TheBarossaCouncil

MINUTES OF THE MEETING OF AN AUDIT COMMITTEE

held on Thursday 26 May 2022 commencing at 9.00am
in the Council Chambers, 43-51 Tanunda Road, Nuriootpa.

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1. AUDIT COMMITTEE

1.1 WELCOME

Mr Peter Brass declared the meeting open at 9.03am

1.2 MEMBERS PRESENT

Mr Peter Brass, Mrs Ellen Ewing, Mr Ian Swan, Cr Russell Johnstone (via Teams) and Cr John Angas

1.3 LEAVE OF ABSENCE

Nil

1.4 APOLOGIES FOR ABSENCE

Nil

1.5 MINUTES OF PREVIOUS MEETINGS – FOR CONFIRMATION:

MOVED Cr Angas

That the Minutes of the Audit Committee held on Wednesday 16 February 2022 at 9.00am, as circulated, be confirmed as true and correct records of the proceedings of those meetings.

SECONDED Ms Ewing **CARRIED AC2018-22/16**

1.6 NOTICE OF MOTION

Nil

1.7 QUESTIONS WITH OR WITHOUT NOTICE

Nil

1.8 DECLARATION OF INTEREST

Nil

2. CONSENSUS AGENDA ADOPTION

2.1 ITEMS FOR EXCLUSION FROM CONSENSUS AGENDA

Nil

2.2 RECEIPT OF CONSENSUS AGENDA

MOVED Cr Johnstone

That the information items contained in the Consensus Agenda be received and that any recommendations contained therein be adopted.

SECONDED Ms Ewing **CARRIED AC2018-22/17**

2.3 DEBATE OF ITEMS EXCLUDED FROM CONSENSUS AGENDA

Nil

3. DEBATE AGENDA

Mr Ian Swan entered the meeting at 9.08am

4.1
CARETAKER POLICY REVIEW
22/25581

MOVED Cr Angas

That Audit Committee:

(1) Receives, considers, and notes the draft Caretaker Policy **Attachment 1**, noting that the Policy will be presented to Council for consideration and adoption at the next available Council meeting; and

(2) Receives, considers, and notes the draft Caretaker Guidelines **Attachment 2**, noting that the Guidelines will be presented to the Chief Executive Officer for consideration and approval following Council approval of the Policy.

SECONDED Ms Ewing **CARRIED AC2018-22/18**

PURPOSE

In preparation for the next periodic elections, Council is required to review and adopt its Caretaker Policy with supporting Guidelines, which will come into operation during the Caretaker Period, commencing 6 September 2022 (unless Council resolves an earlier date). The Audit Committee is now asked to review the draft Caretaker Policy and Guidelines, prior to these being presented to Council.

REPORT

<u>*Background*</u>
Section 91A of the *Local Government (Elections) Act 1999* ("the Elections Act"), requires Council to implement a policy to promote transparent and accountable government in both the Elected Body and Council administration during the Local Government Election Period.

Council's current Caretaker Policy was approved on 19 July 2018, prior to the 2018 elections, and so now it is due for review prior to the November 2022 Local Government elections.

Should a member of the public rely on a Council decision made in breach of the Act and supporting policy during the election period (otherwise known as the "Caretaker Period"), they can seek compensation from Council.

<u>*Introduction*</u>
The draft Caretaker Policy at <u>Attachment 1</u>, as with previous versions, prohibits Council from making certain decisions, known as "Designated Decisions" during an election period. As a result of recent reform to the Elections Act, the Policy also prohibits the use of Council resources for the advantage of a particular candidate or group of candidates. While this prohibition previously existed in practice, it was classed under the definition of a designated decision.

The intent of restricting the current Council's decision making in this way is to avoid binding the new Council with decisions of the outgoing Council, and to ensure transparency and equity for all candidates.

The election period commences on the day nominations for a general election close – ie. 6 September 2022, or an earlier date if resolved by Council, and expires at the conclusion of the general election.

<u>*Discussion*</u>
Decisions which are deemed "designated" and therefore prohibited are with respect to:

(1) The employment and remuneration of the Chief Executive Officer or termination of their employment;
(2) Contracts which exceed the greater or $100,000 of 1% of Council rates revenue from the previous financial year;

<u>Exceptions:</u>
- Contracts for road works, road maintenance or drainage works are excluded from any such dollar limitation
- Any decision which relates to the following is excluded from the dollar limitation:
    - Emergency works
    - Contracts regarding Commonwealth or State funding
    - Employment of a Council employee (other than the Chief Executive Officer)

- Employment negotiations regarding Council employees generally or a particular class
- Community Wastewater Management Systems which have been approved prior to the election period.

