



**MEETING AGENDA OF THE AUDIT AND FINANCE COMMITTEE OF THE SHIRE OF BOYUP
BROOK TO BE HELD IN THE COUNCIL CHAMBERS, ABEL STREET, BOYUP BROOK ON
27 March 2019 AT 6.00pm**

1 RECORD OF ATTENDANCE / APOLOGIES

Committee

Cr G Aird
Cr R Walker
Cr E Rear
Cr H O'Connell
Cr S Alexander
Cr Kaltenrieder
Cr Moir
Cr Oversby

Staff

Mr S Carstairs - Acting CEO
Mrs M Lane - Executive Assistant

Auditor

Mr D Long

2 CONFIRMATION OF MINUTES

That the minutes of the Audit and Finance Committee meeting held on 13 December 2018 be confirmed as an accurate record.

3 REPORTS

3.1 Annual Compliance Audit Return 2018
--

Location:	<i>Shire of Boyup Brook</i>
Applicant:	<i>Shire of Boyup Brook</i>
File:	<i>FM/9/004</i>
Disclosure of Officer Interest:	<i>Nil</i>
Date:	<i>9March 2018</i>
Author:	<i>Stephen Carstairs - Acting CEO</i>
Authorizing Officer:	<i>Stephen Carstairs - Acting CEO</i>
Attachments:	<i>Yes: 1. Regulations 13, 14 and 15 of the Local Government (Audit Regulations) 1996. 2. DL Consulting's Shire of Boyup Brook Compliance Audit Return 2018 Report</i>

SUMMARY

The purpose of this report is for the Audit and Finance Committee to review the 2018 compliance audit return (CAR), as attached and in the form approved by the Minister, and to report to Council the findings of that review.

BACKGROUND

Section 14 of the *Local Government (Audit) Regulations 1996* (the Regulations), requires local governments to carry out a compliance audit for the period 1st January to 31st December in each year (refer attached). Section 13 of the Regulations outlines the sections of the Act & Regulations that are subject to audit. Further, Section 14 requires local government audit committees to review the CAR prepared by the local government and report the findings to Council.

The Department of Local Government Sport Cultural Industries provided the electronic compliance form, approved by the Minister, for completion and presentation to Council for adoption. An important objective of the CAR process is to assist the shire with developing and enhancing its internal control processes.

On 06 March 2018 Mr Darren Long (principal, DL Consulting) was on site at the shire and conducted the shire's 2018 compliance audit.

COMMENT

Mr Long's report on the shire's 2018 compliance audit, which includes a draft 2018 CAR, is an attachment to this report. In his report Mr Long advises that:

"The standard of compliance was high. For context purposes, non-compliance or partial non-compliance related to 8 of the total 95 items included in the Compliance Return, or an achievement of 91.6% compliance."

Non-compliance or partial non-compliance matters identified by Mr Long included:

5.16 Delegation of some powers and duties to certain committees

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

There was no documented evidence that could verify that the delegation of the power to purchase was issued in writing to the Water Playground Committee.

Acting CEO's Comment: Noted. Further, it is to be noted that the Water Playground Committee has since been discontinued.

5.18 Register of delegations to committees

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

There was no documented evidence that verified that the delegation of power to the Water Playground Committee was kept in the Delegations Register.

Acting CEO's Comment: Noted.

5.42 Delegation of some powers to CEO

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

There was no documented evidence that could verify that delegations were issued and confirmed in writing to the CEO as per section 5.42(2).

Acting CEO's Comment: Noted, and as this relates to the 2019 compliance audit, the matter will be addressed by 30 June 2019.

5.44 CEO may delegate powers and duties to other employees

(2) A delegation under this section is to be in writing and may be general or otherwise provided in the instrument of delegation.

There was no documented evidence that could verify that delegations were issued and confirmed in writing to other employees as per section 5.44(2).

Acting CEO's Comment: Noted, and as this relates to the 2019 compliance audit, the matter will be addressed by 30 June 2019.

5.67. Disclosing members not to participate in meetings

A member who makes a disclosure under section 5.65 must not —

(a) preside at the part of the meeting relating to the matter;

or

(b) participate in, or be present during, any discussion or decision making procedure relating to the matter,

A review of the minutes of Ordinary and Special Council meetings, and of Committee meetings, revealed an instance of non-compliance with section 5.67 of the Act. A Councillor at the Special Council Meeting held on 10 July 2018 declared a financial interest in item 4.2 of the Special Council Meeting agenda immediately before the matter was considered by Council.

On face value, the minutes of that meeting indicate the Councillor, after declaring the financial interest, remained in the meeting and may have participated in discussion on the matter. The minutes also indicate that the Councillor participated in the decision-making procedure, given the vote recorded (Carried 8/0) for the resolution that was passed by the Council matches the eight Councillors listed as in attendance at the meeting.

