



Special Council Meeting

MINUTES

Held in Council Chambers, 15 Adam Street, Nannup on Thursday 10 March 2022 at 4.30pm.

PUBLIC COPY

For the purpose of:

- **Considering the Compliance Audit Return for 2021**
- **Audited Annual Financial Report for 2020/21 Financial Year**
- **Complaint of Alleged Code of Conduct Breach against Cr Gibb**

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SHIRE OF NANNUP
SPECIAL COUNCIL MEETING

Held at the Council Chambers
Thursday 10 March 2022 at 4.30 pm

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS/ACKNOWLEDGEMENT OF COUNTRY:

The Shire President declared the meeting open at 4.30pm.

The Shire President acknowledged the traditional custodians of the land, the Wardandi and Bibbulmun people; paying respects to Elders past, present and emerging.

2. ATTENDANCE/APOLOGIES:

2.1 ATTENDANCE

<i>Councillors</i>	<i>Staff</i>
Cr Tony Dean (Shire President)	David Taylor – Chief Executive Officer
Cr Vicki Hansen(Deputy Shire President)	Kellie Jenkins – Manger Corporate Services/Deputy Chief Executive Officer
Cr Cheryle Brown	
Cr Chris Buckland	
Cr Patricia Fraser	
Cr Ian Gibb	
Cr Charles Gilbert	
Cr Bob Longmore	

2.2 APOLOGIES

Nil.

3. PUBLIC QUESTION TIME:

3.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

3.2 PUBLIC QUESTION TIME

Nil.

4. MEMBERS ON LEAVE OF ABSENCE AND APPLICATIONS FOR LEAVE OF ABSENCE:

4.1 APPROVED LEAVE OF ABSENCE

Nil.

4.2 APPLICATION FOR A LEAVE OF ABSENCE

Nil.

5. CONFIRMATION OF MINUTES:

Nil.

6. ANNOUNCEMENTS FROM PRESIDING MEMBER:

Nil.

7. DISCLOSURE OF INTEREST:

Division 6: Sub-Division 1 of the *Local Government Act 1995*. Care should be taken by all Councillors to ensure that a financial/impartiality interest is declared and that they refrain from voting on any matter, which is considered to come within the ambit of the Act.

Where a member has disclosed a financial or proximity interest in an item, they must leave the Chamber for consideration of that item.

Where a member has disclosed an impartiality interest in an item, they may remain in the Chamber. The member is required to bring an independent mind to the item and decide impartially on behalf of the Shire of Nannup and its community.

Cr Ian Gibb declared an Impartiality Interest in item 12.1 – Alleged Breach of Code of Conduct against Cr Ian Gibb as he is the subject of the complaint.

Cr Christopher Buckland declared in Impartiality Interest in item 12.1 Alleged Breach of Conduct against Cr Ian Gibb as he is related to one of the complainants.

Cr Tony Dean declared an Impartiality Interest in item 12.1 – Alleged Breach of Conduct against Cr Ian Gibb as he is a complainant.

To view the Shire of Nannup Declaration Register please see the website [here](#).

8. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN:

9. PRESENTATIONS:

9.1 PETITIONS

Nil.

9.2 PRESENTATIONS

Nil.

9.3 DEPUTATIONS

Nil.

10. REPORTS OF OFFICERS:

AGENDA NUMBER & SUBJECT:	10.1 - Audited Annual Financial Report for 2020/21 Financial Year
LOCATION/ADDRESS:	Shire of Nannup
NAME OF APPLICANT:	Shire of Nannup
FILE REFERENCE:	ADM 17
AUTHOR:	Kellie Jenkins – Manager Corporate Services / Deputy Chief Executive Officer
REPORTING OFFICER:	Kellie Jenkins – Manager Corporate Services / Deputy Chief Executive Officer
DISCLOSURE OF INTEREST:	None
DATE OF REPORT:	24 February 2022
ATTACHMENT:	10.1.1 – Financial Report for year ended 30 June 2021 10.1.2 – Office of the Auditor General’s Report on its Audit of the Shire of Nannup Financial Statements

PURPOSE OF REPORT

To present to the Audit Advisory Committee, the audited Annual Financial Report for the year ended 30 June 2021, attached as Appendix 10.1.1, and the Office of the Auditor General’s (OAG) Report on its Audit of the Shire of Nannup (Shire) Financial Statements attached as Appendix 10.1.2.

