

# Audit & Risk Committee Meeting

Agenda for Tuesday 4 March 2014



**shire of  
kalamunda**

## **NOTICE OF MEETING AUDIT AND RISK COMMITTEE**

Dear Councillors

Notice is hereby given that the next meeting of the Audit & Risk Committee will be held in the Council Chambers, Administration Centre, 2 Railway Road, Kalamunda on **Tuesday 4 March 2014 at 6.30pm.**

Dinner will be served prior to the meeting at 5.30pm.

### **Audit & Risk Committee Meeting Procedure**

1. Audit & Risk Committee is not open to the public.
2. Audit & Risk Committee has a membership of all Councillors.
3. The Committee makes recommendations only to Full Council (held on the fourth Monday of each month at 6.30pm).
4. All other arrangements are in general accordance with Council's Audit & Risk Committee Terms of Reference February 2013.

Rhonda Hardy  
**Chief Executive Officer**  
27 February 2014

## **Our Vision and Our Values**

### **Our Vision**

The Shire will have a diversity of lifestyle and people. It will take pride in caring for the natural, social, cultural and built environments and provide opportunities for people of all ages.

### **Our Core Values**

**Service** – We deliver excellent service by actively engaging and listening to each other.

**Respect** – We trust and respect each other by valuing our difference, communicating openly and showing integrity in all we do.

**Diversity** – We challenge ourselves by keeping our minds open and looking for all possibilities and opportunities.

**Ethics** – We provide honest, open, equitable and responsive leadership by demonstrating high standards of ethical behavior.

### **Our Aspirational Values**

**Prosperity** – We will ensure our Shire has a robust economy through a mixture of industrial and commercial development.

**Harmony** – We will retain our natural assets in balance with our built environment.

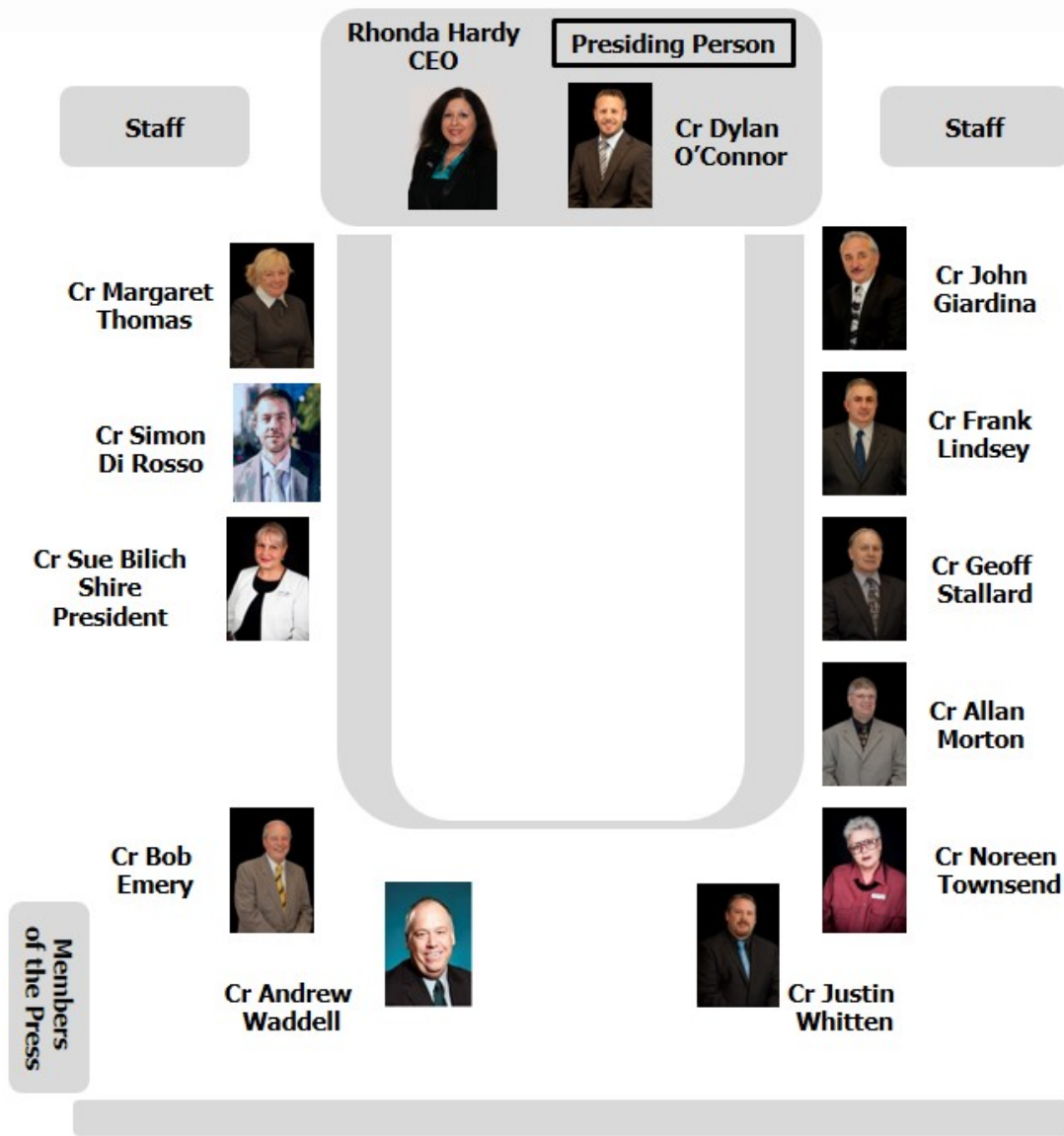
**Courage** – We take risks that are calculated to lead us to a bold new future.

**Creativity** – We create and innovate to improve all we do.



# Council Chambers Seating Layout

## Council Chambers



Public Gallery



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## AGENDA

### 1.0 OFFICIAL OPENING

### 2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED

### 3.0 CONFIRMATION OF THE PREVIOUS MINUTES

3.1 That the Minutes of the Audit and Risk Committee Meeting held on 9 December 2013 are confirmed as a true and accurate record of the proceedings.

Moved:

Seconded:

Vote"

#### Statement by Presiding Member

"On the basis of the above Motion I now sign the Minutes as a true and accurate record of the meeting of 9 December 2013".

### 4.0 CONFIDENTIAL ITEMS

#### 4.1 08 CONFIDENTIAL ITEM – Forrestfield United Soccer Club (Inc) – Request for Financial Assistance

Reason for Confidentiality – *Local Government Act 1995* S5.23 (2) (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

### 5.0 DISCLOSURE OF INTERESTS

#### 5.1 Disclosure of Financial and Proximity Interests

- a. Members must disclose the nature of their interest in matters to be discussed at the meeting. (Sections 5.60B and 5.65 of the *Local Government Act 1995*.)
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Sections 5.70 and 5.71 of the *Local Government Act 1995*.)

#### 5.2 Disclosure of Interest Affecting Impartiality

- a. Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.

## **6.0        REPORTS TO COUNCIL**

Please Note: declaration of financial/conflict of interests to be recorded prior to dealing with each item.

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**Declaration of financial / conflict of interests to be recorded prior to dealing with each item.**

**01. Lesmurdie Tennis Club – Approval to Engage Debt Collectors**

Previous Items	OCM 99/2012
Responsible Officer	Director Corporate Services
Service Area	Community Development
File Reference	FL-02/22
Applicant	N/A
Owner	Shire of Kalamunda

**PURPOSE**

1. To provide Council with an up-date on the Lesmurdie Tennis Club's (LTC) clubroom development and a strategy to recover the LTC's outstanding contribution relating to the redevelopment.

**BACKGROUND**

2. In 2010 the LTC submitted a proposal for the extension of the Lesmurdie Tennis Clubroom facility.
3. Council ranked the project as its third priority in the Department of Sport and Recreation's Community Sport and Recreation Facilities Funding Program (CSRFF) grant application round. However, the application was successful in receiving \$49,680 towards the facility upgrade project (the project).
4. Upon completion of the project the Shire invoiced LTC seeking their contribution. The LTC responded by outlining their conditions around contribution towards the project.
5. In August 2012 a report to Council contained the list of conditions LTC were requesting be placed on their payment. Council resolved (OCM 99/2012) the following:

*That Council:*

- *Accepts the Lesmurdie Tennis Club's \$27,186 as contribution toward the cost of the Clubroom extension and that GST be charged*
- *Rejects the Lesmurdie Tennis Club's proposal for 50% contribution towards the construction of a bar, as this is considered outside the scope of works outlined within the CSRFF funding agreement*
- *Issues appropriate certifications to be provided at the completion of the project*
- *Agrees to install egress doors*
- *Agrees to provide engineering documentation regarding the roof beam*
- *Agrees to provide electrical compliance documentation*
- *Initiates discussions with the Lesmurdie Tennis Club on Lease development this year as part of the development of the Lease and Licence Policy*
- *Requests payment of the Lesmurdie Tennis Club's contribution to be made in one lump sum.*

6. Since this time, all of Council's conditions outlined within the resolution have been completed, however LTC has continued to delay payment of their contribution by placing additional conditions on the payment.
7. In November 2013, the Chief Executive Officer, two Councillors and Shire Officers met with Club representatives in an effort to finalise the project and agree to a payment plan. The LTC was given until 31 January 2014 to make payment of their contribution towards the project.

### **First Set of Demands by LTC**

8. At that meeting in November, LTC requested the following additional tasks be undertaken:
  - Cantilever cover to be installed over switchboard (To be completed by end of March)
  - Power points in kitchen to be re-circuited (Complete)
  - Light to be relocated over meter box (Complete)
  - Key access to be provided to LTC for the outside meter box (Complete)
  - Glass panel to be installed on outside meter box (Complete)
  - RCD's to tennis court lighting poles – Investigation has occurred into the need to install RCD switches, due to concerns over the lights "tripping out", it is now recommended earthing protection to the electrical switchboxes be provided.
  - Disabled toilet to be installed – LTC originally requested this item be delayed so as not to interfere with their summer season, subsequently works have now been rescheduled in 2014/15.
9. The Shire has agreed to undertake all these requests.

### **Second Set of Demands by LTC**

10. On 23 December 2013, LTC wrote to the Shire seeking further conditions be placed on their payment and indicated the payment would now be made in the coming months should these additional conditions be agreed to.
11. These additional conditions include:
  - Upgrades to toilet/bathroom facilities within the next two years.
  - Resurfacing of hard courts in the next two years and resurfacing of synthetic courts within the next five years.
  - Finalisation of a lease agreement for LTC usage of the Lesmurdie tennis facilities

### **Third Set of Demands by LTC**

12. A further letter was received on 5 February 2014, requesting a ten year plus ten year lease agreement be provided prior to finalisation of LTC's outstanding account.



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## **DETAILS**

13. In order to obtain payment contributions from LTC Council is now requested to consider engaging debt collectors.
14. The project scope for the original project outlined within the CSRFF application included:
  - Workshop/storeroom with roller door
  - Storeroom with solid door
  - 30% increase to clubroom area
  - Kitchen refurbishment
  - Double bowl sink
  - Brick up existing door
15. Additional works to the value of \$43,490 ex GST were also required to undertake electrical upgrades and asbestos removal.
16. LTC's contribution as endorsed by Council at the August 2012 Ordinary Council Meeting, was \$27,186.
17. The majority of additional requested works have now been completed, with a commitment also made by the Shire to complete outstanding items. It should be noted, these items were not part of the original scope of works for the clubroom redevelopment and as such should not delay any payment being made by the LTC.

