

TOWN OF BASSENDEAN

NOTICE OF THE MEETING OF THE

AUDIT AND GOVERNANCE COMMITTEE

Dear Committee Member

The meeting of the Town of Bassendean's Audit and Governance Committee will be held in the Council Chamber, 48 Old Perth Road, Bassendean on Wednesday 9 June 2021, commencing at 5.30pm.

Mr Luke Gibson
ACTING CHIEF EXECUTIVE OFFICER

4 June 2021

A G E N D A

1.0 DECLARATION OF OPENING; ANNOUNCEMENT OF VISITORS; ACKNOWLEDGEMENT OF COUNTRY

Acknowledgement of Traditional Owners

The Town of Bassendean acknowledges the past and present traditional owners of the land on which we gather to conduct this meeting, and pays its respects to their Elders, both past and present.

2.0 ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

3.0 ATTENDANCES, APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE

4.0 DECLARATIONS OF INTEREST

5.0 PRESENTATIONS OR DEPUTATIONS

6.0 CONFIRMATION OF MINUTES

6.1 Audit and Governance Meeting held on 14 April 2021

OFFICER RECOMMENDATION – ITEM 6.1

That the minutes of the Audit and Governance Committee meeting held on 14 April 2021, be confirmed as a true record.

7.0 BUSINESS DEFERRED FROM PREVIOUS MEETING

8.0 REPORTS

Item No. 8.1	Audit Risk Register
Property Address (if applicable)	N/A
Landowner/Applicant (if applicable)	N/A
File Ref/ROC	GOVN/CCLMEET/1
Previous Council Reports (if applicable)	N/A
Directorate	Corporate Services
Authority/Discretion <input type="checkbox"/> <input checked="" type="checkbox"/>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<input type="checkbox"/> Legislative	Includes adopting local laws, town planning schemes and policies.
<input checked="" type="checkbox"/> Review	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<input type="checkbox"/> Quasi-Judicial	When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under <i>Health Act</i> , <i>Dog Act</i> or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
Confidential Attachment No. 1	Audit Risk Register

Purpose

The purpose of this report is to provide the Audit and Governance Committee with the Town's Audit Risk Register, with updated actions since the meeting of the Committee on 10 March 2021.

Background

Creation of an Audit Risk Register was a recommendation arising from the 2019 review of the appropriateness and effectiveness of the Town's systems and procedures in relation to risk management, internal controls and legislative compliance pursuant to Regulation 17 of the Local Government (Audit) Regulations 1996.

Proposal

For the Audit and Governance Committee to receive the Audit Risk Register and consider the action taken or proposed to address the identified risks.

Communication and Engagement

Nil.

Strategic Implications

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

Make brave decisions in line with a risk appetite	<ul style="list-style-type: none">• Early identification of potential risks / issues/opportunities• Embed opportunity cost considerations	<p>SHORT TERM</p> <ul style="list-style-type: none">• Efficient and effective Council meetings• Defensible decision making that is based on the identification of opportunities and benefits as well as negative impacts <p>LONG TERM</p> <ul style="list-style-type: none">• Examples of being first adopters
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Comment

The Audit Risk Register presents a summary of the audit risks and recommendations made in recent internal and external audit reports relating to the Town and provides an update on actions taken or proposed to address the identified risks.

The Audit Risk Register will continue to be updated and provided for each meeting of the Committee.

Statutory Requirements

Local Government (Audit) Regulations 1996, Regulation 16, states:

An audit committee has the following functions —

- (a) to guide and assist the local government in carrying out —
 - (i) its functions under Part 6 of the Act; and
 - (ii) its functions relating to other audits and other matters related to financial management;
- (b) to guide and assist the local government in carrying out the local government's functions in relation to audits conducted under Part 7 of the Act;
- (c) to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to —
 - (i) report to the council the results of that review; and
 - (ii) give a copy of the CEO's report to the council;
- (d) to monitor and advise the CEO when the CEO is carrying out functions in relation to a review under —
 - (i) regulation 17(1); and
 - (ii) the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c);
- (e) to support the auditor of the local government to conduct an audit and carry out the auditor's other duties under the Act in respect of the local government;
- (f) to oversee the implementation of any action that the local government —
 - (i) is required to take by section 7.12A(3); and
 - (ii) has stated it has taken or intends to take in a report prepared under section 7.12A(4)(a); and
 - (iii) has accepted should be taken following receipt of a report of a review conducted under regulation 17(1); and
 - (iv) has accepted should be taken following receipt of a report of a review conducted under the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c);
- (g) to perform any other function conferred on the audit committee by these regulations or another written law.

Financial Considerations

Implementation of some audit recommendations may require additional funds and will be the subject of separate budget submissions as and when required. The Town's Purchasing Policy and Procurement Framework will govern any required engagements.

Risk Management Implications

Nil.

Officer Recommendation – Item 8.1

That the Audit and Governance Committee receives the Audit Risk Register and notes the action taken or proposed to address the identified risks.

Voting requirements: Simple majority

Item No. 8.2	Payment of Superannuation on Annual Leave Loading
Property Address (if applicable)	N/A
Landowner/Applicant (if applicable)	N/A
File Ref/ROC	GOVN/CCLMEET/1
Previous Council Reports (if applicable)	07/08/2019: Audit & Governance Committee (Confidential report) 13/11/2019: Audit & Governance Committee (Confidential Report)
Directorate	Corporate Services
Authority/Discretion <input type="checkbox"/> <input checked="" type="checkbox"/>	
<input type="checkbox"/> Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<input checked="" type="checkbox"/> Executive	The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
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Attachment	Nil.

