

CITY OF ARMADALE

MINUTES

OF CITY AUDIT COMMITTEE HELD IN THE COMMITTEE ROOM,
ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON
WEDNESDAY, 21 MARCH 2012 AT 5.30 PM.

PRESENT: Cr J H Munn JP CMC (Chair)
Cr M H Norman
Cr L Sargeson
Cr H A Zelones JP

APOLOGIES: Nil

OBSERVERS: Nil

IN ATTENDANCE: Mr A F Maxwell Executive Director Corporate Services

PUBLIC: Nil

*“For details of Councillor Membership on this Committee, please refer to the City’s website
– [www.armadale.wa.gov.au/your council/councillors](http://www.armadale.wa.gov.au/your_council/councillors).”*

DISCLAIMER

The Disclaimer for protecting Councillors and staff from liability of information and advice given at Committee meetings to be read.

DECLARATION OF MEMBERS' INTERESTS

Nil

QUESTION TIME

Nil

DEPUTATION

Nil

CONFIRMATION OF MINUTES

RECOMMEND

**Minutes of the City Audit Committee Meeting held on 7 November 2011
be confirmed.**

**Moved Cr M H Norman
MOTION CARRIED (4/0)**

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CITY AUDIT COMMITTEE

21 MARCH 2012

1. FINANCIAL MANAGEMENT & PLANNING

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2.1 ROLE & RESPONSIBILITIES OF THE CITY AUDIT COMMITTEE2

SUMMARY OF "A" ATTACHMENTS 6

1.1 - COMPLIANCE AUDIT RETURN - 1 JANUARY 2011 - 31 DECEMBER 2011

WARD : ALL
FILE No. : M/139/12
DATE : 14 March 2012
REF : AFM
RESPONSIBLE : Executive Director
MANAGER : Corporate Services

In Brief:

- Council is requested to consider and adopt the 2011 Compliance Audit Return for the period 1 January 2011 to 31 December 2011 as presented, noting that there was (1) instance of non-compliance.

Strategic Implications

Outcome and Strategy - 4.1 – Good governance and leadership

- 4.1.2 Ensure governance policies, procedures and activities align with legislative requirements and best practice
- 4.1.4 Support an Audit Committee to assist accountability and good governance

Legislation Implications

Local Government Act 1995 – Section 7.13(i)

Local Government (Audit) Regulations 1996 – Regulations 13, 14, 15

Consultation

- Management Executive Group (MANEX)
- Delegated Senior officers

BACKGROUND

The *Local Government (Audit) Regulations 1996* requires each local government to carry out a compliance audit for the period 1 January to 31 December each year and to complete a Compliance Audit Return (CAR) as produced by the Department of Local Government.

The CAR is to be:

- (a) presented to Council at a meeting of the Council;
- (b) adopted by the Council; and
- (c) recorded in the minutes of the meeting at which it is adopted.

After the CAR has been presented to and adopted by Council, a certified copy of the Return signed by the Mayor and CEO, along with the relevant section of the minutes and any additional information explaining or qualifying the compliance audit, is to be submitted to the Director General of the Department of Local Government by 31 March 2011.

Last year's Return (2010) reported (5) relatively minor instances of non-compliance whereas this year's Return, which is the twelfth such Return that has been required by statute, reports just the one instance of non-compliance.

COMMENT

The CAR is one of the tools available to assist Council in its monitoring role, enabling the Council to monitor its level of compliance with the legislative requirements of the *Local*

Government Act 1995. The CAR also forms part of the Department of Local Government's monitoring program.

The 2011 Return once again places emphasis on the need for Council to be aware and acknowledge instances of non-compliance or where full compliance was not achieved. In addition, the Return also requires Council to endorse details of remedial action either taken or proposed, to prevent future like occurrences.

It should be noted that the 2011 Return is somewhat shorter than in previous years. In a media release from the Minister's Office dated 28th December 2011, the shorter Return was explained as follows:

Last December, Mr Castrilli announced a reduction of 20 per cent to the size of the compliance audit return. This latest 70 per cent reduction means local governments will deal with eight, not 27 pages.

