

 <p data-bbox="477 310 654 432"><b>Adelaide Plains Council</b></p>	<p data-bbox="821 327 1109 359"><b>22.1 CONFIDENTIAL ITEM</b></p>
<p data-bbox="716 512 935 543"><b>21 November 2018</b></p>	

22.1 Audit Committee – Terms of Reference and Appointment of Members

22.1 Audit Committee – Terms of Reference and Appointment of Members

**RECOMMENDATION**

“that:-

1. Pursuant to section 90(2) of the *Local Government Act 1999*, the Council orders that all members of the public, except Chief Executive Officer, General Manger – Governance and Communications, General Manager – Development and Community, Acting General Manager – Infrastructure and Environment, General Manager – Finance and Economic Development, Governance Officer and Executive Assistant be excluded from attendance at the meeting of the Council for Agenda Item 22.1 – *Audit Committee – Terms of Reference and Appointment of Members*;
2. Council is satisfied that pursuant to section 90(3)(a) of the *Local Government Act 1999*, Item 22.1 – *Audit Committee – Terms of Reference and Appointment of Members* concerns information of a confidential nature the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person, constituting information relevant to the applicants’ potential appointment and suitability for a position on Council’s Audit Committee and it would be unreasonable to disclose this information as part of the confidential recruitment process; and
3. Council is satisfied that the principle that Council meetings should be conducted in a place open to the public has been outweighed by the need to keep the information, matter and discussion confidential.”

	22.1	<b>Audit Committee – Terms of Reference and Appointment of Members</b>
	<b>Department:</b>  <b>Report Author:</b>	<b>Finance and Economic Development</b>  <b>Chief Executive Officer</b>
<b>Date: 21 November 2018</b>	<b>Document Ref:</b>	<b>D18/53824</b>

**EXECUTIVE SUMMARY**

- Pursuant to section 126(1) of the *Local Government Act 1999*, Council must have an Audit Committee.
- The purpose of this report is:
  - To provide Council with an overview of the Council’s Audit Committee;
  - For Council to review the Terms of Reference; and
  - To present to Council a summary of outcomes and recommendations following the short listing and interview process in relation to the Audit Committee’s independent membership, so that Council can make the necessary membership appointments to the Audit Committee.
- It is recommended that Council acknowledge the existence of its Audit Committee and in doing so consider the adoption of the Terms of Reference and appointment of members.

*Membership*

- The current Terms of Reference provide that Membership shall consist of two (2) independent members with three (3) members from the Elected Members of Council.
- Most recently, Council’s Audit Committee (the Audit Committee) has consisted of the following members:-
  - Mr John Comrie (Independent Chairperson);
  - Mr Peter Fairlie-Jones (Independent Member);
  - Former Mayor Tony Flaherty;
  - Former Councillor Melville Lawrence; and
  - Former Councillor Steve Jones.

*Independent Members*

- John Comrie has recently tendered his resignation from the Audit Committee, and Council, in August 2018, subsequently instructed the Chief Executive Officer to call for Expressions of Interest in relation to two (2) independent member positions on the Audit Committee.
- A total of twelve (12) applications were received, with a shortlist of three (3) candidates invited for interviews. Interviews subsequently took place on 17 October 2018.

- Following the completion of interviews, it is recommended that the following two (2) Independent Members be appointed to Council’s Audit Committee:-
  1. Alan Rushbrook; and
  2. Peter Fairlie-Jones.
- It is further recommended that Alan Rushbrook be appointed as Chairperson.

*Members from the Elected Members of Council*

- As a result of the outcome of the recent general election, there are now three (3) further vacancies on the Audit Committee.
- In keeping with the Terms of Reference of the Audit Committee, Council must now appoint three new (3) members from the Elected Members of Council.
- It is for Council to determine which Elected Members of Council are to be appointed to the Audit Committee.

**RECOMMENDATION 1**

**“that Council, having considered Item 22.1 – *Audit Committee – Terms of Reference and Appointment of Members*, dated 21 November 2018, receives and notes the report and in doing so:-**

1. Acknowledges that Council must have an Audit Committee, pursuant to section 126(1) of the *Local Government Act 1999*; and
2. Adopts the Terms of Reference presented at Attachment 1 to this Report.”

**RECOMMENDATION 2**

**“that Council, having considered Item 22.1 – *Audit Committee – Terms of Reference and Appointment of Members*, dated 21 November 2018, appoints the following two (2) Independent Members to Council’s Audit Committee for a duration of two (2) years:-**

1. Alan Rushbrook; and
2. Peter Fairlie-Jones.”

**RECOMMENDATION 3**

**“that Council, having considered 22.1 – *Audit Committee – Terms of Reference and Membership*, dated 21 November 2018, appoints Alan Rushbrook as the Independent Chairman of Council’s Audit Committee for a period of two (2) years.”**

#### **RECOMMENDATION 4**

“that Council, having considered Item 22.1 – *Audit Committee – Terms of Reference and Appointment of Members*, dated 21 November 2018, appoints the following three (3) members from the Elected Members of Council to the Audit Committee:-

1. \_\_\_\_\_;
2. \_\_\_\_\_ ; and
3. \_\_\_\_\_.”