## **STATUTORY AND LEGAL CONSIDERATIONS**

18. *Under S6.12/1(c) of the Local Government Act, 1995, an absolute majority is required for the write off of any monies owing to the Shire.*

## **POLICY CONSIDERATIONS**

19. Nil.

## **COMMUNITY ENGAGEMENT REQUIREMENTS**

20. A significant amount of consultation has occurred with the LTC throughout the development and construction of the project including the development of a communication strategy.

## **FINANCIAL CONSIDERATION**

21. The LTC also has an overall outstanding account of \$24,020 which includes water usage costs and together with its contribution towards the clubroom redevelopment.
22. To date the LTC has made two payments of \$1,686 and \$1,500 towards their outstanding contribution, with a debt of \$24,000 now remaining.

**STRATEGIC COMMUNITY PLAN**

**Strategic Planning Alignment**

23. *Kalamunda Advancing: Strategic Community Plan to 2023*

OBJECTIVE 1.9 – To provide high quality community facilities to meet the needs of our current and our future community.

Strategy 1.9.1 Support and deliver a long term approach to community facilities planning

**SUSTAINABILITY**

**Social Implications**

24. The provision of high quality community sport and recreation facilities is essential to fostering a positive sense of community health and wellbeing.

**Economic Implications**

25. Nil.

**Environmental Implications**

26. Nil.

**RISK MANAGEMENT CONSIDERATIONS**

27.

Risk	Likelihood	Consequence	Rating	Action/Strategy
That the Club don't make payment of their contribution.	Medium	Major	High	Engage the debt collectors to seek the Club's contribution towards the project.
That the Club seek media support of their cause to not make payment of their contribution towards the project.	Medium	Major	High	Have a briefing paper prepared outlining the timeline of the events and all the facts, which can then be provided to inform the media.
Non-payment of the debt may set a precedent for other clubs to follow	Medium	Major	High	Council is informed so that a precedent is not set without strong rationale

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## OFFICER COMMENT

28. The LTC is located on Falls Road and encompasses eight tennis courts and clubroom facilities. The LTC has a Lease Agreement providing exclusive access to the facility, this is currently in "hold over mode" pending the finalisation of a new Lease.
29. The redevelopment project was intended to extend the existing clubroom facility and undertake an internal refurbishment.
30. The standard practice in administering CSRFF grants is for clubs to repay their contributions within the same financial year. At the time of agreeing to proceed with the project, there was no discussion of any adjusted payment plans or timeframes.
31. The Shire has made every effort to resolve the matters that are being raised by the LTC, the Shire has spent significantly more funds than it had originally agreed to in an effort to finalise the matter.
32. It has now become evident that the LTC does not have intention to pay its debt and will continue to raise new matters that are required to be dealt with before they will pay the outstanding debt.
33. The Shire has now frustrated its position and sees that the matter will continue unless firm action is taken to recover the contribution..
34. The difficulties currently experienced by the Shire to obtain payment by the LTC of the outstanding contribution for the project, it is recommended that the Chief Executive Officer be authorised to engage the Shire's debt collectors to now pursue the outstanding amount of \$24,000 from the LTC.
35. The Shire has progressively worked through the LTC's requests. Attempts have to date been unsuccessful as the LTC has continued to change their position on what has previously been agreed.

<b>Voting Requirements: Simple Majority</b>
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## OFFICER RECOMMENDATION (A&R 01/2014)

That Council:

1. Authorises the Chief Executive Officer to engage debt collectors for the recovery of the Lesmurdie Tennis Club's outstanding debt of \$24,000.
2. Advises the Lesmurdie Tennis Club, in writing, of the decision to engage debt collectors and the request for a ten plus ten year Lease Agreement will not be considered until such time as the outstanding account has been settled.

Moved:

Seconded:

Vote:

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**Declaration of financial / conflict of interests to be recorded prior to dealing with each item.**

**02. Foothills District Netball Association – Self Supporting Loan Write Off**

Previous Items	Nil
Responsible Officer	Office of the Chief Executive Officer
Service Area	Community Development
File Reference	RD-03/020K
Applicant	N/A
Owner	Shire of Kalamunda
Attachment 1	Letter from Foothills Netball Association

**PURPOSE**

1. To acknowledge that the Foothills Districts Netball Association (FNA) has been disbanded and to consider writing off the FNA's 2013/2014 outstanding contribution to the self-supporting loan and relieve the FNA of future contributions to the self-supporting loan.

**BACKGROUND**

2. The FNA has advised the Shire it has disbanded with management responsibilities for the facilities reverting to the Shire (Attachment 1).
3. The FNA had a lease for access to the Maida Vale Netball Clubrooms located on Ridge Hill Road Maida Vale.
4. In November 2004, FNA acquired a self-supporting loan of \$111,000 to undertake a court resurfacing and lighting project at the Netball Centre. Currently an amount of \$135,255.41 remains outstanding.
5. Since September 2012, the FNA has been unable to attract sufficient membership numbers leading to the FNA's future being unsustainable (Attachment 1).
6. Council is now presented with the details of the FNA's outstanding loan and associated budget implications.

**DETAILS**

7. Over the past 12 months, the remaining members of the FNA Committee have instigated membership drives, advertised in the local paper and invited prior and new members to join the Committee.
8. The Shire has also been involved with assisting FNA through liaising with Netball WA for assistance with further membership drives, together with liaising with Active After School Sports to encourage local school students to form teams. These efforts have been unsuccessful.

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9. As the FNA has now disbanded, the responsibility for payment of the outstanding loan \$135,255.41 defaults to the Shire. The balance is made up of principle outstanding of \$85,743.89 and interest charges to its maturity in 2028 of \$49,511.52.
  10. The FNA also has an outstanding debtor account of \$4,559.57 made up of one loan repayment and operational/lease charges.
  11. The FNA currently has \$9,641.48 available in a bank account and other assets worth \$5,000. These funds will be paid to the Shire and attributed to the FNA's loan, leaving an outstanding balance of \$120,664.98.

### **STATUTORY AND LEGAL CONSIDERATIONS**

12. *Under S6.12 (1)(c) of the Local Government Act, 1995*, an absolute majority is required for the write off of any monies owing to the Shire.

### **POLICY CONSIDERATIONS**

13. Policy FAC12 – Lease and Licence Terms and Conditions of Council Owned or Controlled Properties.

### **COMMUNITY ENGAGEMENT REQUIREMENTS**

14. The Shire has undertaken a significant amount of consultation with the FNA in an effort to assist them in increasing their membership base. This has included a number of meetings with both FNA and Netball WA.
15. These efforts have not resulted in the FNA being able to maintain their financial sustainability.

### **FINANCIAL CONSIDERATION**

16. The FNA currently have an outstanding loan balance of \$135,255.41 for which they previously made bi-annual repayments of \$4,508.52.
17. The FNA also has an outstanding debtor account of \$4,559.57 made up of one loan repayment and operational/lease charges.
18. The FNA has assets with an estimated worth of \$14,641.48 which includes a bank balance of \$9,641.48 and equipment valued at \$5,000 which will be offset against the outstanding loan and debt.
19. The impact on the Rate Setting Statement (RSS) for 2013/14 is the write off of the debtor balance and one loan repayment due which amounts to \$9,069.09. In the future years, the remaining instalments due will not be reflected in the RSS, the impact of which would result in a deficit of \$9,017.04 to be made up by other revenue streams or rates raised.

## STRATEGIC COMMUNITY PLAN

### Strategic Planning Alignment

20. *Kalamunda Advancing: Strategic Community Plan to 2023*

Strategy 1.6.2 Promote and support positive urban art programs within the Shire.

Strategy 1.8.3 Proactively investigate opportunities that facilitate the establishment and/or growth of local community groups.

## SUSTAINABILITY

### Social Implications

21. The provision of netball activities provides the community with an opportunity to recreate and participate in sporting activities.

22. Whilst the FNA has disbanded, the Shire will continue to provide access to the facilities for the community by making the venue available for hire. In addition, it appears that a number of the past players have now joined the Kalamunda and Districts Netball Association at the Ray Owen Sports Centre.

### Economic Implications

23. Nil.

### Environmental Implications

24. Nil.

## RISK MANAGEMENT CONSIDERATIONS

Risk	Likelihood	Consequence	Rating	Action/Strategy
25. That the folding of the Netball Association will create a gap in the provision of netball activities for the community.	Unlikely	Minor	Low	The facility will continue to be made available for public use through a hire arrangement. The community will also be encouraged to participate in the Kalamunda and Districts Netball Association programs.

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## OFFICER COMMENT

26. The FNA has been operating since 1983, based at the Maida Vale Netball facilities.
27. Over the past 12 months, the FNA has been experienced diminishing membership and has advised the Shire that it has made the decision to disband as a recognised entity.
28. The FNA's current outstanding amount of their loan is \$135,221.41 with a debtor account of \$4559.57. These amounts will be offset against the assets of the FNA worth \$14,641.48.
29. As the FNA has now disbanded, the Shire must assume the responsibility for maintaining the FNA's self-supporting loan, with repayments of \$4,508.52 to be made on a biannual basis.
30. The loan would need to be serviced to its maturity an early repayment would incur a significant penalty charge, which would be a further financial burden on the Shire

<b>Voting Requirements: Absolute Majority</b>
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## OFFICER RECOMMENDATION (A&R 02/2014)

That Council:

1. Receives the information on the current financial position of the Foothills District Netball Association.
2. Approves the write off of the Foothills District Netball Association's 2013/2014 contribution towards their self-supporting loan of \$9,069.09.
3. Relieves the Foothills District Netball Association of all future contributions for their self-supporting loan.
4. Continues servicing the loan to its maturity. The maturity date is 10 November 2028.

Moved:

Seconded:

Vote:

**Attachment 1**



FOOTHILLS NETBALL ASSOCIATION Inc.

C/- Sally Fay

[sally@3fays.com](mailto:sally@3fays.com)

Thursday, February 27, 2014

Shire of Kalamunda  
PO Box 42  
KALAMUNDA WA 6926

Dear Travis,

I am writing this letter to inform the Shire that the Foothills Netball Association Inc, having no members or committee has now been closed and all assets including funds in our bank account are to be transferred to the Shire of Kalamunda in lieu of final payment for the outstanding loan amount the Association has with the Shire.

The final amount of \$9641.48 will be made in the form of an Association cheque to the shire.

Please find attached a copy of our final reconciliation summary of our bank account. This account will be closed when the last final cheques are presented.

Also attached is an outstanding invoice due from Yoga Health for continuous hall hire which they have neglected to pay and which the Shire should re-invoice to them if it has not already been paid directly to the Shire.

I will be able to deliver the above cheque to your offices tomorrow morning.

Kind Regards,

Sally Fay

Acting Treasurer

In lieu of committee Foothills Netball Association Inc.



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**Declaration of financial / conflict of interests to be recorded prior to dealing with each item.**

**03. 2013 Compliance Audit Return**

Previous Items	N/A
Responsible Officer	Chief Executive Officer
Service Area	Governance
File Reference	FI-AUD-004
Applicant	N/A
Owner	N/A
Attachment 1	2013 Compliance Audit Return

**PURPOSE**

1. To consider and adopt the 2013 Compliance Audit Return (CAR).

**BACKGROUND**

2. Every local government in Western Australia is required, under section 7.13 (1) (i) of the *Local Government Act 1995* (the Act), to complete a CAR each year.
3. The CAR is produced by the Department of Local Government and Communities (DLGC) and, once presented to Council and adopted is to be submitted to the DLGC by 31 March 2014.
4. The CAR is designed to be a tool for local government, allowing it to identify those areas where legislative requirements have not been met and then implement processes to ensure that such instances of non-compliance do not continue.