"The change decreases the size of the return by removing questions on areas of compliance that are already audited by the Department of Local Government," he said.

"Greater responsibility is given to each council's audit committee to ensure the council complies with its statutory obligations."

The remaining questions relate to areas of compliance considered high risk, such as:

- financial interest disclosures
- procurement and tendering
- delegation and use of delegated power
- the recruitment and appointment of the chief executive officer.

The Minister said the cut to local government red tape was another step in the reform process, giving local governments more time and resources to benefit other community activities.

The 2011 CAR has been completed and is presented at Attachment 1.1.1 to this report for consideration/comment by Committee, prior to it being submitted to Council.

The 2011 Return identifies (1) instance of non-compliance relating to Tenders, the details of which are :-

Question 1 - Did the local government invite tenders on all occasions (before entering into contracts for the supply of goods or services) where the consideration under the contract was, or was expected to be, worth more than the consideration stated in Regulation 11(1) of the Local Government (Functions & General) Regulations (Subject to Functions and General Regulation 11(2)).

Response:

On one occasion the City did not meet the requirement to call a tender where goods and / or services could reasonably be expected to exceed the accepted consideration as legislated (\$100,000). Details of that instance are:-

Cleaning services – during the 2011 year, a number of purchase orders (based on quotations received) were issued to the one supplier for the cleaning of various Council facilities (eg. Armadale Library, Arena, Aquatic Centre, etc.) for varying periods of time (usually for periods of 2-4 months). Progressively the purchase order values collectively exceeded the \$100,000 tender limit, and once this was realised, a tender was prepared and advertised.

Remedial Action - Tenders for the above mentioned cleaning services were called in August 2011 and in October 2011, Council resolved to accept a tender (resolution number T62/10/11 refers). A contract resulting from the tender resolution is now in place for 2 years commencing 1st Nov 2011 with a 2 x 1 year extension option.

Councillors have the opportunity to comment on the contents of the Return either via the March 20th City Audit Committee meeting or the March 26th Council Meeting, at which the 2011 CAR will be presented for adoption purposes.

The 2011 CAR, once adopted, will be certified/signed by the Mayor and CEO and forwarded to the Department of Local Government by the Return due date of 31st March 2012.

CA1/3/12 RECOMMEND

That Council:

- a. adopts the Local Government Compliance Audit Return for the Year 2011, as presented in the attachment; and**
- b. acknowledges the joint certification, which is to be signed by the Mayor and Chief Executive Officer.**

**Moved Cr L Sargeson
MOTION CARRIED (4/0)**

ATTACHMENTS

1. Compliance Audit Return - 1 January 2011 - 31 December 2011

COUNCILLORS ITEMS

1 **Role & Responsibilities of the City Audit Committee** (Cr Jeff Munn)

The matter of expanding the role and responsibilities of the City Audit Committee to include for example, risk management, was raised and discussed.

Committee agreed that Council be provided with a report on the subject by the end of September 2012.

CA2/3/12

RECOMMEND

That Council, through the City Audit Committee, be provided with a report by the end of September 2012, which examines expanding the role and responsibilities of the City Audit Committee to include, for example, risk management.

Moved Cr J H Munn

MOTION CARRIED (4/0)

MEETING DECLARED CLOSED AT 6.00 pm

SUMMARY OF "A" ATTACHMENTS

| ATT NO. | SUBJECT | PAGE |
|--|---|------|
| 1.1 COMPLIANCE AUDIT RETURN - 1 JANUARY 2011 - 31 DECEMBER 2011 | | |
| 1.1.1 | Compliance Audit Return - 1 January 2011 - 31 December 2011 | 7 |