In addition, there is a prohibition on the use of Council resources for the advantage of a particular candidate or group of candidates.

Committee members should be aware that a decision of Council includes a decision of a Committee of Council and a delegate of Council.

The minimum required under section 91A of the Elections Act is to provide a policy prohibiting the making of designated decisions, and the use of council resources for the advantage of a particular candidate or group of candidates, during the election period. However, officers have also included content in the draft Policy regarding "Significant Decisions" at clause 3.5, so as to provide the Chief Executive Officer with some flexibility to bring urgent matters to the attention of Council during the election period albeit with strict criteria for doing so. This content is consistent with the current approved Caretaker Policy.

Supporting guidelines for Elected Members and staff which provide examples of behaviour and frequently asked questions about caretaker period behaviour have been prepared for approval by the Chief Executive Officer under delegation (due to the administrative nature of those documents). Although approved versions will be provided to Elected Members, Committee members and staff in due course, the draft version of these Guidelines entitled "Caretaker Guidelines" is provided at Attachment 2 for information.

Summary and Conclusion

The Audit Committee is asked to review and receive the draft Policy and the supporting draft Guidelines, noting that these will be presented to Council at its next Council meeting.

The Audit Committee should note that Council will be asked to consider whether it wishes to commence the formal Election Period (ie. Caretaker Period) earlier than the closing of nominations on 6 September 2022.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Draft Caretaker Policy - 2022
Attachment 2 Draft Caretaker Guidelines - 2022

Supporting references

Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan

How We Work - Good Governance

Corporate Plan
6.2. Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements.

Advocacy Plan
Nil

Legislative Requirements
Local Government Act 1999
Local Government (Elections) Act 1999 – section 91A
Code of Conduct for Council Members

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Financial
There are no financial costs of implementing the Caretaker Policy.

Resource
Facilitation of this matter will be undertaken according to officers' existing duties.

It should be noted that in addition to facilitating the implementation of the policy, training and awareness will be provided to Elected Members, staff and Committee members by way of (may be subject to change):

- Notifications to staff, Committee Members and Elected Members;
- Awareness provided at Elected Member workshop – if required;
- Training and awareness at staff meetings.

Risk
Council is required to adopt a Caretaker Policy under section 91A of the Elections Act. Should a member of the public rely on a Council decision made in breach of the Act, they can seek compensation from Council.

COMMUNITY ENGAGEMENT

There is no legislative requirement to consult the community in this situation nor in officer's opinion is necessary for the following reasons:

- the draft Caretaker Policy is based on a Local Government Association template as prepared by Norman Waterhouse Lawyers, taking into account legislative compliance, recent legislative reform and best practice; and
- reporting structures regarding corruption, serious and systemic maladministration and misconduct as stipulated by the Independent Commissioner Against Corruption Act 2012 and Ombudsman Act 1972 continue to operate throughout the election period.

Cr Johnstone left the meeting at 9:19am

Cr Johnstone returned to the meeting at 9:20am

Cr Johnstone left the meeting at 9:27am

Cr Johnstone returned to the meeting at 9:27am

4.2
PROPOSED AUDIT COMMITTEE TERMS OF REFERENCE
22/25766

MOVED Mr Swan

That Audit Committee, having reviewed the Terms of Reference for The Barossa Council Audit Committee:

1. Amend the name of the Committee to Audit and Risk Committee; and

2. Incorporate the Committee requests for formatting and numbering amendments being:

- 3.1.1 The financial statements of the Council, including its Annual Report and any significant financial reporting or other accounting and risk decisions and judgments;

- 3.4.5 Review the findings of the audit with the external auditor. This shall include, but not be limited to, a discussion of the following:

  (i) Any major issues which arose during the external audit;
  (ii) Any accounting and audit judgements; and
  (iii) Levels of errors identified during the external audit.

