



## Audit and Risk Committee

### Terms of Reference

#### 1. ESTABLISHMENT

- 1.1 The Audit and Risk Committee (the Committee) of Council is established under Section 41 of the *Local Government Act 1999* for the purpose of Section 126 of the *Local Government Act 1999 and Local Government (Financial Management) Regulations 2011* (the Act).

#### 2. FUNCTION

- 2.1 The purpose of the Committee is to provide independent assurance and advice to Council on accounting, financial management, internal controls, risk management and governance matters.
- 2.2 The principal functions and extent of Authority for the Committee are set out under Section 126(4) of the *Local Government Act 1999* as follows:
  - 2.2.1 Reviewing annual financial statements to ensure that they present fairly the state of affairs of the Council; and
  - 2.2.2 Proposing, and providing information relevant to, a review of the council's strategic management plans or annual business plan; and
  - 2.2.3 Monitoring the responsiveness of the council to recommendations for improvement based on previous audits and risk assessments, including those raised by a council's auditor; and
  - 2.2.4 Proposing, and reviewing, the exercise of powers under Section 130A of the *Local Government Act 1999*;
  - 2.2.5 Liaising with the Council's auditor in accordance with any requirements prescribed by the regulations; and
  - 2.2.6 Reviewing the adequacy of the accounting, internal control, reporting and other financial management systems and practices of the council on a regular basis; and
  - 2.2.7 If the council has an internal audit function;
    - 2.2.7.1 Providing oversight of planning and scoping of the internal audit work plan; and
    - 2.2.7.2 Reviewing and commenting on reports provided to the person primarily responsible for the internal audit function at least on a quarterly basis.

## **2.3 Financial Reporting**

2.3.1 The Committee shall monitor the integrity of the financial statements of the Council including its Annual Report, reviewing significant financial reporting issues and judgements which they contain.

2.3.2 The Committee shall review and challenge where necessary:

- 2.3.2.1 the consistency of, and/or any changes to accounting policies
- 2.3.2.2 the methods used to account for significant or unusual transactions where different approaches are possible
- 2.3.2.3 whether the Council has followed appropriate accounting standards and made appropriate estimates and judgements, taking into account the views of the external auditor
- 2.3.2.4 the clarity of disclosure in the Council's financial reports and the context in which statements are made
- 2.3.2.5 all material information presented with the financial statements, such as operating and financial review and the corporate governance statement insofar as it relates to strategy, risk management and audit.
- 2.3.2.6 review of asset management plans
- 2.3.2.7 review of long-term financial plans

## **2.4 Internal Controls and Risk Management Systems**

2.4.1 The Committee shall:

2.4.1.1 keep under review the effectiveness of Council's internal controls and risk management systems; and

2.4.1.2 review and recommend the approval, where appropriate, of statements to be included in the Annual Report concerning internal controls and risk management.

## **2.5 Public interest Disclosure**

2.5.1 The Committee shall:

2.5.1.1 review the Council's arrangements for its employees to raise concerns, in confidence, about possible wrongdoing in financial reporting or other matters; and

2.5.1.2 ensure these arrangements allow independent investigation of such matters and appropriate follow-up action.

## **2.6 Internal Audit**

2.6.1 The Committee shall:

2.6.1.1 monitor and review the effectiveness of Council's internal audit function in the context of Council's overall risk management system;

2.6.1.2 consider and make recommendation on the program of the internal audit function and the adequacy of its resources and access to information to

enable it to perform its function effectively and in accordance with the relevant professional standards.

2.6.1.3 review all reports on the Council's operations from the internal auditors;

2.6.1.4 review and monitor management's responsiveness to the findings and recommendations of the internal auditor; and

2.6.1.5 where appropriate, meet the 'head' of the internal audit (internal or outsourced) at least once a year, without management being present, to discuss any issues arising from the internal audits carried out. In addition, the head of internal audit shall be given the right of direct access to the Principal Member of the Council and to the Presiding Member of the Committee.