Purpose

The purpose of this report is to inform Council, through the Audit and Governance Committee, of the action the Town has taken to resolve the previous non-payment of compulsory superannuation contributions on annual leave loading for current and former Town employees.

Background

The *Superannuation Guarantee (Administration) Act 1992 (Cth)* was amended in 2008 to change the earnings base for the purpose of calculating superannuation guarantee payments. The Australian Taxation Office (ATO) then released a tax ruling stating this applies to superannuation contributions from 1 July 2009.

The effect of the change was to base superannuation payments on Ordinary Time Earnings (OTE).

While there was some conjecture, it was ultimately considered that OTE included annual leave loading, unless the loading was paid due to a lost opportunity to work overtime.

The Town's finance software, SynergySoft, was not configured to take account of this change. This meant that the Town did not include annual leave loading as part of OTE when calculating superannuation guarantee payments.

IT Vision re-configured SynergySoft and the Town's superannuation contributions have been correct since January 2019.

Proposal

For the Committee to note the action taken by the Town to resolve the previous non-payment of compulsory superannuation contributions on annual leave loading for current and former Town employees.

Communication and Engagement

The Acting CEO wrote to all employees on 20 August 2020, to advise of the error and invite staff to information sessions with the Director Corporate Services and the Manager Organisational Development and Human Resources. Staff were also provided with a handout that outlined the history of the matter, the Town's response, the effect for employees and the process to bring the matter to a conclusion.

Strategic Implications

Priority Area 6: Providing Visionary Leadership and Making Great Decisions

<p>Make brave decisions in line with a risk appetite</p>	<ul style="list-style-type: none"> • Early identification of potential risks / issues/opportunities • Embed opportunity cost considerations 	<p>SHORT TERM</p> <ul style="list-style-type: none"> • Efficient and effective Council meetings • Defensible decision making that is based on the identification of opportunities and benefits as well as negative impacts <p>LONG TERM</p> <ul style="list-style-type: none"> • Examples of being first adopters
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Comment

On becoming aware of the error, the Town briefed the Audit and Governance Committee and then Council, on a confidential basis, and gained Council support for making a voluntary disclosure to the ATO.

The Town made the voluntary disclosure to the ATO in late-2019 and at that time the ATO advised that it was only necessary for the Town to lodge the amended quarterly returns for the last five years. The estimated cost was \$120,000, including superannuation, interest and administrative penalties. Nevertheless, The Town decided to lodge the outstanding returns for the full ten years in the interests of fairness and to ensure employees were not worse off. The ATO formula to calculate the liability includes an interest component of 10% per annum, which should be sufficient to compensate employees for lost investments earnings.

The voluntary disclosure made by the Town meant the Town was well positioned to take advantage of a general superannuation amnesty announced by the ATO on 6 March 2020. The amnesty allowed employers to disclose and pay previously unpaid superannuation, for quarters from 1 July 1992 to 31 March 2018, without incurring penalties that would otherwise apply.

The Town benefitted by avoiding significant penalties, including up to 200% of the superannuation not paid on time and an administrative penalty of \$20 per employee per quarter. That meant the Town could pay the full amount of superannuation and interest for the whole nine-year period of the amnesty within its initial budget of \$120,000.

The Town has lodged 35 amended quarterly returns for the period covered by the amnesty and a further three quarterly returns for the period between the end of the amnesty and January 2019, when the Town corrected the error.

The Town has paid all amounts due to the ATO in respect of the amended quarterly superannuation returns. It is the responsibility of the ATO to make the additional superannuation payments into employees' superannuation funds.

Statutory Requirements

Superannuation Guarantee (Administration) Act 1992 (Cth).

Financial Considerations

The Town has paid the following additional superannuation contributions to the ATO:

• Amnesty period (35 quarters)	\$111,757
• Post-amnesty period (3 quarters)	<u>\$ 14,765</u>
	\$126,522

The amount shown above for the amnesty period includes interest and the amount shown above for the post-amnesty period includes interest and administrative penalties.

Risk Management Implications

The matter has been finalised and there are no remaining risk implications.

Officer Recommendation – Item 8.2

That the Audit and Governance Committee recommends to Council that it note the action taken by the Town to resolve the previous non-payment of compulsory superannuation contributions on annual leave loading for current and former Town employees.

Voting requirements: Simple majority

9.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.0 ANNOUNCEMENTS OF NOTICES OF MOTION FOR THE NEXT MEETING

11.0 CONFIDENTIAL BUSINESS

Item No. 11.1	Street Sweeping Contract – Settlement of Legal Dispute
Property Address (if applicable)	N/A
Landowner/Applicant (if applicable)	N/A
File Ref/ROC	GOVN/CCLMEET/1
Previous Council Reports (if applicable)	07/08/2019: Audit & Governance Committee (Confidential report)
Directorate	Corporate Services
Authority/Discretion <input type="checkbox"/> <input checked="" type="checkbox"/>	
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Attachment	Nil.

This matter is to be considered with members of the public excluded from the Chamber under Clause 5.23 (2) (d) of the Local Government Act 1995, as the officer report discusses legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.

12.0 CLOSURE

The next Audit and Governance Committee meeting is to be held on Wednesday, 1 September 2021, commencing at 5.30pm.