- 3.5 Remove comma after "relevant to";

- 3.6.1 Insert comma after "economy" and before "Audits" and change "Auditor" to "Audit" in the last line;

- 4.1 For consistency of headings 4.1, 4.2 and 4.3, each should be in the same format i.e. either "The Committee's role is to:" "The Presiding Member's role is to:";

- 4.1.7 Remove semi colon between "risks" and "along with" … (This could be replaced with a comma, but doesn't have to be, on my understanding;

- 5.3.2 Numbering will change to 4.2.2 but wording will remain unchanged.(Numbering under 4.2 & 4.3 to be changed;

- 11.3 Remove the first "however" and that the second sentence begins with "No member" and a semi colon be inserted after "good faith" and before "however."

3. Recommend to Council at its Ordinary Council Meeting - 21June 2022 that the Terms of Reference for the Audit Committee as at **Attachment 1** be adopted.

SECONDED Cr Angas **CARRIED AC2018-22/19**

2022/20

PURPOSE

To present reviewed Terms of Reference for The Barossa Council Audit Committee (TOR). At **Attachment 1** the reviewed TOR incorporates changes required through recent amendment to the *Local Government Act 1999* . The Committee is now asked to endorse the TOR for tabling and adoption of Council at its Ordinary Council Meeting - 21 June 2022.

REPORT

Background
Under legislation, Section 126 of the *Local Government Act 1999* Council is required to establish certain Committees, including an Audit Committee. To meet this requirement, Council, at a meeting held on 6 September 2005 established the Audit Committee pursuant to Section 41 of the *Local Government Act 1999* and as such, developed the Committee's Terms of Reference to establish the structure and roles of the Committee and its Members and provide the community with a clear schedule to enable access to Committee meetings.

The current Terms of Reference was adopted at Council Meeting – 27 January 2016 with updates approved at Council Meeting – 15 November 2016 and is now due for review again.

Discussion
The reviewed Terms of Reference are at **Attachment 1** and have been revised, updated, and are now presented to the Committee for endorsement to be presented to Council for adoption. It includes changes to the *Local Government Act 1999* relating to the role and functions of the Audit Committee as part of the Local Government Reform process and general amendments to update current processes.

Summary and Conclusion
The recommendation for endorsement of the Draft Terms of Reference as at **Attachment 1**, will ensure Council's Audit Committee is meeting its legislative obligations and continues to play a key role providing good governance. Successful communication between the Committee and the Council ensures that financial and risk management issues raised, receive appropriate consideration and attention.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1	Terms of Reference - The Barossa Council Audit Committee - May 2022

Supporting references
Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan

How We Work - Good Governance

Corporate Plan

6.2. Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements.

6.4. Ensure that decisions regarding expenditure of Council's budget are based on an assessment of whole of life costs, risks associated with the activity and advice contained within supporting plans.

6.9. Provide access to Council's plans, policies and processes and communicate with the community in plain English.

Advocacy Plan
Nil

Legislative Requirements
Local Government Act 1999
Local Government (Financial Management) Regulations 2011
Local Government (Procedures at Meetings) Regulations 2013
Code of Conduct for Elected Members

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

There will be no change to the current financial implications incurred by the recommended Terms of Reference as there is no change to the committee structure that could give rise to changes to the presiding member and/ or sitting fees.

COMMUNITY ENGAGEMENT

There is no requirement to consult when reviewing the Audit Committee's Terms of Reference.

4.3
RISK MANAGEMENT PROGRAMS AND PROJECTS - UPDATE
22/27498

PURPOSE

To present a report on the progress of Risk Management programs and projects.

MOVED Cr Angas

That Audit Committee receives and notes this Risk Management Programs and Projects – update report.

SECONDED Cr Johnstone **CARRIED AC2018-22/20**

REPORT

Introduction
These reports provide an update on the activities and actions that have been the focus of the Risk Team since the last quarterly report provided to the Audit Committee.

Discussion
This report contains updates on the following:

- Enterprise risk management and risk registers
- Insurance claims
- WHS Committee
- Workplace and Community Emergency Management
- Business continuity
- Incident reporting
- Internal financial control (ControlTrack)

Summary and Conclusion
The attached report is provided for information, however further detail can be provided at the meeting if it is required.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Quarterly Risk Management Report – Quarter 3 2021/22

Supporting references
Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan

How We Work - Good Governance

Corporate Plan
6.2. Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements.
6.3. Align operational strategy to strategic objectives and measure organisational performance to demonstrate progress towards achieving our goals.
6.5. Implement compliant and contemporary risk management initiatives.