BACKGROUND:

The OAG has completed the audit of the Shire’s financial statements for the financial year ended 30 June 2021. Following the audit, the OAG has concluded that the financial report:

- is based on proper accounts and records
- fairly represents, in all material respects, the results of the operations of the Shire for the year ended 30 June 2021 and its financial position at the end of that period in accordance with the *Local Government Act 1995* and, to the extent that they are not inconsistent with the Act, Australian Accounting Standards.

COMMENT:

The Office of the Auditor General (OAG) has completed its audit of the Shire’s financial statements for the financial year ended 30 June 2021. Following the audit, the OAG has concluded that the financial report gives a true and fair view of the Shire’s financial position.

Report on Other Legal and Regulatory Requirements

In accordance with the *Local Government (Audit) Regulations 1996* I report that:

- (i) In my opinion, the following material matters indicate significant adverse trends in the financial position of the Shire:
 - a. The Asset Sustainability Ratio as reported in Note 27 of the annual financial report is below the Department of Local Government, Sport and Cultural Industries' standard for the last three financial years.
 - b. The Operating Surplus ratio as reported in Note 27 of the annual financial report is below the Department of Local Government, Sport and Cultural Industries' standard for the last three financial years.
- (ii) The following material matters indicating non-compliance with Part 6 of the *Local Government Act 1995*, the *Local Government (Financial Management) Regulations 1996* or applicable financial controls of any other written law were identified during the course of my audit:
 - a. The Shire has not reported the Asset Renewal Funding Ratio for 2021, 2020 and 2019 in the annual financial report as required by section 50(1) of the *Local Government (Financial Management) Regulations 1996*, as management could not confirm the reliability of the available information on planned capital renewals and required capital expenditure in the long-term financial plan and asset management plan respectively.
 - b. Reconciliations for property, plant and equipment, and infrastructure were not being performed. Reconciliations are a key control for ensuring the completeness and accuracy of financial data within the general ledger and the information reported in the financial statements.
- (iii) All required information and explanations were obtained by me.
- (iv) All audit procedures were satisfactorily completed.
- (v) In my opinion, the Asset Consumption Ratio included in the annual financial report was supported by verifiable information and reasonable assumptions.

Legislation requires the Shire to prepare a report addressing the significant matters identified in the report and state what action has been taken. This report must be provided to the Minister within three months of receiving the audit report. Within 14 days after giving the report to the Minister, the Chief Executive Officer must publish a copy of the report on its official website.

STATUTORY ENVIRONMENT:

Section 7.12A(3) of the *Local Government Act 1995* requires a local government to examine the report of the auditor and determine if any matters raised in the report require action to be taken.

POLICY IMPLICATIONS:

Nil.

FINANCIAL IMPLICATIONS:

Nil.

STRATEGIC IMPLICATIONS:

Nil.

VOTING REQUIREMENTS:

Simple Majority.

COMMITTEE RECOMMENDATION:

1. That Council receives the audited Annual Financial Report for the year ended 30 June 2021, attached as Appendix 10.1.1.
2. That Council receives the Office of the Auditor's General Report on its Audit of Council's Financial Statements, attached as Appendix 10.1.2.

COUNCIL RESOLUTION 22034

<i>MOVED: CR HANSEN</i>	<i>SECONDED: CR BUCKLAND</i>
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1. That Council receives the audited Annual Financial Report for the year ended 30 June 2021, attached as Appendix 10.1.1.

2. That Council receives the Office of the Auditor's General Report on its Audit of Council's Financial Statements, attached as Appendix 10.1.2.

