasons outlined.

Section 4.1 'Strategic and best practice local government administration' of the 2014-2024 Strategic Community Plan relates to this report as recording Council and Committee meetings assists with minute taking and also provides another record of the meeting.

ATTACHMENTS

1. Correspondence to ARG committee members, Monday 22 February 2016.

27 April 2016

ATTACHMENT 1 TO ITEM 11.1.4

From: Mal Osborne
Sent: Monday, 22 February 2016 4:18 PM
To: Mayor_and_Councillor
Cc: ron.attwood@outlook.com; nina pangahas; Executive Group
Subject: Audit Risk & Governance Committee Issues

Good afternoon Cr Blanco,

I am contacting you, Elected Members and ARG community members, in relation to the attached proposed motions which I understand you presented at the ARG Committee meeting last week.

I have assessed these proposed motions, and this is how I propose to handle them as per section 5.4 of the Town's Local Law on Standing Orders:

- Proposed Motion 1 – A workshop between the auditors and ARG members has been organised for the 25th February, 2016. I believe this to be a request to the Administration rather than a motion for the ARG/Council to vote upon, and as such I will exclude it from the next ARG agenda as it does not warrant a report from the Administration;
- Proposed Motion 2 – The Town is in the process of getting in touch with the Office of the Auditor General to understand the AG's capacity to undertake an audit of the Town's procurement arrangements. As above, I believe this to be a request to the Administration rather than a motion for the ARG/Council to vote upon, and as such I will exclude it from the next ARG agenda as it does not warrant a report from the Administration. The Committee however will be formally advised of the outcome of discussion with the AG's Office;
- Proposed Motion 3 – As Elected Members were advised at a Concept Forum on 27 January the Administration is currently developing the Long Term Financial Plan (LTFP) alongside the 16/17 budget. A budget timeline has been put together and run past Elected Members and a series of workshops with Elected Members will commence starting 24 February. It is considered that the outcome of these workshops on matters such as Rating, Fees & Charges, Levels of Service, etc, will go towards informing the LTFP which should be presented to the ARG in June/July 2016 before it is endorsed by Council. As this process is already under way, I don't believe that a formal report on this matter is warranted, and as such I will exclude it from the agenda. However I endeavour to keep the ARG Committee informed and updated at all times on the development of the LTFP, which will be drafted in accordance with the Local Government Act 1995 and associated Regulations;
- Proposed Motion 4 – This information has already been included as part of agenda item 11.1.2 'Local Government Audit Framework and Audit Work Plan' presented to the ARG Committee meeting of 9 February 2016. As explained in the item, an internal audit function is proposed. This will go towards the identification and investigation of internal controls weaknesses, and most importantly it will assist the organisation in ensuring that all future controls are appropriate and robust. From the Minutes of said meeting I note that this item was lost to the vote, however no other motions were moved to give the Administration direction in terms of what the ARG Committee's intentions are in relation to the Town's proposed Audit Framework. As such, this item will be represented to the 8 March ARG meeting, and will be expanded upon to include more detailed reference to internal control weaknesses identified in previous audits. However, I will exclude the request of minutes from the Executive Leadership Team, as these are documents of an administrative nature which are not intended to inform the decision making process of Council or Committee meetings.
- Proposed Motion 5 – This information has already been included as part of agenda item 11.1.2 'Local Government Audit Framework and Audit Work Plan' presented to the ARG Committee meeting of 9 February 2016. As explained in the item, a risk framework is being proposed. This includes actions, listed in priority, with a clear timeline. From the Minutes of said meeting I note that this item was lost to the vote, however no other motions were moved to give the Administration direction in terms of what the ARG Committee's intentions are in relation to the Town's proposed Risk Framework. As such, this item will be represented to the 8 March ARG meeting for consideration.

I trust this approach will go towards demonstrating to Elected Members and ARG members the strong commitment that the Town has towards implementing sound financial and audit practices.

I encourage all Members to continue engaging with the Administration to raise pertinent issues, and identify solutions in the audit, risk and governance areas.

To facilitate this process, more targeted training sessions, on top of those already provided for all Elected Members, will also be looked into and offered to all ARG members.

Should you have any further questions, please do not hesitate to contact me.

Kind regards,

Mal



Mal (M.J) Osborne
Chief Executive Officer
PO Box 41 Port Hedland WA 6721
Ph: (08) 9158 9315 Fax: (08) 9158 9399
Email: ceo@porthedland.wa.gov.au
Web: www.porthedland.wa.gov.au

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11.1.5 Notice of Motion 7 – Financial Delegation

Author: Grace Waugh, Coordinator Governance
Authorising Officer: Dale Stewart, Acting Director Corporate Services
File No. 13/06/0004

DISCLOSURE OF INTEREST BY OFFICER

Nil

CR BLANCO NOTICE OF MOTION

The Audit, Risk and Governance Committee requests the Chief Executive Officer to prepare and present a review on the delegated procurement financial register with the scaled reduction options from \$450,000 to \$100,000.

Regardless of whether the Councillor Notice of Motion is moved, withdrawn, lost or carried, the following additional officer recommendation is proposed to give more immediate effect to the intent of the proposed motion.

201516/225 RECOMMENDATION/ AUDIT, RISK AND GOVERNANCE COMMITTEE DECISION

MOVED: CR NEWBERY

SECONDED: MS PANGAHAS

That the Audit, Risk and Governance, in respect to the notice of motion received by Councillor Blanco relating to review of the Tender Delegation note that the entire Delegation Register is being submitted for Council consideration as part of a scheduled review at its Meeting of 25 May 2016.

CARRIED 5/0

EXECUTIVE SUMMARY

At the Audit, Risk and Governance Committee Meeting on Tuesday 12 April 2016 the Presiding Member, Councillor Blanco raised seven notice of motions. Each notice of motion has been considered by the Town and individual reports are being presented to the Committee on each motion. This report is on the seventh motion on the procurement delegation included in the current Delegation Register as outlined below:

“The Audit, Risk and Governance Committee requests the Chief Executive Officer to prepare and present a review on the delegated procurement financial register with the scaled reduction options from \$450,000 to \$100,000.”

It is recommended that the Audit, Risk and Governance Committee note that the annual review of the delegation register is being presented to the Council at its May 2016 meeting with a recommended tender acceptance threshold delegation to the Chief Executive Officer of \$150,000.

DETAILED REPORT

Councillor Blanco's notice of motion references the delegated procurement financial register and the reduction from \$450,000 to \$100,000. In the current delegation register the only delegation to the Chief Executive Officer is in relation to acceptance of tenders. The current delegation register includes a delegation under part 1.9(4) that allows the Chief Executive Officer to accept tenders under \$450,000 (exclusive of GST).

Notwithstanding the current tender acceptance delegation of \$450,000 the Chief Executive Officer made a commitment to Elected Members in December 2015 that he would not exercise this delegation and that all acceptance of tenders would be presented to Council for consideration.

Town officers are currently reviewing the delegation register as part of the review that is required each financial year under the Local Government Act 1995. As part of the delegation register review it is being proposed to set the tender acceptance delegation at \$150,000 (exclusive of GST) given the commitment by the Chief Executive Officer to Elected Members in December 2015. It is Council's discretion as to whether this amount is increased when the delegation register is presented to Council at the May 2016 Ordinary Meeting.

In October 2014 the requirement for when a local government is required to go out for tender under the Local Government (Functions and General) Regulations 1996 was amended. The threshold amount under section 11(1) of the Regulations was changed from \$100,000 to \$150,000.

The below table shows the number of tenders awarded in 2014/15 and 2015/16 (to date) by the Chief Executive Officer and Council in each price range.

Price Range	Number of Tender Awarded
\$100k - \$200k	2
\$200k - \$250k	1
\$250k - \$300k	3
\$300k - \$350k	1
\$350k - \$400k	2
\$400k - \$450k	3
\$450k - \$500k	2
\$500k +	8

The Delegation Register is not presented to the Audit, Risk and Governance Committee for consideration and recommendation to Council as it is outside the scope of the current terms of reference for the Committee.

In accordance with section 5.46 of the Local Government Act 1995 a delegator is to review the delegations made under the Act at least once every financial year. The Council is the delegator of all delegations contained within the Delegation Register.

Consultation

- Executive Leadership Team
- All Managers

FINANCIAL AND RISK IMPLICATIONS

There are no financial implications in the review of the delegation register however the Delegation Register does include financial delegations. There is a risk if the Council does not adopt a reviewed delegation register prior to the end of financial year as there will be noncompliance with section 5.46(2) of the Local Government Act 1995.

STATUTORY AND POLICY IMPLICATIONS

Section 5.46(2) of the Local Government Act 1995 states that the delegation register must be reviewed annually. The current Delegation Register was reviewed at the Ordinary Council Meeting on Wednesday 24 June 2015 therefore a review of the register is due prior the end of the 2015/16 financial year. The reviewed register is being presented to the Ordinary Council Meeting on Wednesday 25 May 2016.

In accordance with section 5.4 of the Standing Orders Local Law 2016 notice of motions provided by a member to the Chief Executive Officer at least seven clear working days prior to a meeting must be considered at the next meeting.

Section 4.1 'Strategic and best practice local government administration' of the 2014-2024 Strategic Community Plan relates as the review of the Delegation Register complies with the Local Government Act 1995 and provides good governance.

ATTACHMENTS

Nil

27 April 2016

6:38pm Presiding Member left the meeting. Deputy Presiding Member resumed the chair.

11.2 Office of the CEO

11.2.1 Notice of Motion 4 - Internal Audit Program - Probity Review of Town Of Port Hedland Procurement Activities for 2014/15 and 2015/16 Financial Years

Author: Peter Keane, Risk Analyst
Authorising Officer: Peter Kocian, Executive Officer
File No. 04/03/0002

DISCLOSURE OF INTEREST BY OFFICER

Nil

CR BLANCO NOTICE OF MOTION

The Audit Risk and Governance Committee requests all information (previously requested and not received) be provided for review, relating to the procurement investigation. The full report on procurement, Edwards Transport issues, Scoreboard issues and tender process, and any other report that has been requested.

Regardless of whether the Councillor Notice of Motion is moved, withdrawn, lost or carried, the following additional officer recommendation is proposed to give more immediate effect to the intent of the proposed motion.

201516/226 RECOMMENDATION/ AUDIT, RISK AND GOVERNANCE COMMITTEE DECISION

MOVED: MS PANGAHAS

SECONDED: CR NEWBERY

That the Audit, Risk and Governance Committee:

- 1. Receive the findings and recommendations resulting from the internal probity audit of Town of Port Hedland procurement activities for the 2014/15 and 2015/16 financial years, as fully detailed in attachment 1 titled 'Probity Review and Improvement Opportunities Report' as summarised in the body of the report.**
- 2. Receive the findings and recommendations resulting from the external probity audit reports prepared by Moore Stephens, as fully detailed in attachments 2 and 3 and as summarised in the body of the report.**

CARRIED 4/0

EXECUTIVE SUMMARY

At the Audit, Risk and Governance Committee Meeting on Tuesday 12 April 2016 the Presiding Member, Councillor Blanco raised seven notice of motions. Each notice of motion has been considered by the Town and individual reports are being presented to the Committee on each motion. This report is on the fourth motion regarding the report on the procurement investigation as outlined below:

“The Audit Risk and Governance Committee requests all information (previously requested and not received) be provided for review, relating to the procurement investigation. The full report on procurement, Edwards Transport issues, Scoreboard issues and tender process, and any other report that has been requested.”

