



AGENDA

AUDIT COMMITTEE

**Council Chambers
24-26 Richmond Street NYABING**

Tuesday 11 March 2025

Commencement: 5:00pm

AGENDA**11 March 2025**

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1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**2. ATTENDENCE / APOLOGIES / APPROVED LEAVE OF ABSENCE****3. DISCLOSURES OF INTEREST****Section 5.65 and 5.70 of the *Local Government Act 1995***

Elected Member or officer, who has an interest in any matter for discussion and attends at a Committee/Council Meeting, must disclose the nature of the interest in a written notice give to the Chief Executive Officer before the meeting, or at the meeting prior to discussion on the matter.

An Elected Member who makes a disclosure under section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during, any discussion or decision-making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allow an Elected Member to speak, the extent of that interest must be stated.

- Declaration of Financial Interests:
- Declarations of Proximity Interests:

Clause 22 – Code of Conduct for Council Members, Committee Members and Candidates

A Council Member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest in a written notice given to the CEO before the meeting or at the meeting immediately before the item is discussed.

An interest for the purposes of the Code of Conduct means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

- Declaration of Impartiality Interests:

4. CONFIRMATION AND RECEIVING OF MINUTES / BUSINESS ARISING**4.1 Audit Committee Meeting – 13 December 2024****OFFICER RECOMMENDATION**

That the minutes of the Audit Committee Meeting on Friday 13 December 2024 be confirmed.

5. OFFICER REPORTS

5.1 Compliance Audit Return 2024

PROPOSED MEETING DATE:	11 March 2025
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	David Bentley, Deputy Chief Executive Officer
REPORTING OFFICER:	Christie Smith, Chief Executive Officer
FILE NO:	
ASSESSMENT NO:	N/A
ATTACHMENTS:	Attachment 1 – Compliance Audit Return 2024
DISCLOSURE OF INTEREST:	Nil

Purpose

This report is prepared to consider the Compliance Audit Return for the period 1 January 2024 to 31 December 2024 and make a recommendation to Council to determine a position.

Background

The Department of Local Government, Sport and Cultural Industries (the Department) requires all local governments to complete and lodge an annual Compliance Audit Return for the preceding calendar year by 31 March in the following calendar year.

The Compliance Audit Return required responses in the following categories:

- Commercial Enterprises by Local Governments (five questions)
- Delegation of Power / Duty (13 questions)
- Disclosure of Interest (21 questions)
- Disposal of Property (two questions)
- Elections (three questions)
- Finance (seven questions)
- Integrated Planning and Reporting (three questions)
- Local Government Employees (five questions)
- Official Conduct (four questions)
- Optional Questions (nine questions)
- Tenders for Providing Goods and Services (22 questions)

The questions are identical to last year's compliance audit return.

Comment

For the 2024 Compliance Audit Return, the Shire reported instances of non-compliance with legislation. The non-compliances relate to questions four and five in Disclosure of Interest section and question 7 of the Optional Questions section of the Compliance Audit Return.

4. *Was a primary return in the prescribed form lodged by all relevant persons within three months of their start day?*
5. *Was an annual return in the prescribed form lodged by all relevant persons by 31 August 2024?*
7. *Did the local government prepare a report on the training completed by council members in the 2022/23 financial year and publish it on the local government's official website by 31 July 2024?*

The non-compliances relate to sections 5.75, 5.76 and 5.127 of the *Local Government Act 1995* which reads:

5.75. Primary returns

- (1) A relevant person other than the CEO must lodge with the CEO a primary return in the prescribed form within 3 months of the start day.
- (2) A CEO must lodge with the mayor or president a primary return in the prescribed form within 3 months of the start day.
- (3) This section does not apply to a person who –
 - (a) has lodged a return within the previous year; or
 - (b) has, within 3 months of the start day, ceased to be a relevant person.

Penalty: \$10 000 or imprisonment for 2 years.

5.76. Annual returns

- (1) Each year, a relevant person other than the CEO must lodge with the CEO an annual return in the prescribed form by 31 August of that year.
- (2) Each year, the CEO must lodge the mayor or president an annual return in the prescribed by 31 August of that year.

Penalty applicable to subsections (1) and (2): \$10 000 or imprisonment for 2 years.

5.127 Report on training

- (1) A local government must prepare a report for each financial year on the training completed by council members in the financial year.
- (2) The CEO must publish the report on the local government's official website within 1 month after the end of the financial year to which the report relates.

It was noted that in the return period, two primary returns were not lodged with the CEO within three months of the relevant person's start date.

It was also noted in the return period that nine annual returns were not lodged before 31 August 2024. Eight of the nine annual returns were submitted late. One of the nine annual returns was not lodged at all. This person ceased being a relevant person (as defined in the *Local Government Act 1995*) effective 12 September 2024.

Submission of returns on time is a recurring issue within the local government sector and not one that is unique to the Shire of Kent. However, for future years, a procedure has been developed to ensure that primary returns are requested for relevant persons and annual returns are sent out as close as possible to 1 July each year with follow ups to ensure instances of this nature are not repeated.

There are serious penalties to relevant persons for not completing returns on time as provided for in legislation. With the onset of the *Local Government Amendment Act 2024*, there will be a mandatory reporting requirement to the future Local Government Inspector for instances of non-compliance with both of these sections.

In relation to the report on elected member training, when conducting the compliance audit return it was noted that this report had not been completed. The register has now been placed

on the website with updated information from WALGA on which council members have completed which training courses.

Statutory Implications

Section 7.13 of the *Local Government Act 1995* provides that regulations may be made requiring local governments to carry out an audit of compliance with such statutory requirements as may be prescribed.

Regulation 14 and 15 of the *Local Government (Audit) Regulations 1996* provides:

14. Compliance audits by local governments

- (1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.
- (2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.
- (3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.
- (3) After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be –
 - (a) presented to the council at a meeting of the council; and
 - (b) adopted by the council; and
 - (c) recorded in the minutes of the meeting at which it is adopted.

15. Certified copy of compliance audit return and other documents to be given to Departmental CEO

- (1) After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with –
 - (a) a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and
 - (b) any additional information explaining or qualifying the compliance audit, is to be submitted to the Departmental CEO by 31 March next following the period to which the return relates.
- (2) In this regulation —

certified in relation to a compliance audit return means signed by —

- (a) the mayor or president; and
- (b) the CEO.

Policy Implications

There are no policy implications in relation to this report.

Financial Implications

There are no financial implicates in relation to this report.

Strategic Implications

Community Strategic Plan 2023 - 2033

Civic Leadership Strategic Priorities – Proactive and well governed Shire

Risk Implications

N/A

Voting Requirement

Simple Majority

OFFICER RECOMMENDATION**That Council**

- 1. Adopts the 2024 Compliance Audit Return as provided as Attachment 1 for the period 1 January 2024 to 31 December 2024; and**
- 2. Authorises the Shire President and Chief Executive Officer to certify the Compliance Audit Return and submit it to the Department of Local Government, Sport and Cultural Industries by 31 March 2025.**

6. CLOSURE OF MEETING