CARRIED (8/0)

AGENDA NUMBER & SUBJECT:	10.2 - Report on significant matters raised in the Shire of Nannup 2020/21 Audit
LOCATION/ADDRESS:	Shire of Nannup
NAME OF APPLICANT:	Department of Local Government, Sport & Cultural Industries
FILE REFERENCE:	ADM 14
AUTHOR:	Kellie Jenkins - Manager Corporate Services / Deputy Chief Executive Officer
REPORTING OFFICER:	Kellie Jenkins – Manager Corporate Services / Deputy Chief Executive Officer
DISCLOSURE OF INTEREST:	N/A
DATE OF REPORT:	24 February 2022
ATTACHMENT:	10.2.1 – Report to the Minister for Local Government

PURPOSE OF REPORT:

For the Audit Advisory Committee to consider a report to the Minister for Local Government on significant matters raised in the Shire of Nannup (Shire) 2020/21 Audit.

BACKGROUND:

Section 7.14A(4) of the *Local Government Act 1995* requires a local government to prepare a report for the Minister for Local Government addressing any significant matters raised by the local government's auditor. The report is to state what action the local government has taken or intends to take in relation to those matters.

A report prepared under Section 7.12A(4) is to be submitted to the Minister within three months of the audit report being received by the local government and is to be published on the local government's website.

COMMENT:

In its report on the Shire 2020/21 Audit, the Office of the Auditor General (OAG) rated four issues as significant.

1. Asset Sustainability Ratio being below the Department of Local Government, Sport and Cultural Industries' standard for the past three years.
2. Operating Surplus Ratio being below the Department of Local Government, Sport and Cultural Industries' standard for the past three years.

3. The Shire has not reported the Asset Renewal Funding Ratio for the past three years.
4. The Shire has not performed reconciliations for property, plant and equipment, and infrastructure.

A report for the Minister addressing the matters raised in the Audit Report is attached as Appendix 10.2.1.

STATUTORY ENVIRONMENT:

Section 7.14A of the *Local Government Act 1996*, prescribes:

- (4) *A local government must –*
 - (a) *prepare a report addressing any matters identified as significant by the auditor in the audit report, and stating what action the local government has taken or intends to take with respect to each of those matters; and*
 - (b) *give a copy of that report to the Minister within 3 months after the audit report is received by the local government.*
- (5) *Within 14 days after a local government gives a report to the Minister under subsection (4)(b), the Chief Executive Officer must publish a copy of the report on the local government's official website.*

POLICY IMPLICATIONS:

Nil.

FINANCIAL IMPLICATIONS:

Nil.

STRATEGIC IMPLICATIONS:

Nil.

VOTING REQUIREMENTS:

Simple Majority.

COMMITTEE RECOMMENDATION:

That Council endorse the report to the Minister for Local Government on significant matters raised in the Shire's 2020/21 Audit as detailed in Appendix 10.2.1.

COUNCIL RESOLUTION 22035**MOVED: CR HANSEN****SECONDED: CR BROWN**

That Council endorse the report to the Minister for Local Government on significant matters raised in the Shire's 2020/21 Audit as detailed in Appendix 10.2.1.

CARRIED (8/0)

AGENDA NUMBER & SUBJECT:	10.3 – Compliance Audit Return 2021
LOCATION/ADDRESS:	Shire of Nannup
NAME OF APPLICANT:	Department of Local Government, Sport & Cultural Industries
FILE REFERENCE:	ADM 14
AUTHOR:	Sarah Dean – Governance Officer
REPORTING OFFICER:	Kellie Jenkins – Manager Corporate Services / Deputy Chief Executive Officer
DISCLOSURE OF INTEREST:	N/A
DATE OF REPORT:	24 February 2022
ATTACHMENT:	10.3.1 - 2021 Compliance Audit Return

PURPOSE OF REPORT:

To provide the Audit Advisory Committee with the Shire of Nannup's (Shire) 2021 Compliance Audit Return (CAR).

BACKGROUND:

Western Australian local governments are required to complete an annual Compliance Audit Return (CAR) in accordance with the provisions of the *Local Government (Audit) Regulations 1996 (Regulations)*.

The CAR is to be submitted to the Department of Local Government, Sport and Cultural Industries (Department) by 31 March 2022.

The period examined by this audit is 1 January 2021 to 31 December 2021. The completed return is required to be:

- Reviewed by the Audit Advisory Committee
- Considered and adopted by Council
- Certified by the Shire President and Chief Executive Officer (CEO) following Council adoption; and
- Submitted together with a copy of the Council minutes to the Department by 31 March 2022.