It is recommended that the Audit, Risk and Governance Committee receive the internal procurement probity report and external reports received from Moore Stephens.

In February 2015, a Corruption and Crime Commission report was tabled by the Minister of Local Government in WA State Parliament, calling for greater oversight of procurement by WA local governments in order to combat “systemic weaknesses” identified in the sector.

The Town of Port Hedland (ToPH) initiated an internal probity audit in January 2016 of all procurement activities within the ToPH for all individual vendors with an annual spend greater than \$50,000 in the 2014/15 and 2015/16 financial years. This internal audit has been supplemented by two external reviews of matters that were identified for further investigation. These reports are provided to the Audit, Risk and Governance Committee under confidential cover.

DETAILED REPORT

A probity review has been undertaken on all expenditure to any single vendor of greater than \$50,000 for the financial years 14-15 and 15-16.

Based upon this probity review and associated findings, a number of improvement opportunities have been identified and recommendations prepared to realise these opportunities. These are summarised below:

Findings	Opportunities
No material breach of Regulatory or Legislative requirements	Implement better practice procurement, and develop procedures to not only comply with the regulatory regulation but to the intent of those regulations
Limited use of Contracts in purchasing goods and services	Revise Purchase orders to include standard terms and conditions and Include the initiation of formal contracts in all engagement with supplier
Purchase orders not being issued with requirement of	As per contract law, in the case of no definitive offer/acceptance between ToPH

goods and services, particularly legal services	& suppliers, no payment shall be made for goods or services provided
Tender variations meet the “immaterial” or 10% standard however are not in the spirit of the regulation nor best practice	Based upon original tender price, all tender variations which once accumulate to greater than 10%, and thereafter put to council for further approval
Scope of work are not accurate nor complete, potentially leading to variations or scope reduction	Ensure projects are scoped correctly and estimated fully prior to RFQ or tenders
Code Purchase orders correctly – not GST free	Two stage process of raising requisition & issuing of official purchase order
Sole Supplier criteria ambiguous	Incorporate an improved definition of “sole supplier” allowance in the policy
Labour hire contracts not complying to regulations	Ensure Labour hire contracts are either tendered or via Walga Preferred supplier
Retention of 5-10% of contract is not good procurement practice and disadvantages the contractor	Ensure adequate \$ value bank guarantees are requested for all contracts, and contract manage effectively
Still operating under expired Schedule of rate contracts	Whilst satisfactory in normal circumstances, may be able to obtain significantly improved rates from 3-4 years ago
Contracts providing goods at different rates for the same goods or services	Develop local panel suppliers with schedules of rates for standard or similar goods and services
High number of small(under \$1000) PO’s being raised for a number of ongoing suppliers	Implement different mechanisms for purchasing for small, high volume and “same” suppliers to reduce PO burden on the business
For Port Hedland the definition of “Local” as per Walga does not apply based upon high FIFO content	Develop RFQs, EOIs and Tenders to encourage local content or materially impacting the local economy, within regional price preference policy
Single quotes to Walga preferred suppliers	Incorporate a minimum of 2 quotes for Walga Panel purchasing
No ability to know the savings achieved from Walga Preferred supplier panel members	Ensure panel members include the discounts provided on all invoices
Procuring goods and services from suppliers in which these goods or services are not their core business	Implement improved supplier network, whereby suppliers are utilised to optimise their skills and pricing
Procuring goods on one project but utilising the goods elsewhere	Scope and Estimate all key projects correctly and with adequate detail; incorporate a robust project control process to identify where projects have not achieved scope or items purchased but not utilised on the particular project
Whilst there is no physical evidence of order splitting, there are patterns in the evidence	Ensure all officers are clearly aware of their accountabilities and responsibilities ;

which suggest order splitting may be occurring	implement centralised procurement ; implement supplier panels
Contracting strategies implemented which do not derive best value for money nor allow for ease of contract management	As a component of the project governance, incorporate Contracting Strategy review within the process
Executive putting forward “generic” statements to council for tender variations to remove the burden of procurement in a high “variations” situation	Scope and estimate projects effectively; remove ambiguity in internal procurement procedures to eliminate the potential for major overspend within ambiguous items within the regulations
Limited access to ongoing and original service contracts – even if available	One source of the truth – Synergy ; upload key documents for access at any time, ensure contracts are developed, approved and saved for ease of access
Contract terms not being included in RFQ or tenders	Ensure the contract terms under which each RFQ or tender are included in the specifications to ensure these conditions are allowed for in provision of any contractor’s proposal, thus reducing the potential risk of variations or future legal action
Current service and supply contracts not on hand	Develop a central contract register and ensure contracts are developed, approved by both parties and saved to the particular synergy records
Policy not being adhered to in the area of quotations; the internal correct forms have been filled in but a lack of evidence makes it suspicious	All reasonable effort must be made to adhere to the policy by all officers, if it can’t be, this must be approved by the relevant Director or CEO
Companies not registered at time of purchase	Process of approving suppliers needs to be adhered to every time
Purchase orders being raised as per delegation limits however anecdotal evidence that personnel are placing the position of their Manager with or without the Manager’s knowledge	Implement Purchasing Requisition system with automatic escalation for Purchase requisitions according to delegation authority. Train and reinforce the need to ensure Login’s of executive and managers are not handed to others within the organisation to undertake approvals. Incorporate authorisations against Budget GL
Key goods being supplied at market price rather than discounted pricing	Negotiate contracts or issue tender for supply of goods to obtain improved pricing
Utilising multiple suppliers for the same service	Tender goods and services to leverage volume purchase i.e./ tele-communications, security, road maintenance, civil construction

Purchase orders raised by positions with inadequate sub-delegation limits	Implement requisition system with security and authorisation escalations to remove the ability to authorise purchasing above delegation limits or not aligned to the accountable budget GL codes
Inadequate internal skills for project scoping, estimating and management, leading to scope reduction, higher costs, high level of variations and/or non-compliance of goods and services provided	Ensure adequately skilled personnel as assigned to projects or skills are acquired from external to bridge the gap or recruit purposefully and effectively
Some odd purchasing patterns, such as suppliers being utilised in one year but not the next year	Implement supplier panels through the legislated process
A number of instances of spend above budget to the +10% threshold but not beyond, especially in tender situations. Anecdotal evidence that contractors understand the budget set for a project by council resolution and have been able to freely push variations to that budget	Remove specific projects detail from within budget to restrict public access & thus potential for tendering to published "budget" or developing variations to align with published "budget".

As a result of the findings of the report, Moore Stephens were engaged to conduct an independent audit of procurement activities that were identified for further investigation. External advice was sought to ensure that the internal findings were both accurate and unbiased, in addition to seeking confirmation that the Town of Port Hedland had not breached the *Local Government Act 1995* of the *Local Government (Functions and General) Regulations 1996*.

Neither the internal probity audit nor the external reviews identified that the Town of Port Hedland materially breached the *Local Government Act 1995* or the *Local Government (Functions and General) Regulations 1996*. Neither was there evidence of misconduct or corrupt behaviour in relation to procurement activities.

The two reports from Moore Stephens concluded the following:

Report No. 1 - Dec 2015

Report Recommendation	Implemented & Planned Actions
The Town of Port Hedland consider the implementation of a centralised procurement process involving the use of a requisition system, supported by appropriate computer based control systems.	The implementation of Centralised Procurement is currently underway, inclusive of Synergy improvements to implement requisitions, electronic authorisation, record management and electronic receipting of goods &/or services
That Tender 15/15 not be awarded to any respondent.	Tender 15/15 not awarded, tender resubmitted on 22/4/16 with significant scope changes and risk

	analyst ensuring tender process being adhered to
Elected Members be offered access to training and/or a formal induction process that includes information in relation to the Code of Conduct and other Council Policies that relate to the procurement processes.	Ongoing elected member training, inclusive of induction training to newly elected members
Existing Senior Staff who are likely to be involved in the procurement process be required to undertake training in relation to their obligations to adhere to Council's Procurement Policy and the induction process for new Senior Staff include information in relation to the Council's Procurement Policy.	With the impending implementation of Centralised procurement, senior staff have been consulted on the new/amended policies. Stakeholder consultation will be ongoing and during the implementation procurement process and Synergy system training is planned for identified personnel across the organisation Have planned to incorporate Procurement training into the induction program
That documented internal controls be developed for the disposal of assets not covered by the requirements of Section 3.58 of the <i>Local Government Act 1995</i> .	Internal controls have been reviewed and updated to ensure compliance to the LG Act.

Report No. 2 – April 2016

Report Recommendation	Implemented & Planned Actions
The Town of Port Hedland consider the implementation of a centralised procurement process involving the use of a requisition system and supported by appropriate computer based controls.	The implementation of Centralised Procurement is currently underway, inclusive of Synergy improvements to implement requisitions, electronic authorisation, record management and electronic receipting of goods &/or services
That the Procurement Policy and Tender Policy be reviewed and amended.	The Procurement, Regional Pricing Preference, Tender and Tender evaluation Policies have been amended, created or rescinded, and will be presented to Council in May 2016 for approval
That a policy relating to use of panel contracts should be developed.	The Procurement Policy has been amended to meet regulatory requirements
Existing Senior Staff who are likely to be involved in the procurement process be required to undertake training in relation to their obligations to adhere to Council's Procurement Policy and the induction process for new Senior Staff include information	With the impending implementation of Centralised procurement, senior staff have been consulted on the new/amended policies. Stakeholder consultation will be ongoing and during the implementation procurement process and Synergy

<p>in relation to the Council's Procurement Policy.</p>	<p>system training is planned for identified personnel across the organisation Have planned to incorporate Procurement training into the induction program</p>
<p>That documented procedures be established to deal with minor variations to the terms of a proposed contract prior to entry into the contract.</p>	<p>As a component of Centralised procurement, the Procurement team will be responsible for all Procurement processes, and associated contracts and contract management to support all Project Managers, inclusive of the process of scope development and variation process management</p>
<p>That documented procedures be established to require a suitably qualified person to attest to the appropriateness of the standard of the associated works following formal completion.</p>	<p>Inclusive within the Implementation of the Project Governance framework, is the implementation of a risk management process in which a risk analysis is undertaken to identify key risks and mitigating actions to reduce project risks</p>
<p>That documented Policy or procedures be established to require an appropriate level of completion guarantees and defects retention/guarantees be in place at all times.</p>	<p>As a component of Centralised procurement, the Procurement team will be responsible for all Procurement processes, and associated contracts and contract management to support all Project Managers, inclusive of the establishment and management of robust and suitable contracts</p>
<p>That documented procedures be established to ensure the appropriate recording and reporting of contract retentions, guarantees and deposits held.</p>	<p>As a component of Centralised procurement, the Procurement team will be responsible for all Procurement processes, and associated contracts and contract management to support all Project Managers, inclusive of recordkeeping and reporting</p>
<p>That documented procedures be established to ensure risk assessments are undertaken and routinely updated for major projects.</p>	<p>Inclusive within the Implementation of the Project Governance framework, is the implementation of a risk management process in which a risk analysis is undertaken to identify key risks and mitigating actions to reduce project risks. Continued assessment is a component of this risk management process</p>

FINANCIAL AND RISK IMPLICATIONS

A result of the “Recommended Next Steps” within the Executive Summary of the internal Probity Review and Improvement Opportunities Report, there would be either a zero impact or decrease in the budget, as a result of both efficiencies in internal processes and savings associated with improved procurement practices and implementation of supplier panels in key procurement categories.

