

1.4: ANNUAL COMPLIANCE AUDIT RETURN 2012

Proponent : City of Albany
Responsible Officer(s) : Chief Executive Officer (G Foster)

IN BRIEF

- For adoption by Council following review by the Audit and Finance Committee.

RECOMMENDATION

ITEM 1.4: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR CALLEJA
SECONDED: COUNCILLOR STOCKS

- (1) **THAT a Certified Copy of the Compliance Audit Return be ENDORSED by Council and any additional information explaining or quantifying the compliance audit is to be submitted to the Director General of the Department of Local Government before 31 March 2013.**
- (2) **Council NOTE the areas of non compliance.**

CARRIED 12-0

BACKGROUND

1. Local Government Authorities are required to undertake an audit of compliance for the preceding calendar year.
2. The Compliance Audit Return forms an important part of the City's compliance monitoring program. The Compliance Audit Return commenced in January 2013, with the initial distribution of questions.
3. Relevant sections of the Compliance Audit Return are distributed to Responsible Officers for completion.
4. The completed questions are then returned by the Responsible Officer to the Manager Compliance and Community Safety for compilation. Any questions answered with a 'No' response require an explanation for non compliance by the Responsible Officer.
5. The City's Audit & Finance Committee has reviewed the compliance audit return (attached) as prescribed in the regulations.

DISCUSSION

6. The Compliance Audit Return has been formally presented to Council for endorsement and noting of areas of non compliance.

19/03/2013

REFER DISCLAIMER

7. Identified areas of non compliance.

Delegation of Power / Duty					
No.	Reference	Question	Response	Comments	Respondent
12	S5.67	Were all delegations made under Division 4 of Part 5 of the Act reviewed by the delegator at least once during the 2011/2012 financial year.	No	<p>Council reviewed delegations at OCM 14/12/2010, Report Item 4.3.</p> <p>Audit & Finance Committee reviewed delegations on 28/05/2012.</p> <p>Council at OCM 17/02/2012, Report Item 1.4 resolved to lay the reviewed delegations on the table to allow more time for consideration.</p> <p>Council adopted new delegations and revoked previous delegations at OCM 18/09/2012, Report Item 1.1.</p>	Office of the CEO S Jamieson

Disclosure of Interest					
No.	Reference	Question	Response	Comments	Respondent
1	S5.67	If a member disclosed an interest, did he/she 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)	No	<p>Minutes detail:</p> <p>Council Members declared interests (Financial, Impartiality, Proximity) prior to the discussion and vote.</p> <p>Members communicated the extent of their interest.</p> <p>Council did not object to members who declared an interest participating in discussion and vote.</p> <p>Council allowed participation in discussion and vote by default.</p> <p>At no time did Council object to a member's participation.</p>	Office of the CEO S Jamieson

GOVERNMENT CONSULTATION

8. After the compliance audit return has been presented to Council in accordance with regulation 14(3) a certified copy of the return together with:
- (i) a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and
 - (ii) any additional information explaining or qualifying the compliance audit is to be submitted to the Executive Director by 31 March next following the period to which the return relates.

PUBLIC CONSULTATION / ENGAGEMENT

9. Not applicable.

STATUTORY IMPLICATIONS

10. Section 7.13(1)(i) of the *Local Government (Audit) Regulations 1996* establish the requirements for Local Governments to undertake an annual compliance audit and submit a copy of that audit to the Department of Local Government (DLG).

11. Regulation 14 of the *Local Government (Audit) Regulations 1996* states:

14. Compliance audits by local governments

(1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.

(2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.

(3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.

(3) After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —

(a) presented to the council at a meeting of the council; and

(b) adopted by the council; and

(c) recorded in the minutes of the meeting at which it is adopted.