**DETAILS**

5. The Terms of Reference of the Audit and Risk Committee require the Committee to review and make recommendations to Council on the completed CAR.
6. The Terms of Reference state that *“the report presented to the Audit and Risk Committee should specifically highlight those cases of non-compliance which have reoccurred”*.
7. The 2013 CAR covered the nine specific topics and 78 questions as it did in the 2012 CAR.
8. No items of non-compliance were detected with respect to the items examined in the 2013 CAR.

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## **STATUTORY AND LEGAL CONSIDERATIONS**

9. Regulations 14 and 15 of the *Local Government (Audit) Regulations 1996* provide for the completion, adoption by Council and certification by the Shire President and Chief Executive Officer of the CAR. Additionally, the regulations require the certified return to be submitted to the DLGC by 31 March.

## **POLICY CONSIDERATIONS**

10. There are no policy considerations related to the CAR.

## **COMMUNITY ENGAGEMENT REQUIREMENTS**

11. Public engagement is not required with respect to the CAR.

## **FINANCIAL CONSIDERATION**

12. There are no financial implications arising from the CAR.

## **STRATEGIC COMMUNITY PLAN**

### **Strategic Planning Alignment**

13. *Kalamunda Advancing: Strategic Community Plan to 2023*

OBJECTIVE 6.7: To provide a business environment that strives for continuous improvement through the use of highly effective business systems and processes.

Strategy 6.7.2 Regularly review services, business processes and standards offered by the Shire to ensure they meet community needs.

## **SUSTAINABILITY**

### **Social Implications**

14. Nil

### **Economic Implications**

15. Nil

### **Environmental Implications**

16. Nil

**RISK MANAGEMENT CONSIDERATONS**

17.	<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>	<b>Action/Strategy</b>
	That the Compliance Audit Return is not adopted by Council as required by the legislation.	Unlikely	Major	Medium	Information will need to be provided that will enable Council to

**OFFICER COMMENT**

18. To improve the probity of the process for the 2013 CAR, the Internal Auditor has undertaken an Audit of the information provided by the various Business Units to complete the Return. The outcome of this Audit concluded that relevant information had been provided to support the completion of the CAR. The Internal Auditor requested that improved responses be provided with respect to the Auditors Report on the Annual Financial Statements and this has been done.
19. It is satisfying that the Shire continues to maintain its high standards of compliance with respect to those areas examined by the CAR.

**Voting Requirements: Simple Majority**

**OFFICER RECOMMENDATION (A&R 03/2014)**

That Council:

- Adopts the Compliance Audit return for the year ending 31 December 2013.

Moved:

Seconded:

Vote:

## Attachment 1

Department of Local Government and Communities - Compliance Audit Return



Government of Western Australia  
 Department of Local Government and Communities

### Kalamunda - Compliance Audit Return 2013

#### Certified Copy of Return

Please submit a signed copy to the Director General of the Department of Local Government and Communities together with a copy of section of relevant minutes.

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 2013.	N/A	No major undertakings that met the threshold	Darrell Forrest
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 2013.	N/A	No major land transaction that met the threshold	Darrell Forrest
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 2013.	N/A	See answer to question 2 above	Darrell Forrest
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 2013.	N/A	See answer to questions 1, 2 and 3 above	Darrell Forrest
5	s3.59(5)	Did the Council, during 2013, resolve to proceed with each major land transaction or trading undertaking by absolute majority.	N/A	See answer to questions 1, 2 and 3 above	Darrell Forrest

Department of Local Government and Communities - Compliance Audit Return



Government of Western Australia  
Department of Local Government and Communities

<b>Delegation of Power / Duty</b>					
<b>No</b>	<b>Reference</b>	<b>Question</b>	<b>Response</b>	<b>Comments</b>	<b>Respondent</b>
1	s5.16, 5.17, 5.18	Were all delegations to committees resolved by absolute majority.	N/A		Darrell Forrest
2	s5.16, 5.17, 5.18	Were all delegations to committees in writing.	N/A		Darrell Forrest
3	s5.16, 5.17, 5.18	Were all delegations to committees within the limits specified in section 5.17.	N/A		Darrell Forrest
4	s5.16, 5.17, 5.18	Were all delegations to committees recorded in a register of delegations.	N/A		Darrell Forrest
5	s5.18	Has Council reviewed delegations to its committees in the 2012/2013 financial year.	N/A		Darrell Forrest
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		Darrell Forrest
7	s5.42(1)(2) Admin Reg 18G	Were all delegations to the CEO resolved by an absolute majority.	Yes		Darrell Forrest
8	s5.42(1)(2) Admin Reg 18G	Were all delegations to the CEO in writing.	Yes		Darrell Forrest
9	s5.44(2)	Were all delegations by the CEO to any employee in writing.	Yes		Darrell Forrest
10	s5.45(1)(b)	Were all decisions by the Council to amend or revoke a delegation made by absolute majority.	Yes		Darrell Forrest
11	s5.46(1)	Has the CEO kept a register of all delegations made under the Act to him and to other employees.	Yes		Darrell Forrest
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 2012/2013 financial year.	Yes		Darrell Forrest
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		Darrell Forrest

<b>Disclosure of Interest</b>					
<b>No</b>	<b>Reference</b>	<b>Question</b>	<b>Response</b>	<b>Comments</b>	<b>Respondent</b>
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		Darrell Forrest
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		Darrell Forrest

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Department of Local Government and Communities - Compliance Audit Return



Government of Western Australia  
Department of Local Government and Communities

No	Reference	Question	Response	Comments	Respondent
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
6	s5.76(1) Admin Reg 23 Form 3	Was an annual return lodged by all continuing elected members by 31 August 2013.	Yes		Darrell Forrest
7	s5.76(1) Admin Reg 23 Form 3	Was an annual return lodged by all designated employees by 31 August 2013.	Yes		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest

Department of Local Government and Communities - Compliance Audit Return



Government of Western Australia  
 Department of Local Government and Communities

No	Reference	Question	Response	Comments	Respondent
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		Darrell Forrest
16	s5.103(3) Admin Reg 34B	Has the CEO kept a register of all notifiable gifts received by Council members and employees.	Yes		Darrell Forrest

**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		Darrell Forrest
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		Darrell Forrest

**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		Darrell Forrest

**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		Darrell Forrest
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	No delegation to Committee	Darrell Forrest
3	s7.3	Was the person(s) appointed by the local government to be its auditor, a registered company auditor.	N/A	Appointment done in 2012- person appointed then is a registered company auditor	Darrell Forrest
4	s7.3	Was the person(s) appointed by the local government to be its auditor, an approved auditor.	N/A		Darrell Forrest

Department of Local Government and Communities - Compliance Audit Return



Government of Western Australia  
Department of Local Government and Communities

No	Reference	Question	Response	Comments	Respondent
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.	N/A	No appointment made in 2013	Darrell Forrest
6	Audit Reg 10	Was the Auditor's report for the financial year ended 30 June 2013 received by the local government within 30 days of completion of the audit.	Yes		Darrell Forrest
7	s7.9(1)	Was the Auditor's report for 2012/2013 received by the local government by 31 December 2013.	Yes	At the Ordinary Council meeting of 16 December 2013	Darrell Forrest
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	The Audit Report did raise issues of non-compliance. These matters have been noted to ensure they are not repeated	Darrell Forrest
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	See answer to question 8	Darrell Forrest
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.	Yes		Darrell Forrest
11	Audit Reg 7	Did the agreement between the local government and its auditor include the objectives of the audit.	N/A	Appointment done in 2012	Darrell Forrest
12	Audit Reg 7	Did the agreement between the local government and its auditor include the scope of the audit.	N/A	See answer to question 11	Darrell Forrest
13	Audit Reg 7	Did the agreement between the local government and its auditor include a plan for the audit.	N/A	See answer to question 11	Darrell Forrest
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.	N/A	See answer to question 11	Darrell Forrest
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.	N/A	See answer to question 11	Darrell Forrest

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Department of Local Government and Communities - Compliance Audit Return



Government of Western Australia  
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<b>Local Government Employees</b>					
<b>No</b>	<b>Reference</b>	<b>Question</b>	<b>Response</b>	<b>Comments</b>	<b>Respondent</b>
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.	Yes		Darrell Forrest
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		Darrell Forrest
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).	Yes		Darrell Forrest
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).	Yes		Darrell Forrest
5	s5.37(2)	Did the CEO inform council of each proposal to employ or dismiss a designated senior employee.	Yes		Darrell Forrest
<b>Official Conduct</b>					
<b>No</b>	<b>Reference</b>	<b>Question</b>	<b>Response</b>	<b>Comments</b>	<b>Respondent</b>
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest

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Department of Local Government and Communities - Compliance Audit Return



Government of Western Australia  
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<b>Tenders for Providing Goods and Services</b>					
<b>No</b>	<b>Reference</b>	<b>Question</b>	<b>Response</b>	<b>Comments</b>	<b>Respondent</b>
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)).	Yes		Darrell Forrest
2	F&G Reg 12	Did the local government comply with F&G Reg 12 when deciding to enter into multiple contracts rather than inviting tenders for a single contract.	N/A		Darrell Forrest
3	F&G Reg 14(1)	Did the local government invite tenders via Statewide public notice.	Yes		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest
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.	Yes		Darrell Forrest
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		Darrell Forrest

Department of Local Government and Communities - Compliance Audit Return



Government of Western Australia  
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No	Reference	Question	Response	Comments	Respondent
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.	Yes		Darrell Forrest
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.	Yes		Darrell Forrest
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		Darrell Forrest
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		Darrell Forrest

I certify this Compliance Audit return has been adopted by Council at its meeting on \_\_\_\_\_

\_\_\_\_\_  
 Signed Mayor / President, Kalamunda

\_\_\_\_\_  
 Signed CEO, Kalamunda

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**Declaration of financial / conflict of interests to be recorded prior to dealing with each item.**

**04. Internal Audit Plan 2013/2014**

Previous Items	Nil
Responsible Officer	Director Corporate Services
Service Area	Internal Auditor
File Reference	
Applicant	N/A
Owner	N/A
Attachment 1	Internal Audit Plan for 2012/2013 and 2013/2014

**PURPOSE**

1. To receive and approve the Audit Plan for the two years to the 30 June 2014 with the objective of meeting a two yearly review under regulation 17 on the *Local Government (Financial Management) Regulations 1996* (FMR) with a broader review of risk assessment, internal controls and compliance with legislation

**BACKGROUND**

2. To ensure high levels of transparency and accountability it is considered important that the Internal and Audit and Risk Committee is kept informed as to what has been completed in the Audit Plan for the 12 months to the 30 June 2013 and completed or outstanding for the 12 months to the 30 June 2014.
3. The four yearly review being undertaken by the internal auditor for the Chief Executive Officer (CEO) under regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996* includes the review of risk assessment, internal controls and compliance with legislation and would meet the review as part of Regulation 17 of the *Local Government (Audit) Regulations 1996*, and can be condensed to a two year review
4. This was confirmed by the Department of Local Government and Communities (Department) where the response was:  
  
*" there are subtle differences between the requirements of FMR 5(2)(c) and Audit Regulation 17. FMR 5 specifically requires the CEO to address "...financial management systems and procedures..." Audit Regulation 17 casts a much wider net and covers risk management, internal control and (all) legislative compliance not just legislative compliance."*  
  
Provided that the four yearly review being undertaken is broad enough to address all legislative compliance matters and all Risk Management matters, it would be sufficient to comply with Audit Regulation 17.
5. The internal audit review covering the period 2012/2013 and 2013/2014 has been undertaken and broadened to include a review of risk management, internal control and all legislative compliance. The review focused on financial compliance, a review of the annual compliance return and the requirements of

the Forensic Audit. The review has also met the requirements of the Department of Local Government and Communities (Departments) to have policies and procedures in place to address the outcomes of the Forensic Audit.