The risk implications associated with the recommended next steps would be to significantly reduce the current procurement and contractual risk profile associated with current ToPH policies and procedures.

STATUTORY AND POLICY IMPLICATIONS

The *Local Government (Functions and General) Regulations 1996* – Part 4 & 4A is relevant, which is applicable in the areas of Purchasing Goods and Services, Tendering and Regional Price Preference requirements.

2/007 Procurement Policy, 2/011 Tender Policy and 2/016 Regional Price Preference have a bearing on the matter under consideration.

ATTACHMENTS

1. Internal Audit Report – Probity Review and Improvement Opportunities Report (Confidential – Under Separate Cover)
2. External Audit Report (Moore Stephens) - Review of Procurement and Disposal Events (Confidential – Under Separate Cover)
3. External Audit Report (Moore Stephens) - Review of Selected Procurement Events (Confidential – Under Separate Cover)

22 March 2016

11.2.2 Notice of Motion 6 - Proposed Policies – Corporate Credit Card Policy, Fraud and Corruption Prevention Policy, Staff and Elected Member Whistleblower Policy, Community Consultation Policy

Author: Peter Kocian, Executive Officer
Authorising officer: Mal Osborne, Chief Executive Officer
File No. 12/01/0001

DISCLOSURE OF INTEREST BY OFFICER

Nil

CR BLANCO NOTICE OF MOTION

The Audit, Risk and Governance Committee requests that the Chief Executive Officer prepare the following Policies for Council to review, consider and send out to public consultation:

- **Corporate Credit Card Policy**
- **Fraud and Corruption Prevention Policy**
- **Staff and Elected Member Whistleblower Policy**
- **Community Consultation Policy**

Regardless of whether the Councillor Notice of Motion is moved, withdrawn, lost or carried, the following additional officer recommendation is proposed to give more immediate effect to the intent of the proposed motion.

201516/227 RECOMMENDATION/ AUDIT, RISK AND GOVERNANCE COMMITTEE DECISION

MOVED: CR WHITWELL

SECONDED: CR NEWBERY

That, with respect to the Notice of Motion (Motion Number 6) from the Audit, Risk and Governance Committee meeting of 12 April 2016, the Audit, Risk and Governance Committee:

1. **Receive the following draft Policies:**
 - **Corporate Credit Card Policy**
 - **Fraud and Corruption Prevention Policy**
 - **Staff and Elected Member Whistleblower Policy**
2. **Note the Town of Port Hedland has a Community Engagement Strategy (endorsed by Council in 2014) which will be reviewed, updated and converted into a strategic policy.**
3. **Agree to workshop the draft Policies during the month of May 2016 with Audit, Risk and Governance Committee Members and Elected Members with a view to recommending them to Council for consideration for advertising and undertaking community engagement on the matters.**

CARRIED 4/0

EXECUTIVE SUMMARY

At the Audit, Risk and Governance Committee Meeting on Tuesday 12 April 2016 the Presiding Member, Councillor Blanco raised seven notice of motions. Each notice of motion has been considered by the Town and individual reports are being presented to the Committee on each motion. This report is on the sixth motion on the preparation of a Corporate Credit Card Policy, a Fraud and Corruption Prevention Policy, a Staff and Elected Member Whistleblower Policy and a Community Consultation Policy as outlined below:

“The Audit, Risk and Governance Committee requests that the Chief Executive Officer prepare the following Policies for Council to review, consider and send out to public consultation:

- Corporate Credit Card Policy
- Fraud and Corruption Prevention Policy
- Staff and Elected Member Whistleblower Policy
- Community Consultation Policy.”

It is recommended that a workshop be held with members of the Audit, Risk and Governance Committee to review a number of draft policies (as per attached), with a view to presentation to Council for formal adoption at a later date.

DETAILED REPORT

At the Audit, Risk and Governance Committee meeting of 12 April 2016, various notice of motions were put including:

Motion 6

The Audit, Risk and Governance Committee requests that the Chief Executive Officer prepare the following Policies for Council to review, consider and send out to public consultation:

- *Corporate Credit Card Policy*
- *Fraud and Corruption Prevention Policy*
- *Staff and Elected Member Whistleblower Policy*
- *Community Consultation Policy*

Staff have prepared draft Policies as requested (see attachments to this report). It is recommended that a workshop be held with members of the Audit, Risk and Governance Committee to review these Policies prior to advertising for community consultation. Following the advertising period, it is envisaged that the Policies will be presented to Council for adoption including the consideration of any submissions received.

A brief summary of the proposed policies is provided below:

Corporate Credit Card Policy

Corporate Credit Cards deliver significant benefits to the Town of Port Hedland through improved administrative practices and more effective cash management.

Efficiency of operational activities is increased by reducing the cost, paperwork and time associated with purchasing goods and services.

The Town has an existing Credit Card Internal Operating Procedure (IOP).

The IOP has been converted into a Policy and sets out the guidelines and principles that need to be followed by the Credit Card holders at the Town of Port Hedland. The objective of this policy is to:

1. Provide a distinct framework to enable the use of Corporate Credit Cards;
2. Provide Corporate Credit Card holders precise and concise guidelines outlining its use; and
3. Minimise or eliminate the risk of fraud and misuse of the Corporate Credit Card.

The policy outlines:

- The use of corporate credit cards;
- Documentary evidence requirements;
- Business purpose justification;
- Approval processes of the expenses;
- Acquittal process of the corporate credit card expenses, including withholding payment or invoicing staff members for expenses private in nature or not properly supported or approved and required timeframes for reimbursements by the card holder.

Fraud and Corruption Prevention Policy

A number of local governments in Western Australia have adopted a Fraud and Corruption Prevention Policy. This Policy deals with the definitions of 'misconduct' and 'corruption'. Whilst crime and misconduct management of public authorities in Western Australia is governed by the *Corruption, Crime and Misconduct Act 2003*, a Policy Statement does provide a high level commitment that the Town of Port Hedland is committed to good governance and ethical behaviour as a key ingredient of responsible, effective and accountable local government.

It should be noted that the draft Policy is a statement document only and does not document internal procedures. The Chief Executive Officer is required by the *Corruption, Crime and Misconduct Act 2003* to notify the Corruption and Crime Commission (CCC) or the Public Sector Commission (PSC) in writing of any matter that they suspect, on reasonable grounds, concerns either serious or minor misconduct. The CCC has published *Guidelines for Notification of Serious Misconduct*.

Staff and Elected Member Whistleblower Policy

The Shire of Kalamunda developed a Staff and Elected Member Whistleblower Policy (among other Policies) following recommendations resulting from a forensic investigation in 2012. The objective of the Policy was to better enable staff members to anonymously and confidentially report alleged misconduct within the local government.

The draft Policy presented is based on the Shire of Kalamunda document. Similarly to the proposed Fraud and Corruption Prevention Policy, the requirements for reporting unethical or undesirable conduct (“misconduct”) is captured in the overarching legislation being the *Public Interest Disclosure Act 2003*.

The draft Policy (and accompanying procedures) affirm the Town of Port Hedland’s commitment to the aims and objectives of the *Public Interest Disclosure Act 2003*, the purpose of which is to facilitate the disclosure of information in the public interest, and to provide protection to those who make a disclosure or who are subject of a disclosure.

Community Consultation Policy

The Town aims to inform, involve and effectively engage with the local community in the preparation of strategies, plans and policies, the implementation of projects and the Town’s activities.

The Town has a community engagement strategy which demonstrates a clear commitment to actively engage the local community through best practice engagement methods. The strategy was endorsed by Council at its June 2014 meeting (decision 201415/006).

Community engagement is a regular and important part of the Town’s everyday services. The Community Engagement Strategy is based on the International Association for Public Participation (IAP2) principles and aims to:

- Provide a consistent approach across the Town’s departments as to how the Town and Elected Members engage with the local community
- Strengthen the partnership between the Town, government stakeholders, service providers, local organisations and the local community through ongoing community engagement
- Improve knowledge and skills of Town staff and to improve internal coordination
- Be proactive and open to innovative ways to consult with the whole of the community

Following consultation and workshopping with internal and external stakeholders, the strategy will be converted to a policy. It is anticipated that the policy will be completed by the end June 2016.

FINANCIAL AND RISK IMPLICATIONS

There will be very minor expenditure incurred in the advertising of the proposed Policies. Advertising expenses will be funded from the existing advertising budget (GL404287).

The core objectives of the proposed Policies are to establish strong governance principles and thereby mitigate risks for the Town of Port Hedland, whether they be financial, reputational or other.

STATUTORY AND POLICY IMPLICATIONS

Policies are determined by Council and may be amended or waived according to circumstance. This power is conveyed to Council in section 2.7 (2) (b) of the *Local Government Act 1995*.

Council Policies are developed if they will further the achievement of the Town of Port Hedland's strategic goals or contribute to the fulfilment of mandatory obligations. They are defined courses of action that should be followed in particular circumstances and are intended to give guidance to staff. They guide the discretionary part of Council's decision making and form an essential step in the delegation of Council's powers.

ATTACHMENTS

1. Corporate Credit Card Policy – Draft
2. Fraud and Corruption Prevention Policy – Draft
3. Staff and Elected Member Whistleblower Policy – Draft
4. Community Engagement Strategy (Under Separate Cover)

27 April 2016



1/024 CORPRATE CREDIT CARD POLICY

Policy Objective

Corporate Credit Cards deliver significant benefits to the Town of Port Hedland through improved administrative practices and more effective cash management. Efficiency of operational activities is increased by reducing the cost, paperwork and time associated with purchasing goods and services.

This policy sets out the guidelines and principles that need to be followed by the Credit Card holders at the Town of Port Hedland. The objective of this policy is to:

1. Provide a distinct framework to enable the use of Corporate Credit Cards;
2. Provide Corporate Credit Card holders precise and concise guidelines outlining its use; and
3. Minimise or eliminate the risk of fraud and misuse of the Corporate Credit Card.