STRATEGIC IMPLICATIONS

12. This item relates directly to the following elements of the City of Albany Strategic Plan (2011-2021):

Organisational Performance

- Strive for business excellence and continuous improvement
- Provide best value in applying council and community resources

POLICY IMPLICATIONS

13. There are no policy implications related to this item.

FINANCIAL IMPLICATIONS

14. There is no direct cost to Council for this Audit, other than internal staff time.

LEGAL IMPLICATIONS

15. There are no legal implications related to this item.

Consulted References	:	<i>Local Government (Audit) Regulations 1996</i>
File Number (Name of Ward)	:	Not applicable.
Previous Reference	:	OCM 03/04/2012



Albany - Compliance Audit Return 2012

Certified Copy of Return

Please submit a signed copy to the Director General of the Department of Local Government 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 2012.	N/A		Corporate Services - G. Adams
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 2012.	N/A		Corporate Services - G. Adams
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 2012.	N/A		Corporate Services - G. Adams
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 2012.	N/A		Corporate Services - G. Adams
5	s3.59(5)	Did the Council, during 2012, resolve to proceed with each major land transaction or trading undertaking by absolute majority.	N/A		Corporate Services - G. Adams

Delegation of Power / Duty					
No	Reference	Question	Response	Comments	Respondent
1	s5.16, 5.17, 5.18	Were all delegations to committees resolved by absolute majority.	N/A	No committees were delegated authority	Office of CEO - S.Jamieson

No	Reference	Question	Response	Comments	Respondent
2	s5.16, 5.17, 5.18	Were all delegations to committees in writing.	N/A	No committees were delegated authority	Office of CEO - S.Jamieson
3	s5.16, 5.17, 5.18	Were all delegations to committees within the limits specified in section 5.17.	N/A	No committees were delegated authority	Office of CEO - S.Jamieson
4	s5.16, 5.17, 5.18	Were all delegations to committees recorded in a register of delegations.	N/A	No committees were delegated authority	Office of CEO - S.Jamieson
5	s5.18	Has Council reviewed delegations to its committees in the 2011/2012 financial year.	N/A	No committees were delegated authority	Office of CEO - S.Jamieson
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		Office of CEO - S.Jamieson
7	s5.42(1)(2) Admin Reg 18G	Were all delegations to the CEO resolved by an absolute majority.	Yes		Office of CEO - S.Jamieson
8	s5.42(1)(2) Admin Reg 18G	Were all delegations to the CEO in writing.	Yes		Office of CEO - S.Jamieson
9	s5.44(2)	Were all delegations by the CEO to any employee in writing.	Yes		Office of CEO - S.Jamieson
10	s5.45(1)(b)	Were all decisions by the Council to amend or revoke a delegation made by absolute majority.	Yes		Office of CEO - S.Jamieson
11	s5.46(1)	Has the CEO kept a register of all delegations made under the Act to him and to other employees.	Yes		Office of CEO - S.Jamieson

No	Reference	Question	Response	Comments	Respondent
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 2011/2012 financial year.	No	<p>Council reviewed delegations at OCM 14/12/2010, Report Item 4.3.</p> <p>Audit & Finance Committee reviewed delegations on 28/05/2012.</p> <p>Council at OCM 17/02/2012, Report Item 1.4 resolved to lay the reviewed delegations on the table to allow more time for consideration.</p> <p>Council adopted new delegations and revoked previous delegations at OCM 18/09/2012, Report Item 1.1.</p>	Office of CEO - S.Jamieson
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		Office of CEO - S.Jamieson

Disclosure of Interest

No	Reference	Question	Response	Comments	Respondent
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No	Reference	Question	Response	Comments	Respondent
1	s5.67	If a member disclosed an interest, did he/she ensure that they did not remain present to participate in any discussion or decision-making procedure relating to the matter in which the interest was disclosed (not including participation approvals granted under s5.68).	No	<p>Minutes detail:</p> <p>Council Members declared interests (Financial, Impartiality, Proximity) prior to the discussion and vote.</p> <p>Members communicated the extent of their interest.</p> <p>Council did not object to members who declared an interest participating in discussion and vote.</p> <p>Council allowed participation in discussion and vote by default.</p> <p>At no time did Council object to a member's participation.</p>	Office of CEO - S.Jamieson
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	Minutes detail the nature of interest declared and if the member participated in the discussion, vote or left the meeting.	Office of CEO - S.Jamieson
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		Office of CEO - S.Jamieson
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		Office of CEO - S.Jamieson
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		Office of CEO - S.Jamieson