Advocacy Plan
Nil

Legislative Requirements
Local Government Act, 1999
Work Health Safety Act, 2012

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Addressed within this report

COMMUNITY ENGAGEMENT

No required under legislation or Council's Public Consultation Policy.

4.4
VARIOUS POLICY UPDATES
22/29195

MOVED Cr Johnstone

That Audit Committee having reviewed the Policy updates for Debt Recovery Policy, Non-Current Assets Accounting Policy, Rating Policy and Treasury Management Policy and recommend to Council at its Ordinary Council Meeting – 21 June 2022 to be adopted.

SECONDED Mr Swan **CARRIED AC2018-22/21**

PURPOSE

To review four Policy updates.

REPORT

Introduction
The review and update of Policy documents relative to financial and risk matters is an ongoing matter.

Discussion
Recently updates to the Debt Recovery Policy, Non-Current Assets Accounting Policy, Rating Policy and Treasury Management Policy have been developed.

The Policies along with a Community Loan Application Package which support the Treasury Management Policy were presented to a Council workshop for comment.

The Policies are now presented for Audit Committee review. Also presented at the attachments is a presentation which outlines the general reviews undertaken.

Summary and Conclusion
The Policies have been updated as outlined and are ready for final review and adoption.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Supporting references
Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan

How We Work - Good Governance

Corporate Plan
6.2. Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements.

Advocacy Plan
Nil

Legislative Requirements
Local Government Act

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Nil impacts are consistent with current financial and resources settings and known risks.

COMMUNITY ENGAGEMENT

Nil required or recommended.

4. CONFIDENTIAL AGENDA

5.1
EXTERNAL AUDITOR SELECT TENDER
22/27929

The matter of the agenda item being information the disclosure of which-

(i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
(ii) would, on balance, be contrary to the public interest; pursuant to Section 90(3)(b) of the Local Government Act 1999 ("the Act") being information that must be considered in confidence.

There is strong public interest in enabling members of the public to observe Audit Committee's transparent and informed decision-making. This helps to ensure accountability, maintain transparency of public expenditure, facilitate public participation, assist public awareness and allow for the scrutiny of information. Attendance at an Audit Committee meeting is one means of satisfying this interest. The public will only be excluded from an Audit Committee meeting when the need for confidentiality pursuant to Section 90(2) of the Act outweighs the public interest of open decision-making.

In this matter, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest are that Tender process for discussion.

On balance, the above reason which supports the need for confidentiality pursuant to Section 90(2) of the Act outweighs the factors in favour of the public interest of open decision-making.

MOVED Cr Johnstone

That Audit Committee:

(1) Under the provisions of Section 90(2) of the *Local Government Act 1999*, make an order that the public be excluded from the meeting with the exception of the Chief Executive Officer, Director Corporate Services and Business Innovation, Manager Finance, Coordinator Financial Services and the Minute Secretary,, in order to consider in confidence a report relating to 5.1 External Auditor Select Tender being information that must be considered in confidence pursuant to:

Section 90(3)(b) of the *Local Government Act 1999:*

information the disclosure of which-

(i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
(ii) would, on balance, be contrary to the public interest; and

(2) Accordingly, on this basis, Audit Committee is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential in order that Tender process for discussion.

SECONDED Cr Angas **CARRIED AC2018-22/22**

The meeting moved into confidence at 9.52am

MOVED Cr Angas

That Audit Committee:

(1) Committee Resolution
(2) Committee Resolution
(3) Having considered this matter in confidence under Sections 90(2) and 90(3)(b) of the *Local Government Act 1999,* makes an order pursuant to Section 91(7), that the minutes, agenda report and attachments other than the minutes relating to this confidentiality order of the Confidential Audit Committee Meeting held on 26 May 2022 in relation to item 5.1 External Auditor Select Tender be kept confidential and not available for public inspection and authorise the Chief Executive Officer to review and revoke the order.

SECONDED Mr Swan **CARRIED CAC2018-22/23**

Resumption of open council meeting at 9.58am

5. URGENT OTHER BUSINESS

Nil

6. NEXT MEETING

Thursday 4 August 2022 at 9.00am

7. CLOSURE

Mr Brass declared the meeting closed at 10.03am

Confirmed at Audit Committee Meeting on 4 August 2022

Date:…………………………… Chair:………………………………