Department of Local Government - Compliance Audit Return



Government of Western Australia
Department of Local Government

Armadale - Compliance Audit Return 2011

| Commercial Enterprises by Local Governments | | | | | |
|---|-----------------------------------|---|----------|----------|------------|
| No | Reference | Question | Response | Comments | Respondent |
| 1 | s3.59(2)(a)(b)(c) F&G Reg 7,9 | Has the local government prepared a business plan for each major trading undertaking in 2011. | N/A | | |
| 2 | s3.59(2)(a)(b)(c) F&G Reg 7,10 | Has the local government prepared a business plan for each major land transaction that was not exempt in 2011. | Yes | | |
| 3 | s3.59(2)(a)(b)(c) F&G Reg 7,10 | Has the local government prepared a business plan before entering into each land transaction that was preparatory to entry into a major land transaction in 2011. | Yes | | |
| 4 | s3.59(4) | Has the local government given Statewide public notice of each proposal to commence a major trading undertaking or enter into a major land transaction for 2011. | Yes | | |
| 5 | s3.59(5) | Did the Council, during 2011, resolve to proceed with each major land transaction or trading undertaking by absolute majority. | Yes | | |
| Delegation of Power / Duty | | | | | |
| No | Reference | Question | Response | Comments | Respondent |
| 1 | s5.16, 5.17, 5.18 | Were all delegations to committees resolved by absolute majority. | N/A | | |
| 2 | s5.16, 5.17, 5.18 | Were all delegations to committees in writing. | N/A | | |
| 3 | s5.16, 5.17, 5.18 | Were all delegations to committees within the limits specified in section 5.17. | N/A | | |

Department of Local Government - Compliance Audit Return



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| 4 | s5.16, 5.17, 5.18 | Were all delegations to committees recorded in a register of delegations. | N/A |
| 5 | s5.18 | Has Council reviewed delegations to its committees in the 2010/2011 financial year. | N/A |
| 6 | s5.42(1),5.43 Admin Reg 18G | Did the powers and duties of the Council delegated to the CEO exclude those as listed in section 5.43 of the Act. | Yes |
| 7 | s5.42(1)(2) Admin Reg 18G | Were all delegations to the CEO resolved by an absolute majority. | Yes |
| 8 | s5.42(1)(2) Admin Reg 18G | Were all delegations to the CEO in writing. | Yes |
| 9 | s5.44(2) | Were all delegations by the CEO to any employee in writing. | Yes |
| 10 | s5.45(1)(b) | Were all decisions by the Council to amend or revoke a delegation made by absolute majority. | Yes |
| 11 | s5.46(1) | Has the CEO kept a register of all delegations made under the Act to him and to other employees. | Yes |
| 12 | s5.46(2) | Were all delegations made under Division 4 of Part 5 of the Act reviewed by the delegator at least once during the 2010/2011 financial year. | Yes |
| 13 | s5.46(3) Admin Reg 19 | Did all persons exercising a delegated power or duty under the Act keep, on all occasions, a written record as required. | Yes |

Disclosure of Interest

| No | Reference | Question | Response | Comments | Respondent |
|----|-----------|---|----------|----------|------------|
| 1 | s5.67 | If a member disclosed an interest, did he/she ensure that they did not remain present to participate in any discussion or decision-making procedure relating to the matter in which the interest was disclosed (not including participation approvals granted under s5.68). | Yes | | |

Department of Local Government - Compliance Audit Return



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| 2 | s5.68(2) | Were all decisions made under section 5.68(1), and the extent of participation allowed, recorded in the minutes of Council and Committee meetings. | Yes |
| 3 | s5.73 | Were disclosures under section 5.65 or 5.70 recorded in the minutes of the meeting at which the disclosure was made. | Yes |
| 4 | s5.75(1) Admin Reg 22 Form 2 | Was a primary return lodged by all newly elected members within three months of their start day. | Yes |
| 5 | s5.75(1) Admin Reg 22 Form 2 | Was a primary return lodged by all newly designated employees within three months of their start day. | Yes |
| 6 | s5.76(1) Admin Reg 23 Form 3 | Was an annual return lodged by all continuing elected members by 31 August 2011. | Yes |
| 7 | s5.76(1) Admin Reg 23 Form 3 | Was an annual return lodged by all designated employees by 31 August 2011. | Yes |
| 8 | s5.77 | On receipt of a primary or annual return, did the CEO, (or the Mayor/ President in the case of the CEO's return) on all occasions, give written acknowledgment of having received the return. | Yes |
| 9 | s5.88(1)(2) Admin Reg 28 | Did the CEO keep a register of financial interests which contained the returns lodged under section 5.75 and 5.76 | Yes |
| 10 | s5.88(1)(2) Admin Reg 28 | Did the CEO keep a register of financial interests which contained a record of disclosures made under sections 5.65, 5.70 and 5.71, in the form prescribed in Administration Regulation 28. | Yes |
| 11 | s5.88 (3) | Has the CEO removed all returns from the register when a person ceased to be a person required to lodge a return under section 5.75 or 5.76. | Yes |