Acting CEO's Comment: The President (Chair of said 10 July 2018 Special Council Meeting) and Acting CEO (Acting CEO at said meeting) conferred about this non-compliance event and agreed that on this occasion they had erred. Activity in chambers at the commencement of item 4.2 i.e. distribution of declaration of interests forms and associated questions and answers, was distracting such that in accord with common practice neither the President nor Acting CEO thought to advise members declaring interests that they should consider leaving chambers. Consequently a member, also distracted, was caused to make an honest mistake when failing to recognize that they should leave chambers prior to item 4.2 being dealt with.

3.58 Disposal of Property

(4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include-

(a) the names of all other parties concerned; and

(b) the consideration to be received by the local government for the disposition; and

(c) the market value of the disposition —

(i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or

(ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition

The Flax Mill Shed property value used in the local public notice was a periodic rental determined from the Shires Schedule of Fees and Charges; not a market valuation from a qualified valuer, as required by Section 3.58(4)(c)(i).

Acting CEO's Comment: Noted.

7.12A Duties of local governments with respect to audits

(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.*

The timeframe for the shire to get a copy of its report, addressing the auditor's 'significant matter(s)' from the 30 June 2017 audit, to the Minister was 13 March 2018.

The Audit and Finance Committee considered the report prepared on matters identified as significant by the auditor in the 2017 audit report and recommended to Council the requisite action to be taken on the matters at its meeting on 15 March 2018. A copy of the report was provided to the Minister on 28 March 2018 by email. This date is outside the 3 months prescribed under section 7.12A(4)(b) of the Act.

Acting CEO's Comment: While the CEO of the time was aware of the 13 March 2018 deadline, it was determined that the matter wouldn't be addressed until the usual Council meeting date in March i.e. 3rd Thursday in March 2018 which was the 15th.

18A. Vacancy in position of CEO or senior employee to be advertised (Act s. 5.36(4) and 5.37(3))

- (1) If a position of CEO, or of a senior employee, of a local government becomes vacant, the local government is to advertise the position in a newspaper circulating generally throughout the State ...*

The position of 'General Practitioner' is currently designated as a 'senior employee' under Council Policy A.01 – Senior Employees.

Comprehensive advertising was conducted by the Shire, but the information contained in the advertisement does not strictly meet the requirements of sub-regulation (2) of Administration Regulation 18A; including the duration of the proposed contract and details of the remuneration and benefits offered.

Acting CEO's Comment: Noted.

CONSULTATION

The Shire President, Administration, Corporate Services and Works and Services staff.

STATUTORY OBLIGATIONS

Local Government (Audit) Regulations 1996 - Sections 13, 14 and 15 as attached.

POLICY IMPLICATIONS - Nil

BUDGET/FINANCIAL IMPLICATIONS

In the 2018-19 budget \$18,750 was allocated to audit fees. Actual expenditure to date is \$12,360, and \$5,555 was budgeted for the 2018-19 interim audit.

The Office of the Auditor General has advised that that they estimate that the cost of the shire's 30 June 2019 audit will be \$22,750 (excluding GST), meaning that the actual cost of the shire's interim audit will be of the order \$7,500. Forecast audit expense shortfalls in the 2018-19 budget will be offset against the Consultancy budget (\$46,500 budgeted, and year to date actuals at \$16,447) in the annual budget review scheduled for April.

STRATEGIC IMPLICATIONS

There are no Strategic implications relating to the Compliance Return.

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known significant environmental issues.
- **Economic**
There are no known significant economic issues.
- **Social**
There are no known significant social issues.

VOTING REQUIREMENTS

Simple Majority

COMMITTEE RECOMMENDATION – Item 3.1

1. That the Audit and Finance Committee report to Council that its review of the 2018 Compliance Audit Return has determined as follows:
 - (a) On 06 March 2018 Mr Darren Long (principal, DL Consulting) was on site at the shire and conducted the shire's 2018 Compliance Audit.
 - (b) The compliance audit provides both the Council and Acting CEO with an additional element of accountability through an arm's length check of internal management systems, procedures and record keeping.
 - (c) The 2018 Compliance Audit Return was prepared in the form (secure electronic return system) approved by the Minister.
 - (d) The compliance audit involved an examination of the records of the shire and the provision of information and advice from relevant shire employees. Further, it consisted of an inspection, on a test basis, of evidence supporting the status of compliance. The process consisted of a comprehensive audit test check of items such as: the various Council meeting minutes; primary and annual return registers; financial interest disclosures; and tender and other statutory registers. Other items in the Return were the subject of examination based upon a detailed check of relevant records.

- (e) The Audit and Finance Committee added additional scrutiny, including local firsthand knowledge of some of the matters.
- (f) As in 2017, the standard of compliance in 2018 was high. For contextual purposes, non-compliance or partial non-compliance related to 8 of the total 95 items included in the Compliance Return, or an achievement of 91.6% compliance.