No	Reference	Question	Response	Comments	Respondent
6	s5.76(1) Admin Reg 23 Form 3	Was an annual return lodged by all continuing elected members by 31 August 2012.	Yes		Office of CEO - S.Jamieson
7	s5.76(1) Admin Reg 23 Form 3	Was an annual return lodged by all designated employees by 31 August 2012.	Yes		Office of CEO - S.Jamieson
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		Office of CEO - S.Jamieson
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		Office of CEO - S.Jamieson
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		Office of CEO - S.Jamieson
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		Office of CEO - S.Jamieson
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		Office of CEO - S.Jamieson

No	Reference	Question	Response	Comments	Respondent
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	Details recorded in the minutes.	Office of CEO - S.Jamieson
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.	N/A	During the reporting period no staff member declared an interest.	Office of CEO - S.Jamieson
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.	N/A	During the reporting period no staff member declared an interest.	Office of CEO - S.Jamieson
16	s5.103(3) Admin Reg 34B	Has the CEO kept a register of all notifiable gifts received by Council members and employees.	Yes	File Reference: File: CM.RPT.1	Office of CEO - S.Jamieson

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	Lower King Property: Advertised in local news paper. No objections received. Proceeded with sub-division.	Corporate Services - N.Crook
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.	N/A		Corporate Services - G. Adams

Elections					
No	Reference	Question	Response	Comments	Respondent

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	File Reference: GO.CLS.4	Office of CEO - S. Jamieson

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		Office of CEO - S. Jamieson
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 powers or duties delegated.	Office of CEO - S. Jamieson
3	s7.3	Was the person(s) appointed by the local government to be its auditor, a registered company auditor.	Yes	Council Appointment OCM 16/02/2010 Report Item 14.1.2	Office of CEO - S. Jamieson
4	s7.3	Was the person(s) appointed by the local government to be its auditor, an approved auditor.	Yes	Council Appointment OCM 16/02/2010 Report Item 14.1.2	Office of CEO - S. Jamieson
5	s7.3, 7.6(3)	Was the person or persons appointed by the local government to be its auditor, appointed by an absolute majority decision of Council.	Yes	Council Appointment OCM 16/02/2010 Report Item 14.1.2	Office of CEO - S. Jamieson

No	Reference	Question	Response	Comments	Respondent
6	Audit Reg 10	Was the Auditor's report for the financial year ended 30 June 2012 received by the local government within 30 days of completion of the audit.	Yes	City of Albany received auditors report on 21 December 2012. No ordinary meeting of Council conducted in January 2013. Local government (Council) received Auditor's report on 19/02/2013.	Office of CEO - S. Jamieson
7	s7.9(1)	Was the Auditor's report for 2011/2012 received by the local government by 31 December 2012.	Yes		Office of CEO - S. Jamieson
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.	Yes		Office of CEO - S. Jamieson
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		Corporate Services - G. Adams
10	S7.12A(3), (4)	Where the local government determined that matters raised in the auditor's report (prepared under s7.9(1) of the Act) required action to be taken by the local government, was a copy of the report forwarded to the Minister by the end of the financial year or 6 months after the last report prepared under s7.9 was received by the local government whichever was the latest in time.	N/A		Corporate Services - G. Adams
11	Audit Reg 7	Did the agreement between the local government and its auditor include the objectives of the audit.	Yes		Corporate Services - G. Adams

No	Reference	Question	Response	Comments	Respondent
12	Audit Reg 7	Did the agreement between the local government and its auditor include the scope of the audit.	Yes		Corporate Services - G. Adams
13	Audit Reg 7	Did the agreement between the local government and its auditor include a plan for the audit.	Yes		Corporate Services - G. Adams
14	Audit Reg 7	Did the agreement between the local government and its auditor include details of the remuneration and expenses to be paid to the auditor.	Yes		Corporate Services - G. Adams
15	Audit Reg 7	Did the agreement between the local government and its auditor include the method to be used by the local government to communicate with, and supply information to, the auditor.	Yes		Corporate Services - G. Adams