## **DETAILS**

6. The Audit Plan highlights the areas completed and reported to the Audit and Risk Committee and areas to be completed by 30 June 2014. The majority of the review of procedures will have been undertaken in the two year period and will meet the Department requirements to be reviewed by the Audit and Risk Committee by 31 December 2014. (Attachment 1)

## **STATUTORY AND LEGAL CONSIDERATIONS**

7. *Local Government Act 1995*  
*Local Government (Financial Management) Regulations 1996*  
*Local Government (Audit) Regulations 1996*

## **POLICY CONSIDERATIONS**

8. Nil.

## **COMMUNITY ENGAGEMENT REQUIREMENTS**

9. Nil.

## **FINANCIAL CONSIDERATIONS**

10. Nil.

## **STRATEGIC COMMUNITY PLAN**

### **Strategic Planning Alignment**

11. *Kalamunda Advancing: Strategic Community Plan to 2023*
- |                |   |
|----------------|---|
| Strategy 6.3.3 | Regularly review the organisations structure and procedures in response to changing circumstances.  |
| Strategy 6.8.4 | Provide effective financial services to support the Shire's operations and to meet sustainable planning, reporting and accountability requirements. |

## **SUSTAINABILITY**

### **Social Implications**

12. Nil.

**Economic Implications**

13. Nil.

**Environmental Implications**

14. Nil.

**RISK MANAGEMENT CONSIDERATIONS**

15.

Risk	Likelihood	Consequence	Rating	Action/Strategy
Not complying with financial management regulation 5(2)(c) and audit regulation 17	Low	Medium	Low	At the end of February approximately 57% of the work has already been completed and by the end on May 2014 a further 35% will have been carried out leaving approximately 8% to be carried out by June 2014

**OFFICER COMMENT**

16. Condensing the internal audit to two years to 30 June 2014 broadened to include a review of risk management, internal control and legislative compliance, it will meet the four year review required under regulation 5(2)(c) of the *Local Government (Financial Management) Regulation 1996* and the two year review under regulation 17 of the *Local Government (Audit) Regulations 1996*.

**Voting Requirements: Simple Majority**

**OFFICER RECOMMENDATION (A&R 04/2014)**

That the Audit and Risk Committee:

1. Receives and recommends the approval of the Audit Plan for the two years to the 30 June 2014 to Council.
2. Recommends that the Internal Auditor presents his report to the Chief Executive Officer by the end of October 2014 to be reviewed and presented to the Audit and Risk Committee in compliance with Regulation 17 of the *Local Government (Audit) Regulations 1996* and in compliance with Regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996*.

Moved:

Seconded:

Vote:

Attachment 1

SHIRE OF KALAMUNDA  
 INTERNAL AUDIT PLAN FOR 2013/2014 Page 1

Internal Auditor	Date Report to A/Comm	2013						2014					
		July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
<b>Corporate Services</b>													
Systems Improvement													
Fringe Benefits Tax- Consultant Grant Thornton	2012/2013												
Purchasing- New Guideline	2012/2013												
Tendering -New Guideline	2012/2013												
Novated Leases	2012/2013												
Testing of tenders	2012/2013												
<b>Review of Procedures , Internal Control and Risk Assessment</b>													
Evaluation of Procedures , Key Controls and Assessment of Risk													
Conduct review of systems and controls as required under Regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996 and Local Government (Audit) Regulations 1996													
Bank Reconciliations	2012/2013												
Petty Cash													
Rates													
Receipts and Receivables (front counter)	2012/2013												
Fees and Charges													
Investments	2012/2013												
Purchases, Payments and Payables	2012/2013												
Credit Card Procedures	8/05/2013												
Wages and Salaries	3/04/2014												
Fixed Assets													
Record Keeping													
Receipting and Other Financial controls at other centres:													
Libraries													
Recreation Centres													
Health and Community Care (HACC)													
Contributions/Lessee Improvements	3/04/2014												
Fringe Benefits Tax (FBT)	2012/2013 3/04/2014												
Goods and Services Tax (GST) - Fees and Charges - Genesis	Consultant												
Grant Aquittals													
HACC	8/05/2013												
New Fees: Cat Act November 2013													
Interest Income	8/05/2013												
Other matters													
Trust Funds - Cell 9 Developers Contributions	8/05/2013												
Trust Funds -New Industrial Land Contributions													
Trust Funds - Bonds													
Loan Borrowings	8/05/2013												
Employee Provisions	3/04/2014												





SHIRE OF KALAMUNDA  
 INTERNAL AUDIT PLAN FOR 2013/2014

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Internal Auditor	Date Report to A/Comm	2013						2014					
		Sept Qtr			Dec Qtr			Mar Qtr			June Qtr		
		July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
<b>Other</b>													
Review and Update of Long Term Financial Plans													
Review of Asset Management Plans													
Review Monthly Financial Reports													
Development of Guidelines													
Tendering	2012/2013												
Purchasing	2012/2013												
Budget Preparation													
Review Annual Financial Statements													
Implementation of Forensic Audit Recommendations on Kalamunda Water Park	2012/2013												
Appointment of Forensic Auditors and collection of information for CCC	2012/2013												
Set up of Audit Files for External Auditor													
Report for Audit Committee on Terms of Reference	2012/2013												
Review Motor Vehicle Log Books	2012/2013												
Review of Tender Procedures	2012/2013												
Drafting / Review of New Policies:													
Disposal of IT Equipment													
eQuotes09-2013 IT Infrastructure	8/05/2013												
Review of Current Policies													
Investment Policy - Updated													
HR Policies													
Review of Gift Register													
Audit of Statutory Compliance Audit Return (CAR's)	3/04/2014												
Planning for adoption of Fair Value Treatment of Non-current Assets	8/05/2013												
GST on Land Sales - PwC													

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**Declaration of financial / conflict of interests to be recorded prior to dealing with each item.**

**05. Internal Audit Report February 2014**

Previous Items	Nil
Responsible Officer	Director Corporate Services
Service Area	Internal Auditor
File Reference	
Applicant	N/A
Owner	N/A
Attachment 1	Internal Audit Report February 2014
Attachment 2	Australian Taxation Office Letter – Completion of Review

**PURPOSE**

1. To provide the Audit & Risk Committee with assurance that the financial and statutory functions of the Shire are being undertaken in accordance with the provisions of:
  - the *Local Government Act 1995* and associated regulations;
  - Australian Accounting Standards;
  - *Income Tax Assessment Act 1997*;
  - *Land Assessment Act 2002*; and
  - Appropriate local governments processes and financial systems in relation to risk management, internal control meet legislative requirements.

**BACKGROUND**

2. In accordance with the Audit Plan, audit reviews have been completed in the following areas:
  - Contributions by Lessees/Asset Additions
  - Fringe Benefits Tax (FBT)
  - Trust Funds – Cell 9
  - Expenses – Payroll
  - Liabilities – Employee Provisions
  - Land Tax
  - Australian Taxation Office (ATO) Review on GST
  - Expenses – Credit Card Transactions
  - Review of Compliance Audit Return 2013

**DETAILS**

3. The following summarises the findings and action being taken by management (Attachment 1).

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### **Contributions by Lessees/Asset Additions**

4. The Shire is often not notified of grants received by clubs for capital improvements. This may result in Shire assets being under insured.
5. Management are taking measures by advising all lessees to notify the Shire annually of any capital improvements they make to Shire assets. Lessees have been asked to provide supporting information such as supplier's invoices to identify the nature and value of improvements and notification of their completion. This ensures additions are recorded and adequately insured.

### **FBT on Motor Vehicles**

6. A Shire vehicle with commuter rights only was being used for both commuter and private use.
7. The officer concerned has been reminded that the vehicle is allocated for commuting rights only. All staff with commuting rights are being made aware of their employment obligations. If they continue to breach a privilege granted by the employer, then management will consider removing their commuting rights or taking other measures in order to reduce the Shire's FBT liability.

### **Trust Funds – Cell 9**

8. The Education Department is requesting the Shire pay a GST amount that relates to a land transaction, which is disputed by the Shire. To mitigate any claim and establish whether it has a tax liability for GST, Price Waterhouse Cooper has been appointed by management to provide advice in relation to this claim.
9. At the time of writing this report, no advice has been received from the consultant.

### **Expenses – Payroll**

10. A number of findings relating to Payroll processing have been identified. The findings and recommendations were discussed with Manager HR & Organisational Development and Director Corporate Services.
11. As several of these issues relate to segregation of duties, it is intended to transfer the payroll function to Financial Services where this issue will be adequately addressed.

### **Liabilities – Employee Provisions**

12. The Audit identified some process improvements necessary to ensure that employee provisions are adequately recorded and managed.
13. Independent checking and verification of changes made together with monitoring of the audit trail, will improve control around employee provisions.

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## Land Tax

14. The Kalamunda Men's Shed sought advice from the Shire regarding their Land Tax abilities.
15. Management will make lessees aware of their obligations to confirm their liability for land tax with the Department of Finance. The majority of lessees are likely to be exempt or granted a concession as they would be classed as non-profit organisations. The obligation rests on the lessee to seek advice from the Department of Finance.

## ATO Review of GST

16. The ATO advised the Shire of its intention to conduct a GST review relating to its treatment of land sales and whether the associated land was unimproved at the time of sale.
17. The ATO notified the Shire on 24 January 2014 that it has completed its review based on the information supplied and that the review does not require any further examination in relation to an audit of the unimproved land (Attachment 2).

## Expenses – Corporate Credit Card Transactions

18. The Audit conducted a review to assess the adequacy of controls relating to the management and usage of Corporate Credit Cards.
19. The Audit found that all controls are operating effectively and that credit cards are being used in accordance with procedures. Increased security has been introduced through the withdrawal of individual credit cards from the Chief Executive Officer and all Directors.

## Review of Compliance Audit Return 2013

20. The Compliance Audit Return for 2013 was tested and found to be accurately compiled by Manager Governance. The document will need to be presented to the Audit and Risk Committee for review and reported to Council and the completed Compliance Audit Return submitted to the Department of Local Government and Communities by 31 March 2014.

## STATUTORY AND LEGAL CONSIDERATIONS

21. *Local Government Act 1995*  
*Local Government (Financial Management) Regulations 1996*  
*Local Government (Audit) Regulations 1996*  
*Australian Accounting Standards*  
*Income Tax Assessment Act 1997*  
*Fringe Benefits Tax Assessment ACT 1986*  
*Land Tax Assessment Act 2002*  
*A New Tax System (Goods and Services Tax) Act 1999*

## POLICY CONSIDERATIONS

22. Various policies relating to Audit areas.

**COMMUNITY ENGAGEMENT REQUIREMENTS**

23. Nil.

**FINANCIAL CONSIDERATIONS**

24. The implementation of the recommendations will reduce exposure to financial risk and loss and ensure that the Shire complies with legislative requirements.

25. Implementations of the recommendations will enhance accountability and transparency with the Shire’s operations.

**STRATEGIC COMMUNITY PLAN**

**Strategic Planning Alignment**

26. *Kalamunda Advancing: Strategic Community Plan to 2023*

OBJECTIVE 6.8 To ensure financial sustainability through the implementation of effective financial management, systems and plans.

Strategy 6.8.4 Provide effective financial services to support the Shire’s operations and to meet sustainability planning, reporting and accountability requirements.

**SUSTAINABILITY**

**Social Implications**

27. Nil.

**Economic Implications**

28. Nil.

**Environmental Implications**

29. Nil.

**RISK MANAGEMENT CONSIDERATIONS**

30.