## **2.7 External Audit**

2.7.1 The Committee shall:

2.7.1.1 consider and make recommendations to the Council, in relation to the appointment, re-appointment and removal of the Council's external auditor. The Committee shall oversee the selection process for new auditors and if an auditor resigns the committee shall investigate the issues leading to this and decide whether any action is required;

2.7.1.2 oversee Council's relationship with the external auditor including, but not limited to:

2.7.1.2.1 recommending the approval of the external auditor's remuneration, whether fees for audit or non-audit services, and recommending whether the level of fees is appropriate to enable an adequate audit to be conducted;

2.7.1.2.2 recommending the approval of the external auditor's terms of engagement, including any engagement letter issued at the commencement of each audit and the scope of the audit;

2.7.1.2.3 assessing the external auditor's independence and objectivity taking into account relevant professional and regulatory requirements and the extent of Council's relationship with the auditor, including the provision of any non-audit services;

2.7.1.2.4 satisfying itself that there are no relationships (such as family, employment, investment, financial or business) between the external auditor and the Council (other than in the ordinary course of business);

2.7.1.2.5 monitoring the external auditor's compliance with legislative requirements on the rotation of audit partners; and

- 2.7.1.2.6 assessing the external auditor's qualifications, expertise and resources and the effectiveness of the audit process (which shall include a report from the external auditor on the audit committee's own internal quality procedures);
- 2.7.1.3 meet as needed with the external auditor at least once a year, without management being present; to discuss the external auditor's report and any issues arising from the audit.
- 2.7.1.4 review and make recommendations on the annual audit plan, and in particular its consistency with the scope of the external audit engagement;
- 2.7.1.5 review and monitor the findings of the audit with the external auditor. This shall include, but not be limited to, the following;
  - 2.7.1.5.1 discussion of any major issues which arose during the external audit;
  - 2.7.1.5.2 any accounting and audit judgements; and
  - 2.7.1.5.3 levels of errors identified during the external audit;
  - 2.7.1.5.4 the committee shall also review the effectiveness of the external audit.
- 2.7.1.6 review any representation letter(s) requested by the external auditor before they are signed by management.
- 2.7.1.7 review the management letter and management's response to the external auditor's findings and recommendations.

## **2.8 Reporting Responsibilities**

- 2.8.1 The Committee must provide:
  - 2.8.1.1 A report to Council after each meeting summarising the work of the committee on the outcomes of the meeting; and
  - 2.8.1.2 An annual report to the Council on the work of the committee; and
  - 2.8.1.3 The Annual Report of the Committee must be included in the Councils Annual Report.

## **2.9 Other Matters**

- 2.9.1 The Committee shall:
  - 2.9.1.1 have access to reasonable resources in order to carry out its duties;
  - 2.9.1.2 be provided with appropriate and timely training, both in the form of an induction program for new members and on an ongoing basis for all members;
  - 2.9.1.3 give due consideration to laws and regulations of the Local Government Act 1999

- 2.9.1.4 make recommendations on co-ordination of the internal and external auditors;
- 2.9.1.5 oversee any investigation of activities which are within its terms of reference;
- 2.9.1.6 oversee action to follow up on matters raised by the external auditors; and
- 2.9.1.7 at least once a year, review its own performance, constitution and terms of reference to ensure it is operating at maximum effectiveness and recommend changes it considers necessary to the Council for approval.