Local Government Employees

No	Reference	Question	Response	Comments	Respondent
1	Admin Reg 18C	Did the local government approve the process to be used for the selection and appointment of the CEO before the position of CEO was advertised.	N/A	Recruitment of CEO did not occur in this reporting period.	Office of CEO - S. Jamieson

No	Reference	Question	Response	Comments	Respondent
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.	N/A	An Acting Executive Director Works & Services was appointed; however acting position was not classified as a designated employee by Council. Confirmed: This employee did not have any power or duties delegated under Division 4 of the Act. This employee was not a member of a Committee. This employee was not nominated by the local government to be a designated employee.	Office of CEO - S. Jamieson
3	s5.37(2)	Did the CEO inform council of each proposal to employ or dismiss a designated senior employee.	N/A	Refer to previous comment. Note: Designated employees resigned, they were not dismissed.	Office of CEO - S. Jamieson
4	Admin Reg 18F	Was the remuneration and other benefits paid to a CEO on appointment the same remuneration and benefits advertised for the position of CEO under section 5.36(4).	N/A	Recruitment of CEO did not occur in this reporting period.	Office of CEO - S. Jamieson
5	Admin Regs 18E	Did the local government ensure checks were carried out to confirm that the information in an application for employment was true (applicable to CEO only).	N/A	Recruitment of CEO did not occur in this reporting period.	Office of CEO - S. Jamieson

Official Conduct

No	Reference	Question	Response	Comments	Respondent
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No	Reference	Question	Response	Comments	Respondent
1	s5.120	Where the CEO is not the complaints officer, has the local government designated a senior employee, as defined under s5.37, to be its complaints officer.	N/A	CEO designated complaints officer.	Corporate Services - G. Adams
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).	N/A	No complaints received resulted in action.	Corporate Services - G. Adams
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.	N/A	No complaints received resulted in action.	Corporate Services - G. Adams
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.	N/A	No complaints received resulted in action.	Corporate Services - G. Adams
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.	N/A	No complaints received resulted in action.	Corporate Services - G. Adams
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).	N/A	No complaints received resulted in action.	Corporate Services - G. Adams

Tenders for Providing Goods and Services

No	Reference	Question	Response	Comments	Respondent
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No	Reference	Question	Response	Comments	Respondent
1	s3.57 F&G Reg 11	Did the local government invite tenders on all occasions (before entering into contracts for the supply of goods or services) where the consideration under the contract was, or was expected to be, worth more than the consideration stated in Regulation 11(1) of the Local Government (Functions & General) Regulations (Subject to Functions and General Regulation 11(2)).	Yes		Corporate Services - J. Allen
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.	Yes		Corporate Services - J. Allen
3	F&G Reg 14(1)	Did the local government invite tenders via Statewide public notice.	Yes		Corporate Services - J. Allen
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		Corporate Services - J. Allen
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		Corporate Services - J. Allen
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		Corporate Services - J. Allen

No	Reference	Question	Response	Comments	Respondent
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		Corporate Services - J. Allen
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		Corporate Services - J. Allen
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		Corporate Services - J. Allen
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	No expressions of interest sought in reporting period.	Corporate Services - J. Allen
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.	Yes	No expressions of interest sought in reporting period.	Corporate Services - J. Allen
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	No expressions of interest sought in reporting period.	Corporate Services - J. Allen
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	No expressions of interest sought in reporting period.	Corporate Services - J. Allen

No	Reference	Question	Response	Comments	Respondent
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	Adoption Reference: Policy adopted OCM 18/01/01. Amended: OCM 16/04/02 and OCM 21/07/09. Amended policy adopted OCM 19/02/12, following review.	Corporate Services - J. Allen
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	Adoption Reference: OCM 18/05/10 Report Item 16.4.1. Presented to OCM 19/02/13 following review, following adoption.	Corporate Services - J. Allen

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

Signed Mayor / President, Albany

Signed CEO, Albany