Legislation

The following provisions of the *Local Government Act 1995* (the Act) and associated regulations impact on the use and control of corporate credit cards:

- Section 2.7(2) (a) and (b) of the Act requires the council to oversee the allocation of the local government's finances and resources and to determine the policies of the local government.
- Section 6.5(a) of the Act requires the Chief Executive Officer (CEO) to ensure that proper accounts and records of the transactions and affairs of the local government are kept in accordance with regulations.
- *Local Government (Financial Management) Regulation 11(1)(a)* requires local governments to develop procedures for the authorisation and payment of accounts to ensure that there is effective security and appropriate authorisations in place for the use of credit cards.

Guidelines for Credit Card Usage

- The card must be used for Council business expenditure only, within the limit assigned for the use of that card and within the approved budget;
- The card must not be used for personal use or personal transaction;
- The card must not be used for the withdrawal of cash through any facility, whether it is a Bank, ATM or EFTPOS facility;
- The card must not be used by officers other than the cardholder unless the cardholder has given prior written approval;
- The card must only be used for fuel purchases in instances where a Fuel Card facility is unavailable;
- The cardholder must retain all tax invoices and/or receipts and maintain any other records of their transactions to facilitate reconciliation and costing of transactions for that card;
- The cardholder must practice due diligence and strict care to maintain the security of their card, ensuring that it is kept in their possession at all times and not left in any place from which it may be taken;
- The card must be returned to the Manager Financial Services (or his/ her delegate), prior to periods of extended leave (any periods in excess of four weeks). The card must also be returned if the cardholder is reassigned to a new



position where the use is not required or where their employment is terminated with the Town of Port Hedland;

- Cards must not be used to purchase travel insurance and cardholders must not obtain personal rewards such as frequent flyer points or Woolworths rewards;
- The card shall not be used for payment of fines, for example a parking fine or a speeding offence which was incurred whilst on Town business;
- No "tips" shall be paid using a Corporate Credit Card; and
- The card shall not be used for purchases on trading websites (for example eBay, Gumtree etc)

Responsibilities

Cardholders

The individual cardholder is responsible for:

- The safe keeping of the card and the prompt reporting to their respective Manager and the Manager Financial Services (or his/ her delegate), - if the card is mislaid or stolen
- Ensuring that the card is only used within approved limits attributed to that particular purchase card and within approved budget
- Returning the card to the Manager Financial Services (or his/ her delegate), during periods of leave, upon transfer to a position not requiring a credit card or upon termination of employment with the Town of Port Hedland
- Registering all tax invoices, dockets and other supporting documentation in Synergy under their respective folder and maintain these documents in accordance to the Council procedures
- Completing the Credit Card reconciliation process to facilitate prompt costing and authorisation of credit card transactions with an accurate description of goods and services purchased
- Reporting any disputed transactions to their Manager and the Manager Financial Services (or his/ her delegate) to allow for prompt resolution of any errors or misuse; and
- Completion of the "Corporate Credit Card Acknowledgement and Conditions of Use" declaration form at the beginning of every Financial Year.

Managers, Directors and CEO are responsible for:

- The initial approval of applications for Credit Cards by employees within their area of responsibility;
- Ensuring that each employee is made aware of and understands their individual responsibility associated with holding a Credit Card; and
- Ensuring that all issues pertaining to disputed transactions are brought to the attention of the Manager Financial Services (or his/ her delegate).

Finance Department

The Manager Financial Services (or his/ her delegate) is responsible for

- Ensuring that the credit card register with National Australia Bank is maintained and accurate at all times;
- Safe custody of cards surrounded by employees during extended periods of leave; and



- Coordination of annual "Corporate Credit Card Acknowledgement and Conditions of Use" declarations.

Termination of Use

Once it has been established that the cardholder no longer requires a card, relevant steps as listed in the Corporate Credit Card IOP shall be followed. Payroll shall not release any termination payments until appropriate clearances in respect of a cardholder's card have been obtained from Manager Financial Services (or his/ her delegate)

Unauthorised Use

Unauthorised use means any instance of non-compliance with this policy, whether by the cardholder or another person and can involve:

- Unauthorised or inappropriate transactions made on a card; or
- Any other non-compliance with any direction or rules for card use, including use that, from the public perspective, has the potential to cause reputational risk to Council

Unauthorised use will be subject to disciplinary action including the requirement for reimbursement of the expense by the employee.

Definitions

Council Business Expenditure- bona fide business transactions that are required by a cardholder undertaking normal duties in the course of their employment with the Town of Port Hedland and would otherwise be undertaken by Purchase Order or petty cash

Corporate Credit Cards- will be a credit card identified by the words "Town of Port Hedland". The card will be personalised and issued to the user to provide a clear audit trail. The name of the card-holder is on the card.

Cardholder- is any officer of the Town of Port Hedland receiving authorisation to have a Corporate Credit Card issued in his or her name

Personal Use/ Personal transaction- any purchase intended for the personal benefit of the cardholder. Purchase of any items not normally provided to a staff member in the course of their employment with the Town of Port Hedland.

Council adoption date and resolution no.	
Date of adoption of amendment and resolution number do not delete the previous dates	
Relevant legislation	
Delegated authority	
Business unit	
Directorate	
Review frequency	

Town of
Port Hedland



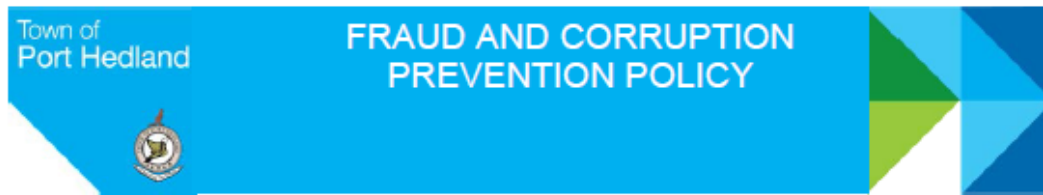
CORPORATE CREDIT CARD POLICY



Document Control Statement

The electronic reference copy of this Policy is maintained by the Governance Department. Any printed copy may not be up to date and you are advised to check the electronic copy at <http://intranet/> to ensure that you have the current version. Alternatively, you may contact the Governance Department.

DRAFT



1/024 FRAUD AND CORRUPTION PREVENTION

Policy Objective

The objectives of this Policy are to –

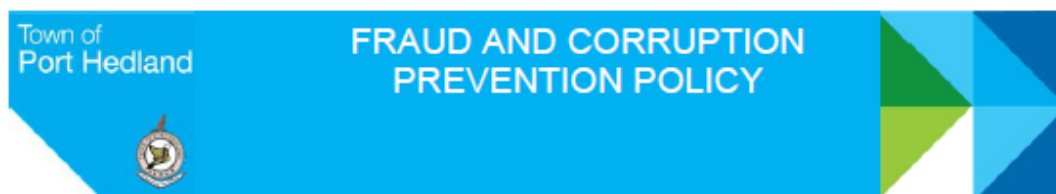
- Articulate that the Town of Port Hedland is intolerant of fraud and corruption;
- Prevent fraud or corruption occurring at the Town of Port Hedland.

Policy Scope

This policy applies to all Employees, Council Members, and Contractors' working for the Town of Port Hedland as fraud and corruption control is the responsibility of everyone in or associated with the Town.

Policy Content

1. The Town of Port Hedland is committed to good governance and ethical behaviour as a key ingredient of responsible, effective and accountable Local Government.
2. The Town of Port Hedland recognises that fraud and corruption is illegal and contrary to the Town's organisational values. In view of this, a proactive stance is taken to ensure incidences of fraudulent or corrupt activities or behaviours do not occur.
3. Whilst the Town aims to foster a culture which upholds trust and honesty as part of its core values, it is acknowledged that from time to time, instances of misconduct, corruption, fraud or dishonesty occur throughout the organization. As such, the Town will ensure that the effective prevention of fraud and corruption is an integral part of its operating activities.
4. All employees are accountable for and have a role to play in fraud and corruption prevention and control. The Town encourages employees to disclose actual or suspected fraudulent or corrupt activity, to the Chief Executive Officer (Complaints Officer).
5. If the suspected fraudulent or corrupt activity concerns the Chief Executive Officer, the matter is to be referred to a secondary Complaints Officer (a designated senior employee appointed as a Complaints Officer by Council), the Mayor, or the Corruption and Crime Commission.
6. When identified, any suspected fraudulent or corrupt activity will be promptly investigated, and where appropriate, legal remedies available under the law will be pursued. All alleged incidences will be thoroughly investigated. Wherever possible, the Town will protect the anonymity of those responsible



for reporting the activity. The matter will also be reported to the Corruption and Crime Commission.

7. The Town will ensure that systems and procedures are in place to prevent, detect, report and investigate incidents of fraudulent or corrupt behaviour or activities and will ensure that employees are made aware of their responsibilities in respect to the prevention, detection, reporting and investigation of fraudulent or corrupt behaviour.
8. The success of this policy will be determined by the employees and Council Members (where appropriate) at the Town of Port Hedland being aware of their responsibilities in relation to:
 - a. fraud and corruption prevention and control;
 - b. the identification of treatment and recording of fraud or corruption risks;
 - c. fraud or corruption auditing and detection processes;
 - d. reporting;
 - e. responsibilities; and
 - f. obligations and investigation procedures.

Definitions

For the purpose of this policy:

“Misconduct” shall have the same meaning as prescribed by the *Corruption and Crime Act 2003*.

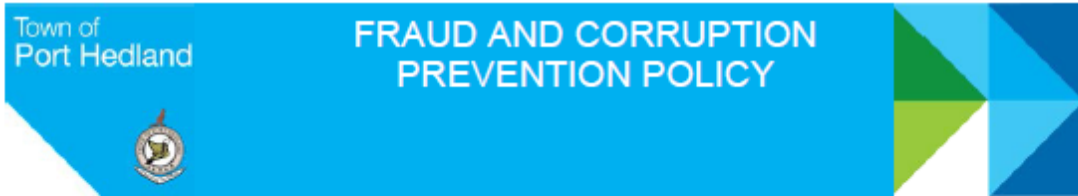
“Corruption” is defined as:

“An act done with an intent to give or receive some advantage or benefit inconsistent with official duty and the rights of others. It includes bribery.”

Australian Standard 8001–2003 defines fraud as:

‘dishonest activity causing actual or potential financial loss to any persons or entity including theft of moneys or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or for improper use of information or position.’

<i>Council adoption date and resolution no.</i>	
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<i>Date of adoption of amendment and resolution number do not delete the previous dates</i>	
<i>Relevant legislation</i>	<i>Corruption and Crime Act 2003</i>
<i>Delegated authority</i>	<i>Nil</i>
<i>Business unit</i>	<i>Office of CEO</i>
<i>Directorate</i>	<i>Office of CEO</i>
<i>Review frequency</i>	<i>Biennial</i>

Document Control Statement

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1/023 WHISTLEBLOWER (PUBLIC INTEREST DISCLOSURE) POLICY

Policy Objectives

To encourage employees, elected members, contractors and consultants to report unlawful unethical, or undesirable conduct ("Misconduct") that they genuinely believe has been committed by a person or persons in breach of the Town of Port Hedland's Code of Conduct, policies or the law.