Risk	Likelihood	Consequence	Rating	Action/Strategy
Asset additions are not identified and captured, resulting in the asset being underinsured	Unlikely	Major	Medium	Procedure in place for notification by lessees

Shire incurs additional FBT	Possible	Minor	Medium	Regular monitoring of log books by Corporate Services
Shire incurs additional unbudgeted FBT liability	Unlikely	Major	Medium	Tax specialist to provide advice
Incorrect calculation of payroll expenses	Possible	Major	High	Segregation of duties and review of audit trail
Incorrect recording of employee provisions	Possible	Minor	Medium	Independent checking and verifications
Lessee fail to meet land tax liability	Unlikely	Minor	Low	Lessees responsible for land tax
Unauthorised use of Corporate Credit Card	Unlikely	Minor	Low	New policy in place and regular reviews carried out
Compliance Audit Return 2013 incorrectly completed	Unlikely	Minor	Low	Independently reviewed by Manager Governance and Internal Auditor

**OFFICER COMMENT**

- 30. The issues identified and recommendations were discussed with management to mitigate risk, strengthen the internal control practices of the Shire and ensure the Shire was compliant with legislation.
- 31. An Audit Register that records all audit findings together with their management responses will be introduced and will be reviewed on a quarterly basis at the Executive meeting.

**Voting Requirements: Simple Majority**

**COMMITTEE RECOMMENDATION TO COUNCIL (A&R 05/2014)**

That Council:

- 1. Notes the following recommendations included in the Internal Audit Report for February 2014 (Attachment 1)

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### **Contributions by Lessees/Asset Additions**

- Lessees are reminded that under their lease they have an obligation to provide the Shire by the 30 June with a list of capital improvements made to shire assets supported by supplier's invoices confirming the value and nature of the improvement.
- The Shire on notification is to record all capital improvements in the asset register and ensure these improvements are insured as part of its annual insurance renewal.
- An inventory of all Shire assets should be undertaken over a period of say three years to establish that the asset register is up to date.

### **Expenses – Payroll**

- An independent review should be carried out when a person is entered into the payroll system or when changes are made to master file details to ensure the information has been entered correctly.
- Workforce Plan details should be checked to detailed information generated by Synergy to ensure budget estimates are entered correctly in synergy and to provide meaningful comparisons between actual and budget during budget reviews
- A third person should be trained in the use of the Synergy payroll system for back up.
- A person independent from entering information in the master file for bank details, setting up of new employees and making a file inactive should review master file changes.

### **Liabilities – Employee Provisions**

- The audit trail of all master file changes should be independently checked and approved by someone independent of input preferably, the Manager HR & Organisational Development.
- Managers should confirm with HR that employees have accrued entitlements for leave before approving a leave application by an employee.
- Records should advise HR whenever it needs to prepare Crystal reports and ensure that any reports it prepares does not affect the integrity of the master file information in Synergy as a result of this access. Testing should be carried out after Crystal reports are prepared.

### **Land Tax**

- The Kalamunda Men's Shed be informed that the information regarding their obligation for land tax should be discussed with the Department of Treasury to confirm their eligibility for a concession or an exemption of the tax.

- 
- That all organisations that lease land from the Shire are made aware of their obligations under the lease to contact the Department of Finance on their exposure and or eligibility for a concession or exemption from land tax.

#### **Expenses- Corporate Credit Cards**

- New Approval of Corporate Credit Card and Acknowledgement of Conditions of Use Forms should be signed by the CEO for each person issued with a corporate credit card prior to the introduction of the new policy.
- Under the new policy and procedures, approval forms have been issued and signed by staff allocated with a corporate credit card acknowledging the condition of use.

#### **Review of Compliance Audit Return 2013**

- That the Manager Governance should submit the completed Compliance Audit Return for 2013 to the Audit and Risk Committee for review and report the results to Council.
- The Council approved completed Compliance Audit Return should be submitted to the Department of Local Government and Communities by 31 March 2014.

Moved:

Seconded:

Vote:



**Attachment 1**

Internal Audit Report February 2014  
Financial Management Review

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## Objectives and Scope of the Internal Audit

The objectives and scope of the internal audit is to provide the CEO and the Audit and Risk Committee with surety that the financial and statutory functions of the shire are being undertaken in accordance with the provisions of the Local Government Act 1995, associated regulations, the Australian Accounting Standards, other legislation and that key controls have operated effectively during the financial year.

Amendments to the audit regulations in 2013, now require all reports prepared for the CEO and the Audit and Risk Committee to examine the appropriateness of the local government's system in regard to risk management, internal control and legislative compliance.

The report covers areas examined in accordance with the Audit Plan and includes:

- Contributions by Lessees/ Asset Additions
- Fringe Benefits Tax (FBT)
- Trust Funds - Cell 9
- Expenses - Payroll
- Liabilities – Employee Provisions
- Land Tax
- ATO Review on GST
- Expenses - Credit Card Transactions
- Review of Compliance Audit Return 2013

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## Contributions by Lessees/Asset Additions

### Background

Capital improvements by lessees on assets belonging to the Shire needs to be captured by the Shire as a contribution and an increase in value of assets. On two occasions this did not occur where capital improvements were made to Shire owned property under lease. The lessees under the terms of their lease are required to advise the owner of any capital improvements it makes prior to conducting the work and on completion, inform the Shire as to the nature and value of the capital improvement. This is important to ensure the improvements are capitalised and insured.

### Work Performed

This matter was discussed with Shire staff to establish whether it was a common problem and whether processes and procedures are adequate and being applied to capture this information.

### Findings

It appears to be a common problem for leased assets belonging to community and sporting groups. These groups often receive grants for capital improvements in their own right and often fail to notify the Shire as to the nature and value of the capital improvement. In the case of certain notified improvements there is a lack of information provided by the lessee regarding the completion and value of the capital improvement.

### Risk

The risk being:

- capital improvements to Shire assets is not being identified and captured;
- Shire asset is underinsured as improvements are not captured for insurance purposes in the asset register.

### Recommendation

1. Lessees are reminded that under their lease they have an obligation to provide the Shire by the 30 June with a list of capital improvements made to shire assets supported by supplier's invoices confirming the value and nature of the improvement.
2. The Shire on notification is to record all capital improvements in the asset register and ensure these improvements are insured as part of its annual insurance renewal.

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3. An inventory of all Shire assets should be undertaken over a period of say 3 years to establish that the asset register is up to date.

### **Action Taken by Management**

Management are taking measures by advising all lessees to notify the Shire at least annually of any capital improvements they make to Shire assets and provide supporting information such as supplier's invoices covering the nature and value of the improvement and notification of completion.

## **FBT on Motor Vehicles**

### **Work Performed**

An examination of completed log books indicates that staff may not understand the rules governing "commuter use" of a Shire owned vehicle. Staff with commuter use privilege's should not use vehicles for private purposes as the exempt nature afforded certain types of vehicles will be lost if certain conditions are not being met which will subject all of the travel including commuter and private use to FBT.

The conditions for commuter use established for FBT being:

Travel by the employee is between:

- the place of residence of the employee; and
- the place of employment of the employee or any other place from which or at which the employee performs duties of his or her employment; and
- other private use of a motor vehicle by the employee or an associate of the employee is minor, infrequent and irregular.

### **Findings**

A staff member who only has commuter rights used a Shire owned vehicle for private purposes on more than one occasion and registered approximately 700km so far during the FBT year.

### **Risk**

This action will subject all the commuter and private use of the vehicle to FBT and result in the Shire having a liability for FBT in excess of \$3,000 for the FBT year.

### **Action taken by Management**

All staff with commuting rights are made aware of their employment obligations. If they continue to breach a privilege granted by their employer, then management will consider removing their commuting rights or taking other measures.

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## Cell 9 – GST Payable on Reimbursement to Education Department

### Background

In 2006 the Shire established Cell 9 for the development of a designated area, and by obtaining developers contributions, used these funds to acquire land and develop infrastructure. The acquisition of land included two blocks for the development of a school for the Education Department. During the early stages of development of Cell 9 there were insufficient funds held in trust for the shire to acquire the land for the Education Department. As a consequence, the Education Department purchased the land for a school, and when there were sufficient funds in Cell 9, it would reimburse the Education Department for the cost of the land.

The lots belong to the Education Department and not the Shire. In negotiating the repayment of the cost of the land, the Education Department has come back and requested the payment of GST on the transaction. GST was never an issue before, and the Shire believes it does not have to pay an additional sum of \$390,000 for GST on this transaction.

### Work Performed

Management met to discuss this issue with the Education Department to establish the principle for the establishment of GST. The Shire's concern relates to whether there was ever a taxable supply, and if so what was the consideration when the asset (land) belongs to the Education Department. If GST is payable on the transaction, the Shire needs to establish whether it can recover all the GST.

### Findings

The Shire does not believe it has any liability in relation to this transaction and has engaged a GST consultant for professional advice on this matter. At the time of writing their findings have not been received.

### Risk

The Shire may have to pay an additional liability for GST of \$390,000 payable out of trust that it may not be able to recover.

### Action taken by Management

To mitigate any claim and establish whether it has a tax liability for GST, PwC have been appointed to provide advice in relation to this claim.

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## Expenses – Payroll

### Background

The internal audit in keeping with recent amendments to the audit regulations now includes a review of risk management, internal control and legislative compliance.

### Work Performed/ Risks Noted

Conducted a risk assessment review of payroll and tested the key controls to establish they have operated effectively. Findings noted below were summarised and discussed with the HR Manager.

The following risks were identified:

1. Payroll expense is inaccurately calculated.
  - 1.1. No independent review is performed when a person is entered in the payroll system to ensure the information is entered accurately. This may result in the inaccurate calculation of an individual's pay, over or underpayment of pay and a potential for future industrial disputes and miscoding to incorrect cost centres.

#### Recommendation 1.1

An independent review should be carried out when a person is entered into the payroll system or when changes are made to master file details to ensure the information has been entered correctly.

#### Management Response 1.1

Management concurs that there is no independent check conducted when a person is entered into the system, but fortnightly pays are reviewed for any significant changes to payroll and authorised by the HR Manager. The proposed appointment of a new independent person to undertake this work in Financial Services will address this matter.

- 1.2. No independent check is conducted of workforce plan with payroll expenses generated by Synergy. This may result in coding errors when actual expenses are posted to the general ledger and this could affect budget reviews.

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### Recommendation 1.2

Workforce Plan details should be checked to detailed information generated by Synergy to ensure budget estimates are entered correctly in Synergy and to provide meaningful comparisons between actual and budget during budget reviews

### Management Response 1.2

Payroll and workforce planning will not always match up. Payroll needs to consistently be up to date in order to pay staff the correct wages while Workforce Planning needs to most importantly be kept updated for all budget reviews. It would be great to have both payroll and Workforce Planning YTD figures to be similar but they will not be 100% accurate at any one time. An independent person to be appointed in Financial Services will address this matter.

- 1.3. There are only two people within the HR section who understand the HR system for generating the fortnightly payroll. Only one has a full understanding and many years of experience in operating the synergy payroll system effectively. A second person is being taught in how to use the system, input data and generate a pay run. It is considered an area of risk if there are insufficient trained staff in place to operate synergy and generate the fortnightly payroll should a key person with experience leave the organisation.

### Recommendation 1.3

A third person should be trained in the use of the Synergy payroll system for back up.

### Management Response 1.3

A proposal has been developed to have an officer from Financial Services trained as the third person in how to use the Synergy payroll system will provide suitable back up for HR.