## **2.10 Role of the Chairperson and Committee Members**

- 2.10.1 The role of the Chairperson includes:
  - 2.10.1.1 Overseeing and facilitating the conduct of meetings in accordance with the Terms of Reference and Code of Practice for Meeting Procedures (Council Committees), which is developed in accordance with *the Local Government Act 1999* and the *Local Government (Procedures at Meetings) Regulations 2013*.
  - 2.10.1.2 Ensure all committee members have an opportunity to participate in discussions in an open and encouraging manner; and
  - 2.10.1.3 Where a matter has been debated significantly and no new information is being discussed, to call the meeting to order and ask for the debate to be finalised and the motion to be put.
  - 2.10.1.4 After considering advice from the Chief Executive Officer (CEO) or delegate, the Chairperson of the Committee is authorised to cancel the respective Committee meeting, if it is clear that there is no business to transact for that designated meeting.
- 2.10.2 The role of a committee member is to:
  - 2.10.2.1 Participate in the deliberations of the Committee, with regard to the policy and business which is before it;
  - 2.10.2.2 Be mindful of the objectives and policies of the Council as they relate to the business of the Committee;
  - 2.10.2.3 Give due consideration to laws and regulations of *the Local Government Act 1999*;
  - 2.10.2.4 Participate in induction and ongoing training as required;
  - 2.10.2.5 Be aware of the Committees resources and budget, and the need for efficiency and effectiveness in the activities for which the Committee has been established;

- 2.10.2.6 Be well informed on issues before the Committee, to prepare adequately for meetings and seek additional information if required;
- 2.10.2.7 Be mindful of the potential for a 'Conflict of Interest' to occur through participation on the Committee and to declare such interests as and when they arise; and
- 2.10.2.8 Observe confidentiality when it is required.

### **3. MEMBERSHIP**

3.1 A majority of the Committee members shall be independent and shall consist of:

3.1.1 two Council Members<sup>1</sup>; and

3.1.2 up to three Independent Members with recent and relevant financial, risk management and internal audit experience

3.2 Council's external auditors may be invited to attend meetings of the Committee.

3.3 Persons appointed under this clause are referred to as 'Member/Members' throughout the Terms of Reference.

3.4 The current Committee membership is as per Schedule 1 to the Terms of Reference.

3.5 Council shall appoint the Chairperson to the Committee who will be independent of Council and have qualifications as outlined in Clause 3.1.2.

3.6 Council may appoint a Deputy Chairperson to the Committee for the purpose of filling in for the Chair who is unable to attend (or part of) an Audit Committee.

3.7 The Chairperson of the Committee is not excluded from debate but should be respectful and provide opportunity for all other committee members to contribute in a way that deliberations are not 'lead from the Chair'.

3.8 In the absence of the Chairperson and Deputy Chairperson from a meeting, then another Committee Member will preside at the meeting until the Chairperson or Deputy Chairperson is present.

#### **3.9 Term of appointment**

3.9.1 Independent Member(s) (including Chairperson) shall be appointed for a term of up to four years, or otherwise resolved by Council.

3.9.2 After the expiry of the Independent Members (including Chairperson) first term, Council may extend their term for a further term (limited to two terms).

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<sup>1</sup> Including the Mayor if appointed by Council (Note the Mayor has no ex-officio role on the Audit Committee)

3.9.3 Independent Members (including Chairperson) are eligible to reapply for the position through an expression of interest process after their first . If successful in being reappointed, the Independent Member (including Chairperson) term of office recommences in accordance with Clause 3.10.

3.9.4 Council Members shall be appointed for a term of two years or as otherwise resolved by Council.

3.9.5 Council Members are eligible for reappointment for a further term not exceeding the period of his or her current term of the periodic elections.

### **3.10 Vacancies**

3.10.1 The filling of any vacancy occurring by resignation or removal of a member shall be approved by Council through a Committee resolution.

3.10.2 In the event of a vacancy arising in the position of Chairperson, Council may appoint a current Independent Member of the Committee to fill the vacancy.

### **3.11 Removing Members**

3.11.1 Council may at any time remove a member of the Committee and circumstances that may lead to a member being removed may include (but are not limited to):

3.11.1.1 If the Member breaches the relevant Code of Conduct.

3.11.1.2 If a member is declared to be (by a medical practitioner) not of sound mind.

3.11.1.3 If the member knowingly acts in serious breach of the Council's policies or the legislative provisions i.e. failing to declare a conflict of interest; not maintaining confidentiality; committing fraud or corruption etc.