To demonstrate the Town's commitment to a fair workplace and outline the process for managing matters of Misconduct.

To protect individuals who in good faith report conduct which they reasonably believe to be Misconduct, on a confidential basis, without fear of reprisal, dismissal or discriminatory treatment.

To assist in ensuring that matters of Misconduct and / or unethical behaviour are identified and dealt with appropriately.

To state the Town of Port Hedland's commitment to the aims and objectives of the *Public Interest Disclosure Act 2003*, the purpose of which is to facilitate the disclosure of information in the public interest, and to provide protection to those who make a disclosure or who are the subject of a disclosure.

Policy Content

The Town of Port Hedland ("the Town") is committed to the aims and objectives of the *Public Interest Disclosure Act 2003*. It recognises the value and importance of employees and others to enhance administrative and management practices, and strongly supports disclosures being made as to alleged Misconduct.

The Town will not tolerate Misconduct and has developed its Whistleblower Policy and Whistleblower Procedures to assist elected members, employees, contractors, consultants and members of the public to raise concerns through a constructive and safe process.

The Town will achieve this through the creation of an open working environment in which elected members, employees (whether they are full-time, part-time or casual), contractors and consultants, as well as members of the public, are able to raise concerns regarding actual or suspected Misconduct.

The Town recognises that any genuine commitment to detecting and preventing Misconduct must include a mechanism whereby employees and others can report their concerns freely and without fear of reprisal or intimidation. The Whistleblower Policy and Procedure ("the Policy") provides such a mechanism, and encourages the reporting of such conduct.



The Town will endeavour to provide protection to “Whistleblowers” from any detrimental action in reprisal for the making of a public interest disclosure.

The Town’s Code of Conduct (“the Code”) requires elected members and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As elected members and employees and representatives of the Town, everyone has a responsibility to practice honesty and integrity in fulfilling their responsibilities and to comply with all applicable laws and regulations.

All information, documents, records and reports relating to the investigation of reported Misconduct will be confidentially stored and retained in an appropriate and secure manner, in accordance with the *Public Disclosure Act 2003*.

Purpose

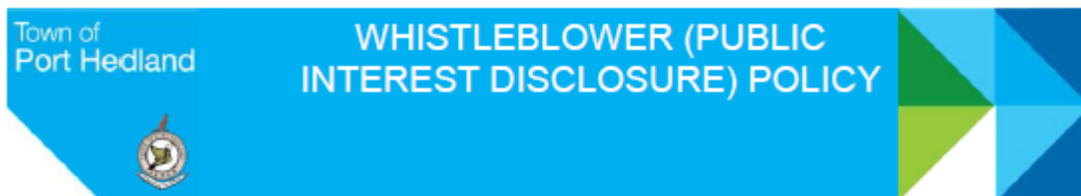
To encourage employees, elected members, contractors and consultants to report unlawful unethical, or undesirable conduct (“Misconduct”) that they genuinely believe has been committed by a person or persons in breach of the Town of Port Hedland’s Code of Conduct, policies or the law.

To demonstrate the Town’s commitment to a fair workplace and outline the process for managing matters of Misconduct.

To protect individuals who in good faith report conduct which they reasonably believe to be Misconduct, on a confidential basis, without fear of reprisal, dismissal or discriminatory treatment.

To assist in ensuring that matters of Misconduct and / or unethical behaviour are identified and dealt with appropriately.

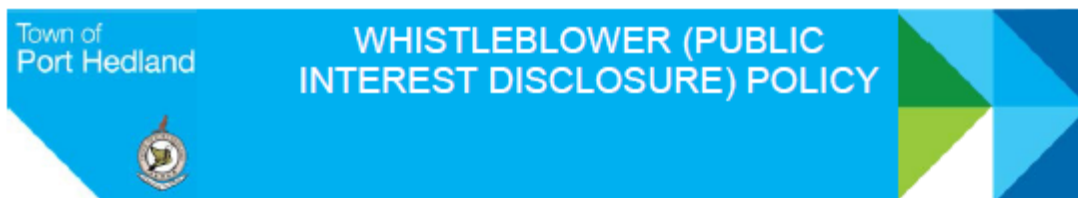
To state the Town of Port Hedland’s commitment to the aims and objectives of the *Public Interest Disclosure Act 2003*, the purpose of which is to facilitate the disclosure of information in the public interest, and to provide protection to those who make a disclosure or who are the subject of a disclosure.



Definitions

For the purposes of this Procedure, the definitions listed below apply.

Term	Definition
Investigation	A search of evidence connecting or tending to connect a person (either a natural person or a body corporate) with conduct that infringes the criminal law or the policies and standards set by the Town.
Misconduct	<p>A breach of the Town of Port Hedland’s Code of Conduct, policies or the law. Matters which should be reported under this Policy, whether actual or suspected may include:</p> <ul style="list-style-type: none"> • Dishonest, fraudulent, corrupt or unlawful conduct or practices. • Misleading or deceptive conduct, including conduct or representations which amount to improper or misleading accounting or financial reporting practices. <p>Conduct or any proposed conduct, bid, proposal, offer, contract, product or other aspect of the Town’s business that breaches the provisions of the Trades Practices Act 1974, all associated legislation in all States and Territories in Australia.</p> <ul style="list-style-type: none"> • Coercion, harassment or discrimination by, or affecting, any member of the Town or its affiliates. • A breach of Town policies or Code of Conduct. • Conduct within the Town’s control which is a significant danger to the environment. • Conduct endangering the health and safety of any person or persons which has been reported to management but not acted upon. • Any action taken against, or harm suffered by a person as a result of making a report under this Policy. • Any other conduct or act which may cause loss to the Town or which may otherwise be detrimental to its interests.



<p>Public Interest Disclosure Officer ("PID Officer")</p>	<p>A designated representative tasked with the responsibility of:</p> <ul style="list-style-type: none"> • Protecting and safeguarding the interests of Whistleblowers within the meaning of this Policy. • Conducting preliminary investigations into reports received from a whistle blower. <p>The PID Officer is to investigate the substance of the complaint to determine whether there is evidence in support of the matters raised or, alternatively, to refute the report made. The PID Officer will have access to independent financial, legal and operational advisers as required.</p> <p>The PID Officer is the Coordinator Governance.</p>
<p>Whistleblower</p>	<p>Any person who, whether anonymously or not, makes, attempts to make or wishes to make a report in connection with Misconduct and where the Whistleblower wishes to avail themselves of protection against reprisal for having made the report.</p>

Detail

Reporting Responsibility

It is the responsibility of all elected members and employees to comply with the Code and to report violations or suspected violations in accordance with the Whistleblower Policy.

Reporting Misconduct

If a person becomes aware of an issue or behaviour believed to constitute a breach of the Town's Code of Conduct, policies or the law, then the following reporting mechanisms are available.

Internal Reports

Whistleblowers may wish to discuss the matter informally with their direct manager or the Manager People and Culture first, to determine whether an incident of Misconduct has occurred. This is an opportune time to clarify the incident, ask questions and become familiar with the process. At all times, discussions will remain confidential.

Where this is not appropriate, or where the Whistleblower does not feel comfortable in doing so, or where the Whistleblower has previously done so and believes no



action has been taken, the Whistleblower may contact the Town's PID Officer directly to discuss the incident or complete a Misconduct Report Form ("MRF") and submit it to the PID Officer.

There are procedures in place for disclosures made under the protection of the PID Act – the PID Officer must determine whether the report is being made under that Act, and if so, ensure that the disclosure is treated appropriately and according to those procedures.

Refer to Attachment 1 for a sample MRF.

External Reports

It is the Town's aim to ensure that employees, elected members, contractors and consultants do not feel the need to discuss Town related concerns outside of the Town. However, nothing in this Policy should be interpreted as restricting an employee, elected member, contractor or consultant from raising issues or providing information to an external party, in accordance with any relevant law, regulation or prudential standard.

Therefore, a Whistleblower may report Misconduct (anonymously if preferred) to an external independent Whistleblower service. Depending on the type of Misconduct, this could include the Corruption and Crime Commission, Ombudsman, the Police or the Auditor General.

It may also be appropriate to report irregularities relating to accounting matters to the Town's Auditor.

Members of the public who wish to make a disclosure of public information, as defined in the Public Interest Disclosure (PID) Act, are to contact the PID Officer directly.

All reports under this Policy are treated very seriously and will be investigated appropriately.

Misconduct Involving the PID Officer

If the issue of Misconduct involves the actions of the PID Officer, then the reporting of such matters should be directly to the Chief Executive Officer.

Confidentiality

Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.



If the report is made under the PID Act, the confidentiality requirements in relation to information which might identify or tend to identify a discloser or a person in respect of whom a public interest disclosure has been made must be complied with at all times. The disclosure of this identifying information, except in accordance with the PID Act, is an offence.

Handling of Reported Violations

The Town's PID Officer is responsible for investigating and resolving (where possible) all reported complaints and allegations concerning violations of the Code, as well as disclosures made under the PID Act.

The Town's PID Officer has responsibility for protecting and safeguarding the interests of whistleblowers within the meaning of this Policy. The PID Officer will have access to independent financial, legal and operational advisers as required.

The PID Officer is the Coordinator Governance.

The PID Officer has direct access to the Audit, Risk and Governance Committee and is required to report to the Committee at least annually on compliance activity related to this Policy.

The PID Officer will notify the sender and acknowledge receipt of the reported violation or suspected violation within five business days. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.

Accounting and Auditing Matters

The Audit, Risk and Governance Committee shall address all reported concerns or complaints regarding corporate accounting practices, internal controls or auditing. The PID Officer shall immediately notify the Committee of any such complaint (within the constraints of any legislated confidentiality requirements) and work with the Committee until the matter is resolved.

Investigation

All reports of Misconduct will be treated seriously and be the subject of a thorough investigation with the objective of locating evidence that either substantiates or refutes the claims / allegations made by the Whistleblower. Investigations are to be undertaken by the PID Officer. The PID Officer will cause an investigation to be carried out, this may require referring the matter to another person or agency.



Following a report of Misconduct, either internally or externally, the following procedure is to be followed:

- The completed MRF is to be forwarded to the PID Officer.
- The PID Officer is to review the report and determine the appropriate manner of investigation, and then inform the Whistleblower of how the investigation will proceed.
- The PID Officer is to determine what resources are needed and secure access to those resources, including where necessary the assistance of other employees or external professional help (including lawyers, accountants, forensic analysts or operational experts).
- The PID Officer plans and conducts the investigation.
- The PID Officer is to consider process / control improvements (risk assessments, audits, etc).
- The PID Officer prepares an Investigation Report and forwards the Investigation Report to the Chief Executive Officer or Audit & Risk Committee.
- The PID Officer advises and debriefs the Whistleblower.