## 2. Payroll disbursements are made to incorrect or fictitious employees

- 2.1 The transfer of the bank file is not restricted to authorised officers not involved in the preparation of the pay run. The payroll officer who prepares the pay run enters the bank file details. There is no independent reviewing officer or segregation of this function.

- 
- 2.2 No independent checking is carried out of new additions after they have been entered in the payroll system. HR Manager has to approve before details are entered but no check is carried out after the data is entered into the payroll system.
- 2.3 There is no independent review of employee files once the payroll officer makes a file inactive for employees that have left the organisation. This control should be restricted to prevent manipulation of data.

#### Recommendation 2.1 to 2.3

A person independent from entering information in the master file for bank details, setting up of new employees and making file inactive should review master file changes.

#### Management Response to 2.1 to 2.3

An independent person in Financial Services will provide this support and address this matter.

#### Specific Detailed Analysis

Detailed testing and review was undertaken on a selection of employees paid between July and December 2013 to establish that hours worked agreed with time records where applicable, approved rates of pay, taxation calculations and any authorised deductions. Confirmed that deductions and entitlements with letters of approval on individuals personnel records. The following items were noted and confirmed with HR.

1. There were occasions where the authority for the approval of annual, sick and LSL were not approved by the Manager/or Director on the application for leave form. These forms were processed without this approval.

#### Managements Response to 1

This definitely should not be happening and procedures will be updated and improved to resolve the issues identified.

2. The payroll system will not accept a leave application unless an individual employee has an accrued entitlement. However this verification does not occur at the point of approval with managers approving leave before confirmation of an individual's entitlement with HR.



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### **Managements Response to 2**

When employees fill in the annual leave form, they should be getting the accrued annual leave entitlements from payroll. All employees will be reminded of the correct process.

3. There were occasions where changes in entitlements such as authorities for the use of motor vehicles were not on an individual's personnel file.

### **Management Response to 3**

Accepted. Records are being reviewed and updated.

4. Workforce Planning is based on approved positions whereas financial management reports are based on actual filled positions. This will always result in a difference between the two systems and these differences will affect budget reviews.

### **Management Response to 4**

Recruitment process relies on approved position in workforce planning. An independent person in Financial Services will provide support and confirm the two systems agree.

5. An accrualment will need to be made for the next round of the EBA adjustment for monthly reporting as the period for the outside workforce expired in August 2013. Depending on when the inside EBA is accepted then there will be a further accrualment required as the EBA for this group expired in December 2013. It would be best for HR to liaise on this matter with finance as early as possible to make the correct adjustment.

### **Management Response to 5**

The expected figures have already been provided to Finance through workforce planning. Finance rely on workforce planning data when it comes to employment costs.

6. Formulas used in Workforce Plan may require updating e.g. in calculations and determinations of Workers Compensation Insurance based on gross salary percentages.

### **Management Response to 6**

Finding accepted and work has commenced to review and update formulas.

## Liabilities - Employee Provisions

### Background

The internal audit in keeping with the recent amendments to the audit regulations has been extended to include a review of risk management, internal control and legislative compliance.

### Work Performed

Conducted a risk assessment review of employee provisions and tested the key controls to establish they have operated effectively. Findings were summarised and discussed with the HR Manager. The following main risks were noted:

1. Employee provisions are either incorrectly recorded or not recorded at all
  - 1.1 There are no independent reviews carried out when changes are made by the person carrying out changes to the master file to ensure the information is accurate and correct. The system generates an audit trail of changes.

### Recommendation 1.1

The audit trail of all master file changes should be independently checked and approved by someone independent of input, preferably the HR Manager.

- 1.2 Not all managers confirm a person's leave entitlements with HR before granting approval on the leave application form. This may result in employee disputes later when the leave application is amended by HR based on the individual employee's accrued entitlement.

### Recommendation 1.2

Managers should confirm with HR that employees have accrued entitlements for leave before approving a leave application by an employee.

2. Payroll master file does not remain pertinent and reflect current conditions within those records.
  - 2.1 Records has access to the back end of the Synergy payroll system when it prepares Crystal type reports. This has affected the integrity of information in the payroll system.

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## Recommendation 2.1

Records should advise HR whenever it needs to prepare Crystal reports and ensure that any reports it prepares does not affect the integrity of master file information in Synergy as a result of this access. Testing should be carried out after Crystal reports are prepared.

## Management Comments/Action

Recommendation 1.1 - The proposed appointment of a person in Financial Services will provide the required independent support.

Recommendation 1.2 – Managers will be reminded of their responsibility to ensure staff have sufficient leave to cover the period requested.

Recommendation 2.1 - HR regularly examine the user audit trail of the Synergy payroll to ensure there has not been any unauthorised access to the payroll system.

## Land Tax

### Background

The Kalamunda Men's Shed is seeking advice/clarification from the Shire as to whether it is liable for land tax. This matter although referred to in the lease is a matter between the lessee and the Department of Finance who grant exemptions and concessions to various non-profit organisations.

### Work performed

Conducted a review of the Land Assessment Act 2002 (the Act) and circulars issued by the Department of Finance on land tax and their application to organisations that use the land vested in a local government.

**Liability to pay land tax rests on the owner** under section 7 of the Act. To be the owner for the purpose of section 7, the person is entitled to use the land for business, commercial, professional or trade purposes under an agreement with the Crown, with an agency or instrumentality of the Crown or with a local government or public statutory authority.

The land used by the Kalamunda Men's Shed is under lease from the Shire which for the purposes of **this legislation treats the Kalamunda Men's Shed as owners.**

As owners, the Kalamunda Men's Shed needs to establish whether the land they use is exempt, partly exempt or whether they are entitled to a concession under the Act.

Section 38 of the Act grants exemptions or concessions for land owned by non-profit organisations. A non-profit organisation means a society, club or association that is

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not carried on for the purpose of profit or gain to its individual members. On the face of it the Kalamunda Men's shed fits the definition of a non-profit organisation.

### Recommendation

1. The Kalamunda Men's Shed be informed that the information regarding their obligation for land tax should be discussed with the Department of Treasury to confirm their eligibility for a concession or an exemption of the tax.
2. That all organisations that lease land from the Shire are made aware of their obligations under the lease to contact the Department of Finance on their exposure and or eligibility for a concession or exemption from land tax.

### Action Taken by Management

Management will make lessees aware of their obligations to confirm their liability for land tax with the Department of Finance. Majority of lessees will more than likely be exempt or granted a concession as they would be classed non- profit organisations.

## ATO Review of GST

### Background

On the 21 November 2013, the Deputy Commissioner of Taxation (ATO) wrote to the Shire of Kalamunda informing the shire of the commencement of an ATO Review of GST following the recovery of approximately \$400,000 in GST on the sales of land under the Margin Scheme. The ATO requested information to substantiate whether land belonging to the Shire at Lot 5 Welshpool Road East, Wattle Grove (Smokebush) was unimproved as of 1 July 2000.

This information was provided to the ATO confirming that no improvements had occurred to this land before 1 July 2000.

### Findings

The ATO has written to the Shire confirming the land was unimproved and that its claim complies with the principle that no improvements had occurred to Lot 5 Welshpool Road East, Wattle Grove before 1 July 2000.

## Expenses – Corporate Credit Card Transactions

### Background

Following the Forensic Audit into the previous CEO, one of the recommendations was the preparation of a new Corporate Credit Card Policy and Procedures. A new Policy and Procedures were adopted by Council on the 27 May 2013.

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## Risk Assessment Review

A risk assessment review was conducted to ensure that Corporate Credit Cards are issued to authorised employees and used for the purchases authorised by management and are not of a personal nature.

## Work Performed

Established that the following controls were in place to mitigate the following risks:

1. Corporate credit cards are issued to unauthorised employee
  - CEO approves all issues of corporate credit cards prior to release
  - Employees sign a declaration confirming compliance with shire policy and procedures
  - Access restricted to Credit Card Register and credit card documentation
  - Designated person reviews the Credit Card Register
  - Breaches of credit card limits investigated
  
2. Corporate Credit Cards are used for purchases of a personal nature
  - Usage restrictions placed on credit cards
  - Credit card holder matches all transactions with supporting information within seven days
  - Any personnel expenses are investigated and rectified
  - Improper use will result in disciplinary action
  - Finance staff check all statements to ensure transactions are correct.

## Findings

Controls are in place and operating effectively to ensure that employees are issued with credit cards approved by management since the introduction of the new Corporate Credit Card policy and procedures. Credit card usage is for business purposes and not of a personal nature.

Noted that credit cards issued prior to the introduction of the new policy were not authorised.

## Recommendations

New Approval for Corporate Credit Card and Acknowledgement of Conditions of Use Forms should be signed by the CEO for each person issued with a corporate credit card prior to the introduction of the new policy, as new approval forms have been issued and signed by staff issued with a corporate credit card acknowledging the conditions of use under the new policy and procedures.

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## Review of Compliance Audit Return 2013

### Background

The Compliance Audit Return for 2013 (CAR) is a statutory document issued by the Department of Local Government and Communities for the period 1 January to 31 December 2013. It includes the following specific areas:

- Commercial Enterprises by Local Governments
- Delegation of Power/Duty
- Disclosure of Interest
- Disposal of Property
- Elections
- Finance
- Local Government Employees
- Official Conduct
- Tender for Providing Goods and Services

The Audit and Risk Committee is required to review the completed Compliance Audit Return for 2013 and report the results to the Council, prior to the CAR's adoption by Council and submission to the Department of Local Government and Communities by 31 March 2014

### Risk Assessment Review

There were no significant matters of risk for non-compliance in the Compliance Audit Return for 2013.

### Work Performed

Reviewed the answers to all the questions and tested the responses with supporting information where applicable.

### Findings

There were no significant matters of non-compliance reported in the CAR's except for the items raised in the Auditor and Management Reports. These matters have been referred to Council and being addressed. This is reflected in the responses in the Compliance Audit Return for 2013. Minor amendments were referred to the Manager of Governance for correction.

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## Recommendations

That the Manager of Governance should submit the completed Compliance Audit Return to the Audit and Risk Committee for review and report the results to Council.

The council approved completed Compliance Audit Return should be submitted to the Department of Local Government by 31 March 2014.

## Management Response

The Compliance Audit Return will be presented to the Audit and Risk Committee in March 2014.

## Attachment 2

GPO Box 9990 IN YOUR CAPITAL CITY



**Australian Government**  
**Australian Taxation Office**

Shire of Kalamunda  
Attention: Mr Rajesh Malde  
PO Box 42  
KALAMUNDA WA 6929

Reply to: GPO Box 9977  
Perth WA 6848  
Our reference: 1-54UF02B  
Contact officer: Serena Hicken  
Phone: (08) 9268 5606  
Fax: 1300 880 301  
Your reference:  
ABN: 60 741 095 678

24 January 2014

### Completion of review

Dear Mr Malde

We have completed our review of the Shire of Kalamunda. During the review, you supplied information in relation to the sale of land where you have applied Item 4 of sub-section 75-10(3) of *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

The aerial photographs and the business plan that you provided assisted us in coming to the conclusion that the land in question was unimproved land as at 1 July 2000. The advice provided by LMW Hegney dated 7 February 2013 was not relied upon in our decision making as the parameters applied by LMW Hegney are not consistent with the ATO view of what is unimproved land.

In light of the information supplied, we have determined that this issue does not require further examination and we will not therefore proceed to audit in this instance.

#### Record keeping

You need to keep your business records for five years, including all records examined as part of this review.

We don't intend reviewing this issue again. However, we may need to look at the records again if new information suggests the need for further enquiries.

#### More information

If you have any questions, please phone **13 28 69** between 8.00am and 5.00pm, Monday to Friday, and ask for Serena Hicken on extension **85606**.