3.11.1.4 If the member is convicted of any criminal offence which prescribes a term of imprisonment or brings discredit upon the Council or the Committee

3.11.1.5 If the member is consistently unsupportive of the objectives of the Committee.

### **3.12 Leave of Absence**

3.12.1 Any member absent for three or more consecutive meetings without apology or leave of the Committee shall have their position declared vacant and Clause 3.5.1 shall be invoked.

### **3.13 Sitting Fees**

3.13.1 Independent Committee Members will be eligible to receive a sitting fee for meeting attendances as determined by the Council from time to time.

### **3.14 Selection Panel**

- 3.14.1 At the time of a vacancy of an Independent Member, a selection panel comprising of the Chief Executive Officer or delegate, one Council Member from the Audit Committee and one Independent Member from either the City of Victor Harbor, Alexandrina Council or the District Council of Yankalilla, will undertake a selection process and recommend Independent applicants to the Council for appointment as Independent Members.

## **5. MEETINGS**

### **5.1 Ordinary Meetings**

- 5.1.1 A minimum of four meetings are to be held per annum.
- 5.1.2 The Committee shall resolve by majority a 12-month schedule of meetings including the date, time and location in accordance with Section 87 (1) and (2) of the *Local Government Act 1999*.

### **5.2 Special Meetings**

- 5.2.1 Special Meetings may be called by the Chair or at least two members of the Committee at any time in accordance with the conditions of the Terms of Reference.

### **5.3 Meeting Procedures**

- 5.3.1 Meetings will be held in accordance with these Terms of Reference and Council's Code of Practice for Meeting Procedures, developed in accordance with the *Local Government Act 1999* and the *Local Government (Procedures at Meetings) Regulations 2013*.

### **5.4 Voting**

- 5.4.1 majority of the votes cast by the members present at the meeting and entitled to vote on the question.
- 5.4.2 Each member of the Committee present at any meeting shall have one vote on any matter.
- 5.4.3 The Chairperson or Deputy Chairperson has a deliberative vote but does not, in the event of an equality of votes, have a casting vote.
- 5.4.4 Each member present at a meeting of the Committee must vote on all questions arising for a decision at that meeting.

### **5.5 Quorum**

- 5.5.1 A quorum for the Committee shall constitute three members, one of whom shall be an Council Member.

### **5.6 Presentations**



5.6.1 The Committee may receive presentations from members of the community, an organisations or Council officers on matters directly related to Clause 2.

## **5.7 Notice of Meetings**

5.7.1 A notice of the meeting is to be provided to each Committee Member in writing, setting out the date, time and location of the meeting and be accompanied by an agenda.

5.7.2 The agenda for Ordinary Meetings of the Committee shall be forwarded to members of the Committee electronically no later three clear days prior to the meeting.

5.7.3 A minimum of four hours' notice shall be given for any Special Meeting of the Committee.

5.7.4 A copy of the notice of meeting, agenda and accompanying reports shall be placed at the Council office as soon as practicable following circulation to members of the Committee.

## **5.8 Electronic Attendance at Meetings**

5.9.1 Members may participate in a meeting of the Audit Committee by electronic means which includes by telephone, computer or other electronic device used for communication.

5.9.2 A member participating in an Audit Committee meeting by electronic means is taken to be present at the meeting provided that the member:

5.9.2.1 Can hear all other members present at the meeting.

5.9.2.2 Can be heard by all other members present at the meeting; and

5.9.2.3 Can be heard by the person recording the minutes of the meeting.

## **5.9 Minutes**

5.9.1 Minutes shall be kept of all meetings of the Committee.

5.9.2 Each Committee Member shall receive a copy of the minutes within five business days of the meeting of the Committee.