Department of Local Government - Compliance Audit Return



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| 12 | s5.88(4) | Have all returns lodged under section 5.75 or 5.76 and removed from the register, been kept for a period of at least five years, after the person who lodged the return ceased to be a council member or designated employee. | Yes |
| 13 | s5.103 Admin Reg 34C & Rules of Conduct Reg 11 | Where an elected member or an employee disclosed an interest in a matter discussed at a Council or committee meeting where there was a reasonable belief that the impartiality of the person having the interest would be adversely affected, was it recorded in the minutes. | Yes |
| 14 | s5.70(2) | Where an employee had an interest in any matter in respect of which the employee provided advice or a report directly to the Council or a Committee, did that person disclose the nature of that interest when giving the advice or report. | Yes |
| 15 | s5.70(3) | Where an employee disclosed an interest under s5.70(2), did that person also disclose the extent of that interest when required to do so by the Council or a Committee. | Yes |
| 16 | s5.103(3) Admin Reg 34B | Has the CEO kept a register of all notifiable gifts received by Council members and employees. | Yes |

Disposal of Property

| No | Reference | Question | Response | Comments | Respondent |
|----|-----------|--|----------|----------|------------|
| 1 | s3.58(3) | Was local public notice given prior to disposal for any property not disposed of by public auction or tender (except where excluded by Section 3.58(5)). | Yes | | |

Department of Local Government - Compliance Audit Return



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| 2 | s3.58(4) | Where the local government disposed of property under section 3.58(3), did it provide details, as prescribed by section 3.58(4), in the required local public notice for each disposal of property. | Yes | | |
|---|----------|---|-----|--|--|

Elections

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

Finance

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

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| 5 | s7.3, 7.6(3) | Was the person or persons appointed by the local government to be its auditor, appointed by an absolute majority decision of Council. | Yes |
| 6 | Audit Reg 10 | Was the Auditor's report for the financial year ended 30 June 2011 received by the local government within 30 days of completion of the audit. | Yes |
| 7 | s7.9(1) | Was the Auditor's report for 2010/2011 received by the local government by 31 December 2011. | Yes |
| 8 | S7.12A(3), (4) | Where the local government determined that matters raised in the auditor's report prepared under s7.9(1) of the Act required action to be taken by the local government, was that action undertaken. | N/A |
| 9 | S7.12A(3), (4) | Where the local government determined that matters raised in the auditor's report (prepared under s7.9(1) of the Act) required action to be taken by the local government, was a report prepared on any actions undertaken. | N/A |
| 10 | S7.12A(3), (4) | Where the local government determined that matters raised in the auditor's report (prepared under s7.9(1) of the Act) required action to be taken by the local government, was a copy of the report forwarded to the Minister by the end of the financial year or 6 months after the last report prepared under s7.9 was received by the local government whichever was the latest in time. | N/A |
| 11 | Audit Reg 7 | Did the agreement between the local government and its auditor include the objectives of the audit. | Yes |
| 12 | Audit Reg 7 | Did the agreement between the local government and its auditor include the scope of the audit. | Yes |

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| 13 | Audit Reg 7 | Did the agreement between the local government and its auditor include a plan for the audit. | Yes |
| 14 | Audit Reg 7 | Did the agreement between the local government and its auditor include details of the remuneration and expenses to be paid to the auditor. | Yes |
| 15 | Audit Reg 7 | Did the agreement between the local government and its auditor include the method to be used by the local government to communicate with, and supply information to, the auditor. | Yes |