Reporting of Investigation Findings

At the end of the investigation, the PID Officer will report their findings to the Audit, Risk and Governance Committee who will, in conjunction with the Chief Executive Officer, determine the appropriate response. This report must take into account the confidentiality requirements of the PID Act.

This response will include addressing any unacceptable conduct and taking remedial action required to prevent any future occurrences of the same Misconduct. In the event of the Chief Executive Officer being the subject of an investigation or allegation, the Committee is to seek independent advice on possible corrective or remedial actions.

Where issues of discipline arise the response will be in line with the Town's Disciplinary Procedure. Where allegations of unacceptable conduct made against another person cannot be substantiated, that person will be advised accordingly and will be entitled to continue in their role as if the allegations had not been made.

Acting in Good Faith

Anyone filing a complaint concerning a violation or suspected violation of the Code must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation of the Code. Any allegations that prove



not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offence and in some cases may result in termination of employment.

Where a disclosure is made under the PID Act, the discloser is only protected if they believe on reasonable grounds that the information to be disclosed is or may be true. They will commit an offence, and lose the protection of the Act, if they know the information to be false or misleading in a material particular or are reckless about whether the information is false or misleading in a material particular.

False Misconduct Reports

Where it is established by the PID Officer that the Whistleblower is not acting in good faith, or has made a false report of Misconduct (including where the allegation has been made maliciously, vexatiously or without any basis), then he or she will be subjected to disciplinary proceedings, including the possibility of summary dismissal.

Whilst not intending to discourage Whistleblowers from reporting matters of genuine concern, Whistleblowers must ensure as far as possible, that reports are factually accurate, complete, from firsthand knowledge, presented in an unbiased fashion (and any possible perception of bias of the Whistleblower is disclosed), and without material omission.

Where the report has been made under the PID Act, the provisions in that Act relating to making false or misleading disclosures apply.

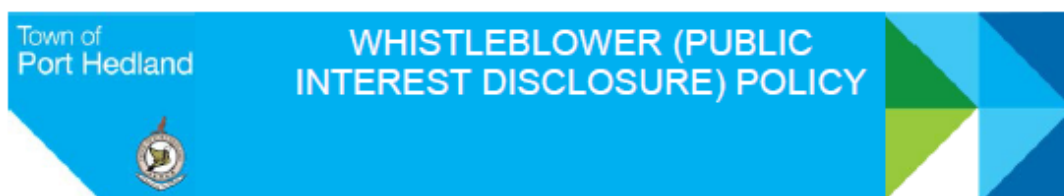
Whistleblower Anonymity

If requested, the identity of the Whistleblower will be kept strictly confidential unless:

- The person making the report consents to the disclosure.
- The disclosure is required by law.
- The disclosure is necessary to prevent or lessen a serious threat to a person's health or safety.
- It is necessary to protect or enforce The Town's legal rights or interests.
- It is necessary to defend any claims.

Whistleblower Protection

A Whistleblower who reports matters in good faith, and provided he or she has not been involved in the Misconduct reported, will not be penalised or personally disadvantaged because they have reported a matter. The Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns within the Organisation prior to seeking resolution outside the Organisation.



The Town will not tolerate any instances of legitimate Whistleblowers being:

- Dismissed.
- Demoted.
- Subjected to any form of harassment and persecution.
- Discriminated against.

A Whistleblower who believes he or she, or his or her family, has been the victim of any of the above by reason of their status as a Whistleblower, should immediately report the matter to the PID Officer. Where an incident of this nature occurs, the Town's Code of Conduct will apply, as well as the provisions of the PID Act.

Any employee, elected member, contractor or consultant who is found to have dismissed, demoted, harassed, or discriminated against a Whistleblower by reason of their status as a Whistleblower, may be subjected to disciplinary measures.

A Whistleblower who has been involved in the reported Misconduct may be provided with immunity or due consideration from Town initiated disciplinary proceedings by agreement, however, the Town has no power to provide immunity from criminal prosecution.

Where victimisation or reprisals are reported, a record of the report and the action taken must be placed on the file relating to the public interest disclosure. Steps taken to prevent acts of victimisation or reprisal should be recorded in a manner that they will be accessible for reference, should legal action be taken against the Town.

Feedback and Communication with the Whistleblower

Where possible, and assuming the identity of the Whistleblower is known, the Whistleblower will be kept informed of the outcome of the investigation of his or her report, subject to privacy and confidentiality considerations.

All Whistleblowers must maintain confidentiality of all such reports, and not disclose details to any person.

Council adoption date and resolution no.	
Date of adoption of amendment and resolution number do not delete the previous dates	
Relevant legislation	This policy has been drafted to comply with:



WHISTLEBLOWER (PUBLIC INTEREST DISCLOSURE) POLICY



	<ul style="list-style-type: none"> AS 8004–2003 (Whistle Blower Protection Programs for Entities) AS 8001–2008 (Fraud and Corruption Control). Public Interest Disclosure Act 2003 of Western Australia Corruption and Crime Commission Act 2003 Public Sector Commission Website
Delegated authority	Nil
Business unit	Corporate Information
Directorate	Corporate Services
Review frequency	The Whistleblower Policy and Procedures will be reviewed periodically by the Audit, Risk and Governance Committee. A report will be made to the Council on the outcome of each review and all recommended changes to the Policy.

Document Control Statement

*The electronic reference copy of this Policy is maintained by the **Governance Department**. Any printed copy may not be up to date and you are advised to check the electronic copy at <http://intranet/> to ensure that you have the current version. Alternatively, you may contact the Governance Department.*

11.2.3 Council Policies - Proposed Policies 2/007 'Purchasing Policy', 2/016 'Regional Price Preference Policy', 2/018 'Tender Evaluation Policy'

Author: Peter Keane, Risk Analyst
Authorising Officer: Peter Kocian, Executive Officer
File No. 04/03/0002

DISCLOSURE OF INTEREST BY OFFICER

Nil

201516/228 RECOMMENDATION/ AUDIT, RISK AND GOVERNANCE COMMITTEE DECISION

MOVED: MS PANGAHAS

SECONDED: CR NEWBERY

That, with respect to the proposed policies 2/007 'Purchasing', 2/016 'Regional Price Preference', 2/018 'Tender Evaluation', the Audit, Risk and Governance Committee:

1. Recommend that Council endorse the following draft Policies for public comment, noting that where a local government prepares a regional price preference policy, it is required to give statewide public notice of the intention to have a regional price preference policy pursuant to Regulation 24E of the *Local Government (Functions and General) Regulations 1996*:
 - 2/007 Purchasing Policy
 - 2/016 Regional Price Preference Policy
 - 2/018 Tender Evaluation Policy
2. Note that a discussion paper, as included as attachment 4 to this report, has been prepared on the potential application of regional price preference, and this will be made available to inform public consultation.
3. Request the Chief Executive Officer workshop the following draft Policies after the closure of public advertising, with a view of recommending the Policies to Council for adoption at a future Ordinary Council Meeting:
 - 2/007 Purchasing Policy
 - 2/016 Regional Price Preference Policy
 - 2/018 Tender Evaluation Policy

CARRIED 4/0

EXECUTIVE SUMMARY

To align the Purchasing Policy with recent changes to the *Local Government (Functions and General) Regulations 1996*, and in order to realise recommended potential improvement opportunities identified during the Probity review process, Town Officers are proposing that the Audit, Risk and Governance Committee receive the following draft Policies:

- 2/007 Purchasing Policy
- 2/016 Regional Price Preference Policy
- 2/018 Tender Evaluation Policy

DETAILED REPORT

An internal probity review has been undertaken on all expenditure to any single vendor of greater than \$50,000 for the financial years 14-15 and 15-16. Based upon this probity review and associated findings, a number of improvement opportunities have been identified and recommendations prepared to realise these opportunities. These recommendations have been further validated by a procurement audit completed by an external audit firm in Moore Stephens. Amongst other recommendations, Moore Stephens provided the following conclusions relevant to the suite of Policies being presented for consideration:

Report No. 1 - Dec 2015

Report Recommendation	Implemented & Planned Actions
Elected Members be offered access to training and/or a formal induction process that includes information in relation to the Code of Conduct and other Council Policies that relate to the procurement processes.	Ongoing elected member training, inclusive of induction training to newly elected members
Existing Senior Staff who are likely to be involved in the procurement process be required to undertake training in relation to their obligations to adhere to Council's Procurement Policy and the induction process for new Senior Staff include information in relation to the Council's Procurement Policy.	With the impending implementation of Centralised procurement, senior staff have been consulted on the new/amended policies. Stakeholder consultation will be ongoing and during the implementation procurement process and Synergy system training is planned for identified personnel across the organisation Have planned to incorporate Procurement training into the induction program

Report No. 2 – April 2016

Report Recommendation	Implemented & Planned Actions
That the Procurement Policy and Tender Policy be reviewed and amended.	The Purchasing, Regional Price Preference, Tender and Tender Evaluation Policies have been amended, created or rescinded, and

	will be presented to Council in June 2016 for approval
That a policy relating to use of panel contracts should be developed.	The Procurement Policy has been amended to meet regulatory requirements
Existing Senior Staff who are likely to be involved in the procurement process be required to undertake training in relation to their obligations to adhere to Council's Procurement Policy and the induction process for new Senior Staff include information in relation to the Council's Procurement Policy.	With the impending implementation of Centralised procurement, senior staff have been consulted on the new/amended policies. Stakeholder consultation will be ongoing and during the implementation procurement process and Synergy system training is planned for identified personnel across the organisation Have planned to incorporate Procurement training into the induction program

Changes to the *Local Government (Functions and General) Regulations 1996* have also necessitated for changes to be made to the Town's Purchasing Policy. Key changes to the Regulations are as follows:-

1. Tender threshold increase from \$100,000 to \$150,000;
2. Inclusion of supply panel establishment and operational requirements;
3. Addition of public tender exemption for Aboriginal Businesses and Disability Enterprises with a contract value of ≤\$250,000 goods and services supplied by a panel of pre-qualified suppliers;
4. Addition of supply panels in public tender exemption.

As a result, the following changes to policies are proposed:-

- The Purchasing and Regional Price Preference Policies have been amended to align with the current Regulations. The Purchasing Policy has been modelled upon the WALGA template which has been adopted/modified by the majority of WA Local Governments;
- A Tender Evaluation Policy has been created to provide improved guidance to Officers as to the processes after the submission of Tenders, and to also ensure better practice in the evaluation of tenders.

Consultation

The Town of Port Hedland held a community consultation session on 18th April 2016 with a total of 30 community members in attendance from 21 local businesses, and incorporated 10 of 12 potential supply panel categories.