5.9.3 The minutes shall be confirmed at the next regular meeting with or without amendments.

5.9.4 One copy of all minutes shall be supplied to the Council before its next meeting following that of the Committee. Resolutions of the Committee are to be presented to a formal meeting of Council for endorsement before they can be enacted.

5.9.5 A copy of the minutes shall be placed on public exhibition at the Council Front Office within five days of the meeting of the Committee.

#### **5.10 Interruption of meetings by members**

5.10.1 A member of a Council Committee must not behave in an improper or disorderly manner; or cause an interruption or interrupt another member who is speaking (Regulation 29 of the *Local Government (Procedures at Meetings) Regulations 2013*)

### **6. CONFLICT OF INTEREST**

6.1 Sections 74, 75, 75A, 75B, 75C and 75D of the *Local Government Act 1999* (inclusive) refer to conflict of interest provisions. Committee members need to be aware of the circumstances under which a conflict of interest may arise and declare that interest to the membership present at the meeting.

### **7. DELEGATIONS**

7.1 Council may delegate matters to the Committee in accordance with Section 41 of the *Local Government Act 1999*.

7.2 The Committee may:

7.2.1 Approve minutes as a true and accurate record of proceedings.

7.2.2 appoint a Deputy Chairperson (if not resolved by Council).

7.2.3 Approve their work plan and annual report of the Committee.

7.2.4 Form sub-committees and project groups.

7.2.5 Determine if a matter should be considered in confidence.

### **8. PUBLIC ACCESS**

8.1 Meetings of the Committee shall be held in public.

8.2 The Committee may resolve to exclude the Public from attendance at the meeting if it is considered necessary to receive, discuss or consider in confidence any information or matter listed in Section 90 (3) of the *Local Government Act 1999*.

8.3 Minutes, Agendas, Reports and Documents produced by the Committee may be inspected at the Council Office at any time and are also available for viewing at the Library for a limited period. Copies of Minutes, Agendas, Report's and Documents may be purchased from the Council Office at a fee prescribed by Council.

8.4 Matters subject to a resolution of terms of confidentiality provisions will be excluded from inspection or purchase for a period as determined by the Committee.

## 9. Leave of Absence

9.1 Any member absent for three (3) or more consecutive meetings without apology or leave of the Committee shall have their position declared vacant and clause 6 shall be invoked.

## 10. Media Protocol

10.1 Members are not to speak to media in their capacity as Committee Members.

10.2 In accordance with Council's Media Policy, the Mayor and the CEO are the principle spokespersons for the Council.

## 11 Liability of Members

11.1 In accordance with Section 39 of the *Local Government Act 1999*, no civil liability attaches to a member of the Committee for an honest act or omission in the exercise, performance or discharge, or purported exercise, performance or discharge, of the member's or Committee's powers, functions or duties. However, protection under these provisions may not apply for a breach of the Council's Election Caretaker Policy.

## 12 Interpretation

12.1 Any ambiguity or difficulty in interpretation of this Terms of Reference shall be referred to the Council for direction.

## 13 Dissolution

13.1 Council may at any time abolish the Committee and such action by the Council may include but is not limited to the Committee:

- 13.1.1 Has fully achieved its purpose for establishment
- 13.1.2 Has become unproductive
- 13.1.3 Can no longer attract membership
- 13.1.4 No longer serves the service priorities and/or core business of the Council.
- 13.1.5 Legislation has changed the roles and responsibilities of Council.

## 14 Amendments to Terms of Reference

14.1 Council may, at any time, either on its own initiative or at the request of the Committee, alter, delete or add to the provisions of these Terms of Reference.