Local Government Employees

| No | Reference | Question | Response | Comments | Respondent |
|----|-------------------------------------|---|----------|--|------------|
| 1 | Admin Reg 18C | Did the local government approve the process to be used for the selection and appointment of the CEO before the position of CEO was advertised. | N/A | | |
| 2 | s5.36(4) s5.37(3), Admin Reg 18A | Were all vacancies for the position of CEO and other designated senior employees advertised and did the advertising comply with s.5.36(4), 5.37(3) and Admin Reg 18A. | Yes | Executive Director Technical Services was advertised in April 2011 | |
| 3 | Admin Reg 18F | Was the remuneration and other benefits paid to a CEO on appointment the same remuneration and benefits advertised for the position of CEO under section 5.36(4). | N/A | | |
| 4 | Admin Regs 18E | Did the local government ensure checks were carried out to confirm that the information in an application for employment was true (applicable to CEO only). | N/A | | |

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| 5 | s5.37(2) | Did the CEO inform council of each proposal to employ or dismiss a designated senior employee. | Yes | Council resolution 102/5/2011 |
|---|----------|--|-----|-------------------------------|

Official Conduct

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

Tenders for Providing Goods and Services

Department of Local Government - Compliance Audit Return



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| No | Reference | Question | Response | Comments | Respondent |
|----|---------------------|--|----------|---|------------|
| 1 | s3.57 F&G Reg 11 | Did the local government invite tenders on all occasions (before entering into contracts for the supply of goods or services) where the consideration under the contract was, or was expected to be, worth more than the consideration stated in Regulation 11(1) of the Local Government (Functions & General) Regulations (Subject to Functions and General Regulation 11(2)). | No | On one occasion the City did not meet the requirement to call a tender where goods and/or services would reasonably exceed the accepted consideration as legislated. A tender was subsequently called and accepted by Council in October 2011 | |
| 2 | F&G Reg 12 | Has the local government entered into multiple contracts only where avoiding the requirement to call tenders for a single contract in accordance with F&G Reg 11(1) was not a significant reason for doing so. | No | | |
| 3 | F&G Reg 14(1) | Did the local government invite tenders via Statewide public notice. | Yes | | |
| 4 | F&G Reg 14, 15 & 16 | Did the local government's advertising and tender documentation comply with F&G Regs 14, 15 & 16. | Yes | | |
| 5 | F&G Reg 14(5) | If the local government sought to vary the information supplied to tenderers, was every reasonable step taken to give each person who sought copies of the tender documents or each acceptable tenderer, notice of the variation. | Yes | | |
| 6 | F&G Reg 18(1) | Did the local government reject the tenders that were not submitted at the place, and within the time specified in the invitation to tender. | Yes | | |

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| 7 | F&G Reg 18 (4) | In relation to the tenders that were not rejected, did the local government assess which tender to accept and which tender was most advantageous to the local government to accept, by means of written evaluation criteria. | Yes |
| 8 | F&G Reg 17 | Did the information recorded in the local government's tender register comply with the requirements of F&G Reg 17. | Yes |
| 9 | F&G Reg 19 | Was each tenderer sent written notice advising particulars of the successful tender or advising that no tender was accepted. | Yes |
| 10 | F&G Reg 21 & 22 | Did the local governments's advertising and expression of interest documentation comply with the requirements of F&G Regs 21 and 22. | N/A |
| 11 | F&G Reg 23(1) | Did the local government reject the expressions of interest that were not submitted at the place and within the time specified in the notice. | N/A |
| 12 | F&G Reg 23(4) | After the local government considered expressions of interest, did the CEO list each person considered capable of satisfactorily supplying goods or services. | N/A |
| 13 | F&G Reg 24 | Was each person who submitted an expression of interest, given a notice in writing in accordance with Functions & General Regulation 24. | N/A |

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| 14 | F&G Reg 24E | Where the local government gave a regional price preference in relation to a tender process, did the local government comply with the requirements of F&G Reg 24E in relation to the preparation of a regional price preference policy (only if a policy had not been previously adopted by Council). | N/A |
| 15 | F&G Reg 11A | Does the local government have a current purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$100,000 or less. | Yes |