Information provided during the consultation session was well received and provided an avenue for robust discussion, questioning and comment. Key discussion points were as follows:-

- Regional Local content inclusive of Karratha. Qualitative weighting to local suppliers

- Supply panels and questions on panel operations
- Supplier previously received ToPH business 13/14 & 14/15 but significant reduction in 15/16
- Suppliers not being considered for certain categories of spend ie/ stationary
- Aboriginal corporation based out of Karajini exceeds 400km radius from ToPH, and the question of inclusion in Regional Pricing Preference
- Comment that region should be restricted to 100km radius with business also required to be ratepayers.

FINANCIAL AND RISK IMPLICATIONS

There will be very minor expenditure incurred in the advertising of the proposed Policies. Advertising expenses will be funded from the existing advertising budget (GL404287).

The core objectives of the proposed Policies are to establish strong governance principles and thereby mitigate risks for the Town of Port Hedland, whether they be financial, reputational or other.

STATUTORY AND POLICY IMPLICATIONS

The Local Government (Functions and General) Regulations 1996 – Part 4 & 4A are relevant, which is applicable in the areas of Purchasing Goods and Services, Tendering and Regional Price Preference requirements.

2/007 Purchasing Policy, 2/016 Regional Price Preference Policy and 2/018 Tender Evaluation Policy are proposed. Policies are determined by Council and may be amended or waived according to circumstance. This power is conveyed to Council in section 2.7 (2) (b) of the *Local Government Act 1995*.

Council Policies are developed if they will further the achievement of the Town of Port Hedland's strategic goals or contribute to the fulfilment of mandatory obligations. They are defined courses of action that should be followed in particular circumstances and are intended to give guidance to staff. They guide the discretionary part of Council's decision making and form an essential step in the delegation of Council's powers.

It is a regulatory requirement (Regulation 24E of the Local Government (Functions and General) Regulations 1996) that the Regional Price Preference Policy be advertised in statewide paper for public comment for a period of 4 weeks. It is the proposed that the Town will advertise all draft policies to elicit public comment prior to seeking council approval, however the requirement is only for the Regional Price Preference Policy.

ATTACHMENTS

1. 2/007 Purchasing Policy – Draft (Under Separate Cover)
2. 2/016 Regional Pricing Preference Policy – Draft
3. 2/018 Tender Evaluation Policy – Draft
4. Regional Pricing Preference – ARG Discussion Paper

28 April 2016



2/016 REGIONAL PRICE PREFERENCE

1. Policy

A price preference will apply to all tenders and requests for proposals invited by the Town of Port Hedland for the supply of goods and services and construction (building) services unless Council resolves that this policy not apply to a particular procurement episode.

2. Objective

To maximise the use of competitive local business in the procurement of goods and services, supporting local business and industry and to encourage employment of local people thereby generating economic growth within the Town

3. Reference Documents

Local Government (Function and General) Regulations 1996
Purchasing Policy

4. Definitions

- *Goods*: includes tangible, quantifiable material requirements usually capable of being moved or transported that are purchased, rented, leased or hired by the Town.
- *Services or Provision of Services*: means any task, consultancy, work or advice to be performed or provided that is procured by the Town and includes services such as management consultancies, outsourcing, maintenance contract / agreement, cleaning, waste removal, equipment repairs, external auditors, utilities and services acquired by a private sector provider for the Town.
- *Construction (including works)*: performing any improvement on or over any areas of land, lake, river or ocean and any services related to that activity in the prescribed area, including the construction of buildings, housing and other public infrastructure as well as related services such as architectural, surveying, facilities management and general maintenance.

5. Regional Description

All business located within the municipal boundary of the Town of Port Hedland or a neighbouring municipality within a 500km radius of the ToPH Civic centre.



Policy 2/016 Regional Price Preference

6. Conditions

Regional Contractor / Supplier must fulfil the following conditions:

- a. Have had a permanent office and permanent staff in the prescribed area for at least 6 months before to bids being sought; and
- b. Be either registered or licensed in Western Australia; and
- c. Demonstrate a majority or all of the good or services are to be supplied from ToPH sources; or
- d. Businesses within neighbouring municipalities with reciprocal Regional Pricing Preference Policies which benefit ToPH businesses.

7. Application

When a regional price preference is applied to tenders and requests for proposals, in accordance with the Local Government (Functions and General) Regulations (1996) the following levels of preference will be applied:

1.1 Goods and Services to a maximum price reduction of \$50,000

A 10% price preference to an eligible business, contractor or supplier as defined in this policy.

1.2 Construction (building) services up to a maximum price reduction of \$50,000

A 5% price preference to an eligible business, contractor or supplier, as defined in this policy.

1.3 Competitive Tendering

A 10% price preference to an eligible business, contractor or supplier as defined in this policy, applies where the contract is for goods and services (including construction (building) services) up to a maximum price reduction of \$500,000, if the Town is seeking tenders for the provision of goods or services for the first time, due to those goods or services having been, until then, undertaken by the Town.

1.4 Application of the levels of preference in accordance with this Policy

The prices for goods and services submitted by an eligible business, contractor or supplier as defined in this policy may be either wholly supplied from within the prescribed area as the region or partly supplied from within the prescribed area as the region. However, only those goods or services supplied from within the prescribed area as the region will be included in the discounted calculations that form part of the assessment of a tender or proposal when this policy is in operation.

Adoption Date	OCM 28 August 2013 (201314/067)
---------------	---------------------------------

Town of
Port Hedland



Policy 2/016 Regional Price Preference



Date of adoption of amendment and Resolution Number <i>Do not delete previous dates</i>	
Relevant Legislation	Local Government Act 1995. Local Government (Functions and General) Regulations (1996).
Related Policy	2/007 Purchasing Policy
Delegated Authority	No
Business Unit	
Responsible Directorate	Corporate Services
Review Frequency	Annually

DRAFT



2/011 TENDER EVALUATION

1. Policy

Tender evaluation will apply to all tenders and requests for proposals invited by the Town of Port Hedland for the supply of goods and services and construction (building) services unless Council resolves that this policy not apply to a particular procurement episode.

2. Objective

To enable guidance to the Chief Executive Officer(CEO) in accordance with any available delegation to approve the use of suitable tender evaluation criteria prior to inviting of tender for discrete and identifiable budget items.

3. Principles

This policy is applicable based upon the following being addressed:-

A delegation is in place to enable the CEO to approve the tender evaluation criteria prior to any invite of tenders

- A discrete and identifiable budget is in existence for a product, supply & install or service at the time that tenders are invited
- The value of the tender is greater than \$150,000 or deemed to be suitable for the tendering process
- Internal controls relevant to tender management are not compromised
- Acceptance of the tender will be approved by council unless delegation exists to the CEO, under provisions of Sub-Delegation Register Section 1.9 Item 4

4. Reference Documents

Local Government (Function and General) Regulations 1996
 Purchasing Policy
 Regional Pricing Preference
 Delegation and Sub-Delegation register

5. Definitions

- *Goods*: includes tangible, quantifiable material requirements usually capable of being moved or transported that are purchased, rented, leased or hired by the Town.
- *Services or Provision of Services*: means any task, consultancy, work or advice to be performed or provided that is procured by the Town and includes services such as management consultancies, outsourcing, maintenance contract /



agreement, cleaning, waste removal, equipment repairs, external auditors, utilities and services acquired by a private sector provider for the Town.

- *Construction (including works):* performing any improvement on or over any areas of land, lake, river or ocean and any services related to that activity in the prescribed area, including the construction of buildings, housing and other public infrastructure as well as related services such as architectural, surveying, facilities management and general maintenance.
- *Technical:*

6. Roles and Responsibilities

The Requesting Officer shall ensure:-

- The appropriate process is followed as determined by existence of any budget allocation
- Where possible apply the evaluation principles appropriate to the tender being sought, as per this policy
- Complete and issue a report to the CEO for awarding the tender or issuing to the Council for tender award approval

The CEO shall ensure:-

- The policy will be adhered to in accordance with the appropriate delegations, Employee Code of Conduct and authorisations
- All budgeted project cost provision will be deemed confidential and not released to the public(when the item is disclosed in a publicly available report or detailed in the publicly available Annual Budget)
- A report is provided to Council as to results of tender evaluation process in the next available council meeting via resolution for consideration, unless the CEO has the appropriate delegated authority.

The Elected members shall ensure in keeping with the Elected members Code of Conduct, Elected members role with respect to tenders is limited to considering and approving the successful tender where a tender is not approved pursuant to delegated authority. In addition, the ToPH will ensure that all tenders and documentation, "Canvassing of Elected Members" will automatically disqualify the Tender.

7. Scope of Work

This must be relevant and specific detail to give the contracted tenderer a clear understanding of the nature and extent of the works required including timeframes and deliverables to complete the tendered works. Pricing by the tenderer can only be based upon the scope of works described in detail.



All scopes of work shall be estimated to within $\pm 10\%$ prior to the tendering process, to assist and support the effective and efficient tender evaluation process.

All scopes of work and estimates are required to be confirmed by the relevant Director &/or CEO prior to the invitation to tender.

8. Tender Evaluation

8.1 The CEO or that officer's delegate (as per the Sub-delegation register) will determine the criteria for tender acceptance prior to tenders being called, and be submitted along with all tender documentation for tender calling.

8.2 Tenders vary greatly in the nature of the activity, scope of work and pricing styles, therefore it is difficult to prescribe one single evaluation model to fit all circumstances.

In all cases, the criteria will be provided within the tender documentation, including the acceptable weighting range.

Goods

Table 1 relates to the suggested approach for the procurement of goods and applies to any goods or products purchased from suppliers:-

Criteria	Acceptable Weighting Range
Price	$\geq 50\%$
Quality	$\geq 10\%$
Capacity to deliver	$\geq 10\%$
Others as deemed appropriate	Up to 30%

This provides for a price weighting to be fixed between 50-80%, whilst still maintaining 20% weighting for quality and capacity to deliver, however, the CEO or that officer's delegate may authorise weightings outside this guide where circumstances warrant.

When determining the criteria, the sum of the weighting must equal 100%.



Supply & Install

Table 2 relates to the suggested approach for the procurement of supply and install tenders, whether it be civil supply & construction, equipment supply and install etc:-

Criteria	Acceptable Weighting Range
Price	≥30%
Relevant Experience	≥10%
Methodology	≥10%
Quality	≥10%
Capacity to deliver	≥10%
Others as deemed appropriate	Up to 30%

This provides for a price weighting to be fixed between 30-60%, whilst still maintaining 40% weighting for experience, methodology, quality and capacity to deliver, however, the CEO or the officer's delegate may authorise weightings outside this guide where circumstances warrant.

When determining the criteria, the sum of the weighting must equal 100%

Services

Table 3 relates to suggested approach for the procurement of services, whether it be consultancy, service and repair, labour services etc:-

Criteria	Acceptable Weighting Range
Price	≥40%
Relevant Experience	≥10%
Methodology	≥10%
Capacity to deliver	≥10%
Others as deemed appropriate	Up to 30%

This provides for a price weighting to be fixed between 40-70%, whilst still maintaining 30% weighting for experience, methodology, and capacity to deliver, however, the CEO or the officer's delegate may authorise weightings outside this guide where circumstances warrant.