The CAR assists the Shire to monitor legislative compliance by examining a range of prescribed requirements under Regulation 13 of the Regulations in detail.

The Shire's audit findings must be recorded in the CAR pro-forma, which has been completed and provided as Appendix 10.3.1.

COMMENT:

The 2021 CAR comprises of 98 questions, grouped into 11 categories of which:

- 56 were complied with;
- 40 were not applicable to the Shire of Nannup during the year under review, and;
- 2 matters was deemed to be non-compliant.

The 2 areas of non-compliance detected were as follows:

Disclosure of Interest

Question 25 – *Did the CEO prepare, and implement and publish an up-to-date version on the local government’s website, a code of conduct to be observed by employees of the local government?*

Comment – *The CEO has published on the local government’s website a code of conduct to be observed by employees of the local government; this version was updated 2016.*

Finance

Question 3 – *Was the auditor’s report for the financial year ended 30 June 2021 received by the local government by 31 December 2021?*

Comment – *The audit for financial year ended 30 June 2021 was completed in February 2022. The Shire received the auditor’s report on 18 February 2022.*

STATUTORY ENVIRONMENT:

Section 7.13(1)(i) of the *Local Government Act 1995* requires local governments to carry out an audit of compliance with statutory requirements prescribed in the *Local Government (Audit) Regulations 1996*.

Regulation 13 of the *Local Government (Audit) Regulations 1996* sets out the statutory requirements which may be included in the compliance audit.

Regulation 14 provides that the Compliance Audit is for the period 1 January to 31 December in each year and that after carrying out the audit, the local government is to prepare a Compliance Audit Return in the form approved by the Minister for Local Government.

The local government’s Audit Committee is then to review the Compliance Audit Return and is to report the results to that review to Council, for adoption.

Regulation 15 requires that after Council has adopted the Return, it must be certified by the Shire President and the Chief Executive Officer, and submitted to the Director General of the Department of Local Government, Sport and Cultural Industries with a copy of the relevant Council Minutes, by 31 March following the period to which the return relates.

POLICY IMPLICATIONS:

Nil.

FINANCIAL IMPLICATIONS:

Nil.

STRATEGIC IMPLICATIONS:

Nil.

VOTING REQUIREMENTS:

Simple Majority.

COMMITTEE RECOMMENDATION:

That Council accept the 2021 Compliance Audit Return attached as Appendix 10.3.1, and submit a certified copy to the Director General of the Department of Local Government and Cultural Industries by 31 March 2022.

COUNCIL RESOLUTION 22036

MOVED: CR BUCKLAND

SECONDED: CR BROWN

That Council accept the 2021 Compliance Audit Return attached as Appendix 10.3.1, and submit a certified copy to the Director General of the Department of Local Government and Cultural Industries by 31 March 2022.

CARRIED (8/0)

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN:

Nil.

12. MEETING MAY BE CLOSED:**12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED:**

PROCEDURAL MOTION	
<i>That the meeting be closed to the public.</i>	
COUNCIL RESOLUTION 22037	
<i>Moved Cr Longmore</i>	<i>Seconded Cr Brown</i>
CARRIED (8/0)	

The meeting was closed to the public at 4.36pm.

CONFIDENTIAL ITEM	
AGENDA NUMBER & SUBJECT:	12.1 – Complaint of Alleged Code of Conduct Breach against Cr Gibb
LOCATION/ADDRESS:	Shire of Nannup
NAME OF APPLICANT:	Internal Complainant – Cr Dean and J Buckland
FILE REFERENCE:	ADM 13
AUTHOR:	David Taylor – Chief Executive Officer
REPORTING OFFICER:	David Taylor – Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	7 March 2022
ATTACHMENTS:	12.1.1 - Cr Gibb's proposed Implementation Plan

Confidential Item – It is recommended this item be closed to the public under Local Government Act 1995 Section 5.23 (2a) and (2b).

Extract from the Local Government Act 1995

5.23 (2) – If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or part of the meeting deals with any of the following –

- (a) A matter affecting an employee or employees; and*
- (b) The personal affairs of any person.*

12.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC:

Nil.

13. CLOSURE OF MEETING:

Shire President declared the meeting closed at 5.15pm.