## 15 Document History

| Version | Issue Date  | Resolution No. | Description                             |
|---------|-------------|----------------|---|
| 1.0     | 12 Feb 2007 | OC 07/0049     | Adopted the Audit Committee Charter     |
| 2.0     | 9 July 2007 | OC 07/0349     | Adopted amended Audit Committee Charter |
| 3.0     | 11 Mar 2008 |                |   |

|     |                 |                                       |  |
|-----|-----------------|---------------------------------------|--|
| 4.0 | 25 Aug 2008     |                                       |  |
| 5.0 | 10 Nov 2008     | OC 08/0556                            | Amended Charter to reflect the revised membership numbers and appointed incumbents                           |
| 6.0 | 16 Mar 2009     | OC 09/0098                            | Amended Charter to reflect appointments  |
| 7.0 | 21 Sept 2009    |                                       |  |
| 8.0 | 20 Sept 2010    |                                       |  |
| 9.0 | 18 Oct 2010     |                                       |  |
| 10. | 29 Nov 2010     |                                       |  |
| 11. | 28 Mar 2011     | OC 11/0145                            | Establishment of Audit Committee (Section 41 of <i>the Local Government Act 1999</i> )                       |
| 12. | 26 Sept 2011    | CA 11/0034                            | Adopted reviewed Terms of Reference and Charter  |
| 13. | 18 Mar 2013     | CA 13/0005                            | Adopted reviewed Terms of Reference and Charter  |
| 14. | 23 Nov 2015     | OC5342015                             | Adopted reviewed Terms of Reference and Charter  |
| 15. | 22 Aug 2016     | OC4532016                             | 2015/16 Audit Committee Self-assessment and annual review  |
| 16. | 27 Feb 2017     | OC592017                              | Extension of Independent Member Term   |
| 17. | 18 Dec 2017     | OC8032017                             | Appointment of Chairperson   |
| 18. | 19 Nov 2018     | OC6402018<br>OC6412018<br>OC6422018   | Appointment of Chairperson<br>Appointment of Elected Member representatives<br>Independent Member's          |
| 19  | 25 Nov 2019     | OC8102019                             | Adopted reviewed Terms of Reference  |
| 20  | 24 Feb 2020     | OC1152020                             | Extension of Independent Member Term – Claudia Goldsmith to 21/02/22   |
| 21  | 27 July 2020    | OC3582020                             | Amended Clause 2.1.3, Clause 3.1.1, 3.1.2, 13.2, 13.3<br>Added Clause 3.10 and 3.10.1                        |
| 22  | 26 Oct 2020     | OC5402020                             | Appointment of Council Member representatives  |
| 23  | 24 Nov 2020     | OC6752020                             | Updated Schedule 1 membership - Appointment of Chair   |
| 24  | 23 Aug 2021     | OC2642021                             | Annual Review of Terms of Reference  |
| 25  | 28 Feb 2022     | OC952022 and<br>OC1092022             | Annual Review of Terms of Reference<br>Independent Member Appointment – Schedule 1 updated                   |
| 26  | 23 Nov 2022     | OC4592022,<br>OC4602022,<br>OC4612022 | Review of Terms of Reference, including electronic participation and Council Member Appointments             |
| 27  | 3 February 2022 | Administration error                  | Administrative error - updated Cr Burns spelling from Cr Stuart Burns to Cr Stewart Burns                    |
| 28  | 6 November 2023 | OC3972023                             | Annual Review of the Terms of Reference – captures the Statutes Amendment (Local Government Review) Act 2021 |

## SCHEDULE 1

### Audit and Risk Committee

#### Committee Membership

November 2022

| Member                | Representative     | Appointed        | Expires       |
|-----------------------|--------------------|------------------|---------------|
| City of Victor Harbor | Cr David Kemp      | 23 November 2022 | November 2024 |
| City of Victor Harbor | Cr Stewart Burns   | 23 November 2022 | November 2024 |
| Independent Member    | Nick Lopez         | 1 March 2021     | 28 Feb 2025   |
| Independent Member    | David Papa         | 24 Nov 2020      | 24 Nov 2024   |
| Independent Member    | Michael Richardson | 1 March 2022     | 1 March 2026  |

#### Office Bearers

|             |            |
|-------------|------------|
| Chairperson | David Papa |
|-------------|------------|