When determining the criteria, the sum of the weighting must equal 100%

8.3 In the advent that the tender is of a technical nature and the technical content has significant importance in project execution, the evaluation shall be undertaken on the technical aspects of the tender in the first instance (without assessment of price). Due to the technical aspects, it may also be a requirement to conduct an independent evaluation via a suitably qualified third party.

Upon the completion of the technical evaluation, and only if there are multiple tenders similarly rated during the technical evaluation shall price be then included in the tender evaluation process

9. Tender Opening

9.1 The CEO or the officer's delegate (as per the Sub-delegation register) is responsible for keeping any tender submitted in safe custody and to ensure that it remains confidential

9.2 Tenders are not to be opened, examined or assessed until the time after tender submission, as per tender documentation and public advertising, after which further tenders will not be accepted

9.3 When tenders are opened:-

- at least two employees of the ToPH must be present
- members of the public are entitled to be present
- details of the tenders are to be immediately recorded in the tender register

10. Reporting

The Reporting officer will complete the "Agenda Item Template" for reporting to next ordinary Council meeting after the tender is awarded. The CEO will then ensure the report is furnished at the next ordinary Council meeting.

11. Consequences

This Policy represents the formal policy and expected standards of the Town of Port Hedland. Appropriate approvals need to be obtained prior to any deviation from this policy. Employees and Elected Members have an obligation under the Council's



Code of Conduct to give full effect to the lawful policies, decisions and practices of the Town.

Adoption Date	OCM 8 June 2011
Date of adoption of amendment and Resolution Number <i>Do not delete previous dates</i>	OCM 28 August 2013 (201213/067)
Relevant Legislation	Local Government Act 1995. Local Government (Functions and General) Regulations (1996).
Related Policy	Town of Port Hedland Procurement Policy 2/007
Delegated Authority	
Business Unit	
Directorate	Corporate Services
Review Frequency	Annually

DRAFT

Regional Pricing Preference - ARG Discussion Paper

Regulatory Requirements

Local Government(Function & General) Regulations 1996 states the following

24B Terms used

Regional tenderer means a supplier of goods or services who satisfies the criteria in subregulation(2)

(2) A supplier of goods or services who submits a tender is regarded as being a regional tenderer for the purpose of this Part if-

- a. That supplier has been operating a business continuously out of premises in the appropriate region for at least 6 months before the time after which further tenders cannot be submitted;or*
- b. Some or all of the goods or services are to be supplied from regional sources.*

24D. Discount permitted for regional pricing preference

(1) A preference may be given to a regional tenderer by assessing the tender from that regional tenderer as if the pricing bids were reduced by-

- a. Up to 10% - where the contract is for goods or services up to a maximum price reduction of \$50,000*
- b. Up to 5% - where the contract is for construction(building) services, up to a maximum price reduction of \$50,000*
- c. Up to 10% - where the contract is for goods or services(including construction(building) services), up to a maximum price reduction of \$500,000, if the local government is seeking tenders for the provision of those goods or services for the first time, due to those goods or services having been, until now, undertaken by the local government*

Current Council "Regional" & Pricing Preference Definition

Town of Port Hedland(ToPH)

Regional Definition

Regional Contractor must fulfil the following conditions:-

- a. Have had a permanent office and permanent staff in the prescribed area for at least 6 months before bids being sought;
- b. Be either registered or licensed in WA
- c. Demonstrate a majority or all goods or services are to be supplied from regional sources; and
- d. If not located within the municipal boundary of the Town of Port Hedland, be located in or source goods and services within the municipal boundary of the local government within the Pilbara with a reciprocal Price preference Policy under which business within the town of Port Hedland may receive consideration under.

Pricing Preference

Goods and Services to a maximum price reduction of \$50,000 - A 10% price preference to an eligible business, contractor or supplier as defined in this policy.

Construction (building) services up to a maximum price reduction of \$50,000 - A 5% price preference to an eligible business, contractor or supplier, as defined in this policy.

Competitive Tendering - A 10% price preference to an eligible business, contractor or supplier as defined in this policy, applies where the contract is for goods and services (including construction (building) services) up to a maximum price reduction of \$500,000, if the Town is seeking tenders for the provision of goods or services for the first time, due to those goods or services having been, until then, undertaken by the Town.

City of Karratha

Regional Definition

A supplier that has been operating a business continuously out of premises within the City of Karratha for at least six (6) months and submits a tender for the supply of goods and/or services

Pricing Preference

- a. 10% (up to a maximum price reduction of \$50,000) for goods &/or services
- b. 5% (up to a maximum price reduction of \$50,000) for construction(building) services
- c. 10% (up to a maximum price reduction of \$500,000) for goods or services(including construction(building) services), , if tenders are being sought for the first time for goods or services currently undertaken by Council

City of East Pilbara

Regional Definition

Pricing Preference

Shire of Broome

Regional Definition

Where practical, the Shire of Broome shall seek to support business and industry within the Shire. The Shire of Broome will ensure that business and industry within the Shire have every opportunity to bid for and where competitive, supply the required needs. As part of considering the value for money decision, the benefits of purchasing goods and services from local suppliers shall be considered.

Pricing Preference

A preference of 5% to a maximum of \$25,000 per annum per supplier capped at \$50,000 for the term of the contract will be given to suppliers trading continuously for at least six (6) months prior to the closing date of tenders or quotations sought from a recognised business address within the Shire of Broome or Kimberley Region.

Note:-

City of Karratha - no reciprocal RPP Policy

City of East Pilbara -

Shire of Broome - no reciprocal RPP Policy

Potential Options

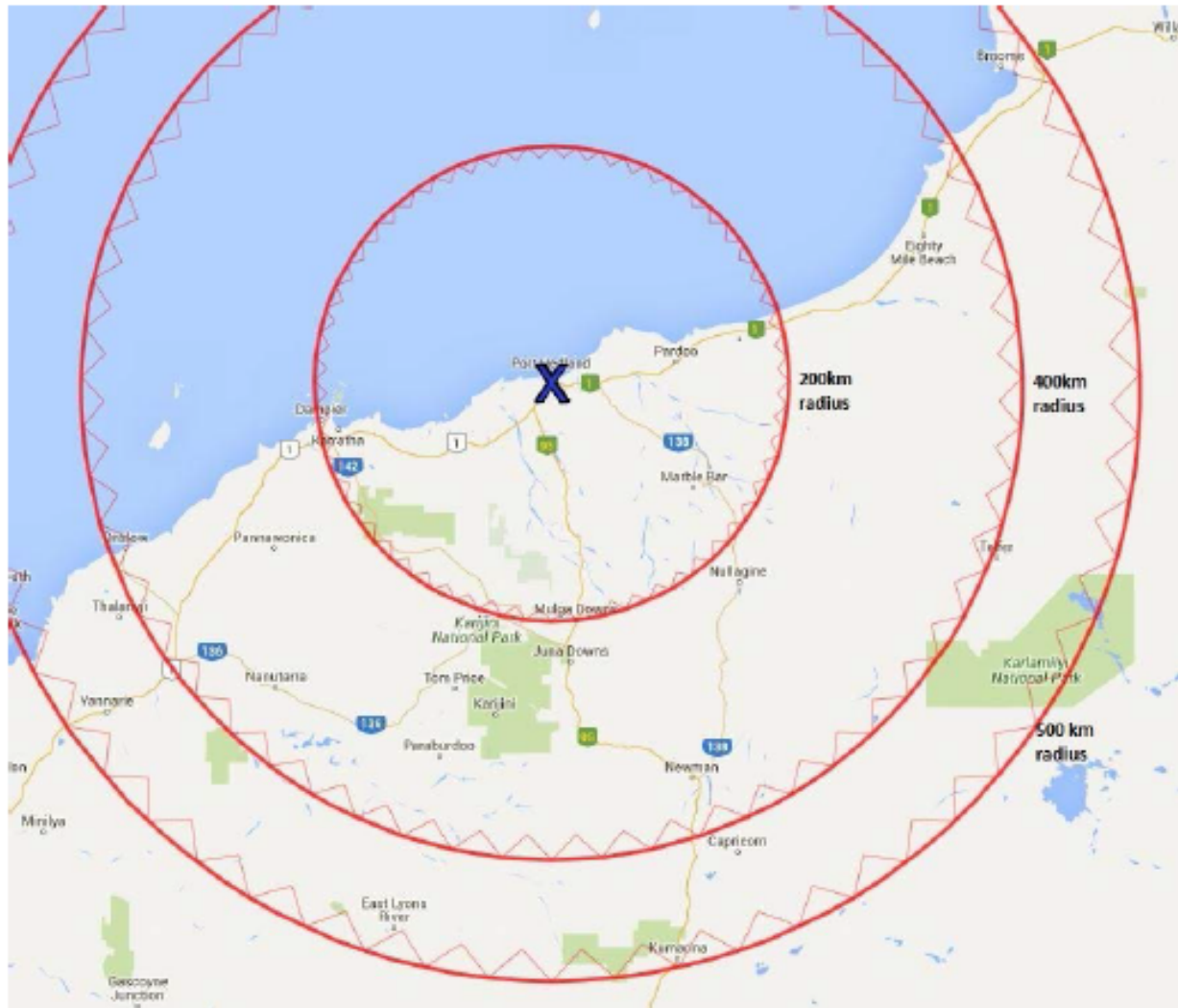


Figure 1 - Regional map with distances from Port Hedland

1. Maximum Regional Pricing Preference(RPP) only applies to businesses within Town of Port Hedland; or
2. Maximum Regional Pricing Preference(RPP) applies for businesses within Town of Port Hedland, 50% of RPP applies to businesses with 200 or 400 or 500km radius of ToPH; or
3. Maximum Regional Pricing Preference applies for all businesses within 200 or 400 or 500km radius of ToPH; or
4. Maximum Regional Pricing Preference applies to businesses within ToPH and municipalities with reciprocal Regional Pricing Preference Policies, within the Pilbara region; or
5. Maximum Regional Pricing Preference applies to businesses within ToPH and municipalities on the boundary of ToPH with reciprocal Regional Pricing Preference Polices,

**ITEM 12 LATE ITEMS AS PERMITTED BY PRESIDING MEMBER/
COMMITTEE**

Nil.

ITEM 13 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

ITEM 14 CONFIDENTIAL ITEMS

Nil.

**ITEM 15 APPLICATIONS FOR LEAVE OF ABSENCE FOR THE NEXT
AUDIT, RISK AND GOVERNANCE COMMITTEE MEETING**

Nil.

**ITEM 16 ATTENDANCE BY TELEPHONE/ INSTANTANEOUS
COMMUNICATIONS**

Nil.

ITEM 17 CLOSURE

17.1 Date of Next Meeting

The next Audit, Risk and Governance Committee Meeting on Tuesday 7 June 2016 at 5:30pm.

17.2 Closure

There being no further business, the Deputy Presiding Member declared the meeting closed at 8:02pm.