Yours sincerely

James O'Halloran  
Deputy Commissioner of Taxation



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**Declaration of financial / conflict of interests to be recorded prior to dealing with each item.**

**06. Review of Financial Management Systems and Chief Executive Officer Contract Adherence Review**

Previous Items	OCM 48/2013
Responsible Officer	Director Corporate Services
Service Area	Internal Auditor
File Reference	
Applicant	N/A
Owner	N/A
Attachment 1	Circular No 39-2013 – New Operational Guideline No 09 – Audit in Local Government
<a href="#">Attachment 2</a>	<a href="#">Local Government Operational Guidelines – Number 09 – Audit in Local Government</a>
Attachment 3	Council resolution 48/2013

**PURPOSE**

1. To inform the Audit and Risk Committee that on 17 December 2013 the Department of Local Government and Communities issued Circular No 39-2013 on Audit in Local Government (Attachment 1). The circular advises Local Governments that Operational Guideline No 9 – Audit in Local Government has been reissued replacing the previous Guideline No 9 – Audit Committees in Local Government and Guideline No 13 – The Relationship Between Internal and External Audit. The revision includes amendments to the *Local Government (Audit) Regulations 1996* that have extended the functions of local government Audit Committees.
2. To endorse the action proposed by the Chief Executive Officer (CEO) to address the request by Council on the 22 April 2013 (Attachment 3) and comply with regulation 5 of the *Local Government (Financial Management) Regulations 1996* and the legislative changes to the *Local Government (Audit) Regulations 1996*.

**BACKGROUND**

3. Amendments to the *Local Government (Audit) Regulations 1996* include:
  - Reviewing the CEO's report on the appropriateness and effectiveness of local governments systems in regard to risk management, internal control and legislative compliance; and report the results of the Audit and Risk Committee consideration of that review, to the Council.
  - The review process is to occur at least once in every two calendar years with the first review of each of the three areas to be completed by the CEO, reviewed by the Audit and Risk Committee and reported to Council by 31 December 2014.

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4. Council has requested the CEO to undertake:

- Financial Management Systems review
- CEO Contract Adherence review
- Policy Adherence Review

### **STATUTORY AND LEGAL CONSIDERATIONS**

5. *Local Government Act 1995*  
*Local Government (Financial Management) Regulations 1996*  
*Local Government (Audit) Regulations 1996*

### **POLICY CONSIDERATIONS**

6. Policy Adherence Review.

### **COMMUNITY ENGAGEMENT REQUIREMENTS**

7. Nil.

### **FINANCIAL CONSIDERATIONS**

8. There could be significant cost savings if the review, with the exception of the CEO Contract Review, was conducted in-house.

### **STRATEGIC COMMUNITY PLAN**

#### **Strategic Planning Alignment**

9. *Kalamunda Advancing: Strategic Community Plan to 2023*

Strategy 6.3.3 Regularly review the organisations structure and procedures in response to changing circumstances.

Strategy 6.8.4 Provide effective financial services to support the Shire's operations and to meet sustainable planning, reporting and accountability requirements.

### **SUSTAINABILITY**

#### **Social Implications**

10. Nil.

#### **Economic Implications**

11. Nil.

#### **Environmental Implications**

12. Nil.

**RISK MANAGEMENT CONSIDERATIONS**

13.	<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>	<b>Action/Strategy</b>
	Failure to adopt the recommendations relating to the review of Financial Management Systems and CEO Contract Adherence Review	Unlikely	Major	Medium	Comply with legislative requirements

**OFFICER COMMENT**

- 14. Council at its April 2013 meeting resolved that the CEO undertake a Financial Management Systems Review, CEO Contract Adherence review and a Policy Adherence Review (Attachment 3).
- 15. Changes to the audit regulations now means the work being undertaken by the Internal Auditor on a Financial Management Systems review which includes an expanded review of risk management, internal control and legislative compliance can be completed in-house over a two year period to comply with the amended audit regulations.
- 16. The CEO Contract Adherence review and Policy Adherence review should be conducted by independent external auditors.
- 17. Quotes should be obtained from three firms of external auditors and presented to the Audit & Risk Committee before a decision is made on whether to undertake all reviews externally or have the Financial Management Systems review completed internally and the other reviews completed externally.

**Voting Requirements: Simple Majority**

**OFFICER RECOMMENDATION (A&R 06/2014)**

That Council:

- 1. Request the Chief Executive Officer invite three firms of external auditors to provide separate quotes for professional services to undertake:
  - A Financial Management Systems Review
  - A Chief Executive Officer Contact Adherence Review
  - A Policy Adherence Review

Moved:

Seconded:

Vote:

## Attachment 1



Government of **Western Australia**  
Department of **Local Government and Communities**

Our Ref: 5-13 E1332028

TO ALL LOCAL GOVERNMENTS

CIRCULAR N<sup>o</sup> 39-2013

### **NEW OPERATIONAL GUIDELINE NO. 09 – AUDIT IN LOCAL GOVERNMENT**

I am pleased to advise that a local government operational guideline has been revised and uploaded to the Department's website.

Operational Guideline No. 09 - *Audit in Local Government* is now available, replacing previous Guideline 09 - *Audit Committees in Local Government* and Guideline No.13 – *The Relationship Between Internal and External Audit*.

The revised Guideline provides information to assist local governments establish and operate an effective Audit Committee, as well as guidance relating to the Committee's role in the appointment of external auditors and in forming a view of the local government's internal audit requirements.

The revision also incorporates information regarding amendments to the *Local Government (Audit) Regulations 1996* that have extended the functions of local government Audit Committees.

These functions now include reviewing the Chief Executive Officer's report on the appropriateness and effectiveness of the local government's systems in regard to risk management, internal control and legislative compliance; and reporting the results of the Committee's consideration of that review, to the Council.

This report and review process is to occur at least once every two calendar years, with the first review of each of the three areas to be completed by the CEO, reviewed by the Audit Committee and reported to the Council, by 31 December 2014.

Appendix 3 to the Guideline covers issues that should be considered for inclusion in the Chief Executive Officer's review of risk management, internal control and legislative compliance.

This expansion of responsibilities for local government Audit Committees, together with the recent reduction to the size of the Compliance Audit Return, will enable local

Gordon Stephenson House  
140 William Street Perth WA 6000  
GPO Box R1250 Perth WA 6844  
Tel: (08) 6551 8700 Fax: (08) 6552 1555 Freecall: 1800 620 511 (Country only)  
Email: [info@dlgc.wa.gov.au](mailto:info@dlgc.wa.gov.au) Website: [www.dlgc.wa.gov.au](http://www.dlgc.wa.gov.au)

governments to better manage risk, internal control and legislative compliance within their own timeframes and with increased transparency and involvement for elected members.

New Guideline No. 09 can be downloaded from the Department's website  
<http://dlq.wa.gov.au/Content/Publications/LGGuidelines.aspx>

For any queries regarding the Guideline, please contact Mr Andrew Borrett, Senior Project Officer, on 6552 1532 or at [Andrew.Borrett@dlqc.wa.gov.au](mailto:Andrew.Borrett@dlqc.wa.gov.au)



Jennifer Mathews  
A/DIRECTOR GENERAL

17 December 2013

## **Attachment 2**

Review of Financial Management System

[Click HERE to go directly to the document](#)

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### Attachment 3

Extract of Minutes Ordinary Council Meeting 22 April 2013

11.3 Cr Simon Di Rosso – Financial Management System Review

*Cr Di Rosso was invited to outline the details of his Motion; he did so and added an opening proviso to his Motion, highlighted below.*

<b>Voting Requirements</b>
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RESOLVED OCM 48/2013

That Council:

Subject to ratification of an allocation in the 2013/2014 Budget as outlined in Point 7:

1. Request the Chief Executive Officer, in accordance with Regulation 5 (2) (c) of the *Local Government (Financial Management) Regulations 1996*, undertake a review of the appropriateness and effectiveness of the Shire's financial management systems and procedures by an independent external qualified auditor and report those findings to the Audit and Risk Committee by no later than April of every alternate year for its review.
2. That the Scope of the review include but not be limited to:
  - a. Receipts and Receivables;
  - b. Rates;
  - c. Fees and Charges;
  - d. Credit Card Purchases;
  - e. Reimbursement requests;
  - f. Wages and salaries;
  - g. Fixed assets;
  - h. Records Storage and Record keeping;
  - i. Receipting and other relevant financial controls and Procedures;
  - j. Budget process and management reporting;
  - k. Long Term Financial Plans;
  - l. Strategic Financial Policies;
  - m. Creditor and debtor accounts;
  - n. Plant and equipment lease agreement accounts;
  - o. Service contract accounts;
  - p. Bank Reconciliations;
  - q. Trust Funds;
  - r. Identification of weaknesses;
  - s. Improvement recommendations; and
  - t. Other matters that may be required.

- 
3. Request the Audit and Risk Committee to review the independent audit report provided by the Chief Executive Officer report and provide a recommendation to the full Council meeting of June of each alternate year setting out its view as to the completeness and accuracy of the independent audit report and any other matter the Audit and Risk Committee deems appropriate.  
(Financial Management System Review)
  4. Request the Chief Executive Officer ensure that the external auditor report for the CEO Contract Adherence Review is provided to the Audit and Risk Committee before June in any two-year cycle for its consideration and subsequent report to Council thereafter by August of the same year.  
(CEO Contract Adherence Review)
  5. Request the Chief Executive Officer, by no later than April of every alternate year, engage a suitably qualified independent external auditor to undertake a performance audit of Shire Officer compliance with Council Policies with a request to the external auditor to thereafter provide a comprehensive report of all determinations back to Council's Audit and Risk Committee.
  6. Request the Chief Executive Officer to ensure that external auditor report for the Policy Adherence Review is provided to the Audit and Risk Committee before June in any two-year cycle for its consideration and report to Council thereafter by August of the same year.  
(Policy Adherence Review)
  7. List for consideration to the forthcoming budget deliberations an allocation that would allow for a financial management system review audit every two years and a Policy Adherence and CEO contract adherence audit every alternate year.

Moved: **Cr Simon Di Rosso**

Seconded: **Cr John Giardina**

Vote: **CARRIED UNANIMOUSLY (11/0)**



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**Declaration of financial / conflict of interests to be recorded prior to dealing with each item.**

**07. Enforcement Policy**

Previous Items	N/A
Responsible Officer	Director Development Services
Service Area	Development Services
File Reference	
Applicant	
Owner	
Attachment 1	Enforcement Policy
Attachment 2	Management Procedure – Dog Act
Attachment 3	Management Procedure – Fire Breaks and Notices
Attachment 4	Management Procedure – Parking

**PURPOSE**

1. To note the Shire's Enforcement Policy and the accompanying Management Procedures

**BACKGROUND**

2. A briefing was provided to Councillors on 24 February 2014 on the Enforcement Policy.

**DETAILS**

3. One of the functions of the Shire is to act as an enforcement agency for a range of duties and powers as set out in legislation.
4. The Enforcement Policy and Management Procedures gives guidance on how to handle these matters

**STATUTORY AND LEGAL CONSIDERATIONS**

5. Local Government Act 1995

**POLICY CONSIDERATIONS**

6. The recommendation will provide for policy on the matter of enforcement of a range of local government functions.

**COMMUNITY ENGAGEMENT REQUIREMENTS**

7. There is no requirement to advertise the proposed policy.

**FINANCIAL CONSIDERATIONS**

8. Nil.

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## STRATEGIC COMMUNITY PLAN

### Strategic Planning Alignment

9. *Kalamunda Advancing: Strategic Community Plan to 2023*

OBJECTIVE 6.2 – To ensure local laws are upheld.