Non-compliance or partial non-compliance matters identified by Mr Long included:

5.16 Delegation of some powers and duties to certain committees

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

There was no documented evidence that could verify that the delegation of the power to purchase was issued in writing to the Water Playground Committee.

Acting CEO's Comment: Noted. Further, it is to be noted that the Water Playground Committee has since been discontinued.

5.18 Register of delegations to committees

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

There was no documented evidence that verified that the delegation of power to the Water Playground Committee was kept in the Delegations Register.

Acting CEO's Comment: Noted.

5.42 Delegation of some powers to CEO

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

There was no documented evidence that could verify that delegations were issued and confirmed in writing to the CEO as per section 5.42(2).

Acting CEO's Comment: Noted, and as this relates to the 2019 compliance audit, the matter will be addressed by 30 June 2019.

5.44 CEO may delegate powers and duties to other employees

(2) A delegation under this section is to be in writing and may be general or otherwise provided in the instrument of delegation.

There was no documented evidence that could verify that delegations were issued and confirmed in writing to other employees as per section 5.44(2).

Acting CEO's Comment: Noted, and as this relates to the 2019 compliance audit, the matter will be addressed by 30 June 2019.

5.67. Disclosing members not to participate in meetings

A member who makes a disclosure under section 5.65 must not —

(a) preside at the part of the meeting relating to the matter; or

(b) participate in, or be present during, any discussion or decision making procedure relating to the matter,

A review of the minutes of Ordinary and Special Council meetings, and of Committee meetings, revealed an instance of non-compliance with section 5.67 of the Act. A Councillor at the Special Council Meeting held on 10 July 2018 declared a financial interest in item 4.2 of the Special Council Meeting agenda immediately before the matter was considered by Council.

On face value, the minutes of that meeting indicate the Councillor, after declaring the financial interest, remained in the meeting and may have participated in discussion on the matter. The minutes also indicate that the Councillor participated in the decision-making procedure, given the vote recorded (Carried 8/0) for the resolution that was passed by the Council matches the eight Councillors listed as in attendance at the meeting.

Acting CEO's Comment: The President (Chair of said 10 July 2018 Special Council Meeting) and Acting CEO (Acting CEO at said meeting) conferred about this non-compliance event and agreed that on this occasion they had erred. Activity in chambers at the commencement of item 4.2 i.e. distribution of declaration of interests forms and associated questions and answers, was distracting such that in accord with common practice neither the President nor Acting CEO thought to advise members declaring interests that they should consider leaving chambers. Consequently a member, also distracted, was caused to make an honest mistake when failing to recognize that they should leave chambers prior to item 4.2 being dealt with.

3.58 Disposal of Property

(4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include-

(a) the names of all other parties concerned; and

(b) the consideration to be received by the local government for the disposition; and

(c) the market value of the disposition —

(i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or

(ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition

The Flax Mill Shed property value used in the local public notice was a periodic rental determined from the Shires Schedule of Fees and Charges; not a market valuation from a qualified valuer, as required by Section 3.58(4)(c)(i).

Acting CEO's Comment: Noted.

*(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.*

The timeframe for the shire to get a copy of its report, addressing the auditor's 'significant matter(s)' from the 30 June 2017 audit, to the Minister was 13 March 2018.

The Audit and Finance Committee considered the report prepared on matters identified as significant by the auditor in the 2017 audit report and recommended to Council the requisite action to be taken on the matters at its meeting on 15 March 2018. A copy of the report was provided to the Minister on 28 March 2018 by email. This date is outside the 3 months prescribed under section 7.12A(4)(b) of the Act.

Acting CEO's Comment: While the CEO of the time was aware of the 13 March 2018 deadline, it was determined that the matter wouldn't be addressed until the usual Council meeting date in March i.e. 3rd Thursday in March 2018 which was the 15th.

18A. Vacancy in position of CEO or senior employee to be advertised (Act s. 5.36(4) and 5.37(3))

(2) If a position of CEO, or of a senior employee, of a local government becomes vacant, the local government is to advertise the position in a newspaper circulating generally throughout the State ...

The position of 'General Practitioner' is currently designated as a 'senior employee' under Council Policy A.01 – Senior Employees.

Comprehensive advertising was conducted by the Shire, but the information contained in the advertisement does not strictly meet the requirements of sub-regulation (2) of Administration Regulation 18A; including the duration of the proposed contract and details of the remuneration and benefits offered.

Acting CEO's Comment: Noted.

2. That the Audit and Finance Committee recommends Council adopts the 2018 Annual Compliance Return, and that the Shire President and CEO certify the return for submission to the Executive Director (*Department of Local Government Sport and Cultural Industries*) by 31 March 2019.

4 CLOSURE OF MEETING

There being no further business the Presiding Member thanked all for their attendance and declared the meeting closed at ____pm.