Strategy 6.2.1 Develop, implement and monitor all local laws across the Shire to ensure they are relevant and realistic.

OBJECTIVE 6.3 – To lead, motivate and advance the Shire of Kalamunda.

Strategy 6.3.3 Regularly review the organisation's structure, policies and procedures in response to changing circumstances.

## SUSTAINABILITY

### Social Implications

10. The proposed policy will seek to educate the community in many circumstances where various aspects of local laws are impinged upon.

### Economic Implications

11. Nil.

### Environmental Implications

12. Nil.

## RISK MANAGEMENT CONSIDERATIONS

13.

Risk	Likelihood	Consequence	Rating	Action/Strategy
Policy isn't followed	Unlikely	Minor	Low	Ensure staff who have enforcement powers are aware of the Policy and follow associated management procedures.

## OFFICER COMMENT

14. The proposed policy and management procedures will ensure that Staff follow the principles of Proportionality, Consistency, Transparency and Privacy in matters of enforcement.
15. The policy has been developed with additional management procedures for certain aspects of enforcement, however the policy applies across all areas of Shire's authority to enforce legislation and local laws.
16. Additional management procedures can be developed to provide clarity if there are future issues that require further direction.

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<b>Voting Requirements: Simple Majority</b>
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**OFFICER RECOMMENDATION (A&R 07/2014)**

That Council:


1. Notes and endorses the Shire's Enforcement Policy and the accompanying Management Procedures

Moved:

Seconded:

Vote:

## Attachment 1

<p><b>SHIRE POLICY</b> Enforcement</p> <p><b>MANAGEMENT PRACTICE</b> Dog Act Fire Break and Notices Parking</p> <p><b>RELEVANT DELEGATION</b></p>	 <p>shire of <b>kalamunda</b></p>
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**Rationale**

The Shire has functions and responsibilities which protect individuals, the environment and the community as a whole. One of the functions of the Shire is to act as an enforcement agency for a range of duties and powers as set out in legislation.

This policy outlines the Shire's approach to compliance and enforcement matters. This policy will be applied by the Shire in dealing with the community as a whole in regard to matters that it regulates. This policy:

- is not legally binding on the Shire;
- is general in nature and does not exhaustively address all specific considerations that may be considered by the Shire;
- does not limit the discretion of, or compel, the Shire to take action; and
- is not intended to be viewed as a substitute for legal advice or process.

**Policy**

In fulfilling its role as an enforcement agency, the Shire will undertake enforcement with due regard to the following principles:

- 1. Proportionality**  
Any enforcement will be proportionate to the offence, taking into account previous infringements, convictions or other relevant circumstances. A proportionate response means the Shire's actions will be commensurate with the seriousness of the breach.
- 2. Consistency**  
The Shire will take a similar approach in similar cases to achieve similar outcomes, ensuring that all advice and guidance takes into account and reflects equality and diversity issues. Decisions on enforcement require the use of professional judgement and discretion to assess varying circumstances. However the Shire will:
  - follow Management Procedures where applicable;
  - ensure fair, equitable and non-discriminatory treatment; and
  - record any deviation from standard procedures and the reasons for that deviation.
- 3. Transparency**  
The Shire will be open and transparent about the manner in which it undertakes enforcement activities. The Shire will:
  - make a clear distinction between what is legally required and what is desirable but not compulsory;

- explain clearly and in plain language why the action is necessary and will point out what action is required to achieve compliance and the timeframe for undertaking that action; and
- will give notice of its intent to commence formal action, where practicable.

#### **4. Privacy**

Materials obtained by officers in the regulatory or investigative role will be kept in accordance with the State Records Act. Except where required by law, witness details will be kept confidential and will not generally be disclosed in order to maintain public confidence in the enforcement regime and ensure privacy.

#### **Decision Making**

Decisions must be fair, consistent, balanced and based on common standards that ensure the public and the Shire's officers are adequately protected.

Where non-compliance is discovered the options available to achieve compliance include:

- explaining legal requirements and the means to achieve compliance
- allowing reasonable timeframes to achieve compliance
- providing an opportunity to discuss points of issue
- issuing a verbal or written warning
- formal enforcement actions such as issuing an Order/Direction, an Infringement Notice or commencing prosecution

Where a decision is made not to investigate a complaint, the decision and reasons will be recorded in accordance with the Shire's Records Management protocols and the complainant will be advised.

A personal association or relationship with an alleged offender must be disclosed as soon as practicable and:

- an alternative officer assigned to investigate and make decisions regarding enforcement
- any conflict/relationship will be recorded in accordance with Shire's Records Management protocols

#### **Enforcement**

The Shire has discretion in deciding the most appropriate enforcement action to be applied. The Shire's primary focus is to bring breaches into compliance. However, infringement or prosecution will be considered where it is an appropriate action to a particular circumstance and will not only be applied as a last resort.

Before issuing an infringement or commencing prosecution, there must be reliable evidence to establish a realistic prospect that the offence can be proved in court beyond reasonable doubt.

In coming to a decision on the most appropriate means of enforcement, the officer shall consider, amongst other relevant factors:

- the seriousness of the offence and the impact on the community
- the degree of wilfulness involved
- the consequences of non-compliance and the need for deterrence
- the likely effectiveness of the various enforcement options

- consistency of approach to similar breaches/offences
- past history of compliance of the offender
- the attitude and circumstances of the offender
- other mitigating factors

**Authorisation**

Only officers who are competent by training, qualification and/or experience will be authorised to take enforcement action. Officers will have sufficient training and understanding of Shire policies and procedures to ensure a consistent approach to their duties. Where an officer decides to act other than in accordance with this policy, they must record in writing the reasons for the variation.

Related Local Law		Last Reviewed	
Related Policies		Next Review Date	
Related Budget Schedule		Authority	

**Attachment 2**

<b>XX: Enforcement Management Procedure – Dog Act</b>	
<b>Policy</b> Enforcement Policy	<b>Relevant Delegation</b>

**Objective:** to ensure that the Shire of Kalamunda is fair, consistent and proportionate in matters of compliance and enforcement.

**Enforcement of the *Dog Act 1976***

The following management procedure relates to the enforcement of the *Dog Act 1976*. In the case of registration, the Shire’s primary focus is compliance with the legislation and the Shire will generally seek compliance through the issuing of written warnings in the first instance. In the case of wandering dogs and dogs off leads, consideration will be given to the potential risks caused. In the case of dog attacks, the impact of the attack will be considered.

Breaches of the Dog Act will generally be dealt with as follows:

**Dangerous Dogs** – Where a breach is committed by a dog deemed a Dangerous Dog pursuant to the Dog Act 1976, generally a fine will be issued, unless there are other mitigating circumstances.

**Unregistered Dogs** – Generally a warning will be issued on the first offence, with a requirement to register the dog within 7 days. If the dog is not registered, further action will be taken. Fines and/or legal action will be considered for future breaches

**Wandering Dogs** – Generally a warning on the first occasion (however impound fees may apply). Fines and/or legal action may apply in future cases or if there were no attempts to contain the dog at the premises.

**Dogs off leads** – Generally a warning in the first instance, with fines and/or legal action for future breaches.

**Dog Attacks** – May range from a warning through to immediate legal action, depending on the severity of the attack and other circumstances.

**Multiple Dogs** – Generally seeking compliance with the Dog Act by voluntary removal of one of the dogs or application for multiple dogs. Where compliance achieved, generally a warning only on first offence.

**Dogs in prohibited areas** – may range from a warning to a fine, depending on circumstances.

**Attachment 3**

<b>XX: Enforcement Management Procedure – Fire Breaks and Notices</b>	
<b>Policy</b> Enforcement Policy	<b>Relevant Delegation</b>

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**Objective:** to ensure that the Shire of Kalamunda is fair, consistent and proportionate in matters of compliance and enforcement.

**Enforcement of Fire Breaks and Notices**

The risk of bushfire in the hills is extreme in many areas due to the presence of natural bushland, the geography of the area, and the scale of the potential fuel involved. Whilst the Shire will endeavour to educate landowners about their responsibilities under the Bush Fires Act and other legislation, the Shire will firmly enforce the provisions due to the impact such an event could have on the area.

Staff will visit and inspect as many properties as possible in the lead up to 1 December, by which time fire breaks must be established. Where properties do not meet the requirements, an advice card will be left to inform the property owners of what they must do to bring the property into order. Not receiving an advice card is not an excuse for non-compliance.

Where private properties are inspected, non-compliance during the bush fire ban period will be enforced as follows:

**Minor non-compliance** – in instance where a minor issue requires addressing (such as a single branch not compliant with the notice or other minor issue) no infringement will be issued, providing the matter is attended to in accordance with a 7 day Notice to Comply.

**Non-compliance** – Where the notice has not been complied with, an infringement will generally be issued unless there are other mitigating circumstances. A 7 day Notice to Comply will also be issued. If the matter is not attended to, the Shire will engage a contractor to undertake the works, with a 12.5% administration fee in addition to the contractor's charges. This fee is in addition to the fines. Where a property owner continues to fail to address bush fire notices for multiple years, consideration will be given to legal action



## Attachment 4

<b>XX: Enforcement Management Procedure – Parking</b>	
<b>Policy</b> Enforcement Policy	<b>Relevant Delegation</b>

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**Objective:** to ensure that the Shire of Kalamunda is fair, consistent and proportionate in matters of compliance and enforcement.

### **Enforcement of Parking**

The following management procedure relates to the enforcement of Parking local laws. Recognising that improper parking can lead to risks such as bringing pedestrians into conflict with vehicles, the Shire has a responsibility to ensure community awareness and enforce the local law.

Unless there are mitigating circumstances, improper parking will be dealt with as follows:

**Parking on footpaths** – Where the footpath is fully obstructed, generally an infringement will be issued, recognising that the parking could lead to unsafe access for children, prams, wheelchairs etc. Where the footpath is only partially obstructed (leaving at least 900mm for access), a warning may be issued in the first instance.

**Illegal Parking at Schools** – Given the potential dangers of parking illegally around schools and the high number of children in the vicinity, generally infringements will be issued in all instances immediately following a period of public education.

**Illegal Parking in Disabled Bays** – Generally infringements will be issued. Further legal action can be considered for repeat offenders.

**Illegal Verge Parking** – generally warning issued in first instance. Areas of concern such as shopping centres may be subject to a public education period and then followed up by enforcement (infringements) without further warning.

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**08. CONFIDENTIAL ITEM - Forrestfield United Soccer Club (Inc) – Request for Financial Assistance**

Reason for Confidentiality – *Local Government Act 1995* S5.23 (2) (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

Previous Items	OCM 85/2011, OCM 14/2012
Responsible Officer	Manager Commercial Services
Service Area	Property Services
File Reference	HL-01/199
Applicant	Forrestfield United Soccer Club (Inc)
Owner	N/A
Confidential Attachment 1 <u>Reason for Confidentiality</u> – <i>Local Government Act 1995</i> S5.23 (2) (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.	Letter from Forrestfield United Soccer Club (Inc), emailed to the Shire on 31/1/2014
Confidential Attachment 2 <u>Reason for Confidentiality</u> – <i>Local Government Act 1995</i> S5.23 (2) (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.	Minutes from Forrestfield United Soccer Club (Inc), emailed to the Shire on 31/8/2013
Confidential Attachment 3 <u>Reason for Confidentiality</u> – <i>Local Government Act 1995</i> S5.23 (2) (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.	FUSC Financial Data covering 2012/13 and monthly financial position statements to July to November 2013

This report has been circulated to Councillors for discussion at the Audit & Risk Committee Meeting. This Committee is not open to the public.

## **7.0 CLOSURE**