#### **RECOMMENDATION 5**

“that Council, having considered Item 22.1 – *Audit Committee – Terms of Reference and Membership*, dated 21 November 2018, instructs the Chief Executive Officer to formally acknowledge and thank outgoing Chairman of Council’s Audit Committee, John Comrie.”

#### **BUDGET IMPACT**

Estimated Cost:	Sitting fee is to be determined by the Council
Future ongoing operating costs:	Not Applicable
Is this Budgeted?	Yes. Based on current sitting fee

#### **RISK ASSESSMENT**

Under section 126 (1) of the *Local Government Act 1999*, Council **must** have an Audit Committee.

Based on the recent resignation of the Chairperson, and the outcome of the recent general election, it is timely and indeed necessary for Council to appoint members to the Audit Committee in keeping with the Terms of Reference.

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#### **Attachments**

1. Terms of Reference.
2. Applicant Summary Form.
3. Interview Recommendation Report.

## **DETAILED REPORT**

### **Purpose**

Pursuant to section 126(1) of the *Local Government Act 1999*, Council must have an Audit Committee.

The purpose of this report is:

- To provide Council with an overview of the Council's Audit Committee;
- For Council to review the Terms of Reference; and
- To present to Council a summary of outcomes and recommendations following the short listing and interview process in relation to the Audit Committee's independent membership, so that Council can make the necessary membership appointments to the Audit Committee.

### **Background/History**

#### *The Audit Committee*

Under section 126 of the Local Government Act, a council must have an Audit Committee.

The purpose of the Committee is to assist Council in fulfilling its oversight responsibilities relating to accounting, audit, legislative compliance, financial and operational risk management, good governance and reporting practices; and ensure effective communication between the Council, Administration and External Auditor in accordance with the *Local Government Act 1999* and other relevant legislation.

The Audit Committee is responsible for enquiring into and making recommendations to the Council where necessary with respect of the following matters:

- Financial Reporting and Sustainability
- Risk Management and Internal Control
- External Audit
- Fraud and Whistleblowing
- Policy Development

#### *Membership*

The current Terms of Reference provide that Membership shall consist of two (2) independent members with three (3) members from the Elected Members of Council.

Most recently, the Audit Committee has consisted of the following members:-

- Mr John Comrie (Independent Chairperson);
- Mr Peter Fairlie-Jones (Independent Member);
- Former Mayor Tony Flaherty;
- Former Councillor Melville Lawrence; and

- Former Councillor Steve Jones.

### *Independent Members*

Independent Chairperson John Comrie recently tendered his resignation from the Audit Committee. Following this, Council at its Ordinary Meeting on 20 August 2018 instructed the Chief Executive Officer to call for Expressions of Interest for the two (2) independent member positions on the Audit Committee and to subsequently interview applicants:-

#### 14.10 *Recruitment of Independent Members – Audit Committee*

*Moved Councillor Strudwicke                      Seconded Councillor Lawrence                      2018/378*

*“that Council, having considered Item 14.10 – Recruitment of Independent Members – Audit Committee, dated 20 August 2018, receives and notes the report and in doing so:-*

- 1. Instructs the Chief Executive Officer to call for Expressions of Interest in relation to two (2) independent member positions on Council’s Audit Committee and report back to Council as soon as possible; and*
- 2. Appoints outgoing Chairman of the Audit Committee, Mr John Comrie, Councillor Keen and Councillor Panella to the interview panel along with the Chief Executive Officer and the General Manager – Finance and Economic Development.”*

**CARRIED**

In relation to appointing independent members to the Audit Committee, the *Terms of Reference* provide as follows:-

*“3.7 The evaluation of potential independent members of the Audit Committee will be undertaken by the Mayor and Chief Executive Officer and two (2) Elected Members appointed to the Audit Committee, taking account of the experience and qualifications of candidates and their likely ability to apply appropriate analytical and strategic management skills, and a recommendation for appointment put to Council.”*

### *Members from the Elected Members of Council*

Based on the outcome of the recent general election, there are now three (3) further vacancies on the Audit Committee.

In keeping with the Terms of Reference of the Audit Committee, Council must now appoint three new (3) members from the Elected Members of Council.

It is for Council to determine which Elected Members of Council are to be appointed to the Audit Committee.

## Discussion

In keeping with Council Resolution 2018/378 above, Expressions of Interest were sought from 1 September to 14 September 2018, with advertisements placed in The Advertiser on Saturday 1 September 2018 as well as local newspapers.

A total of twelve (12) applications were received, details of which are summarised in the *Applicant Summary Form* presented as **Attachment 2** to this Report.

A three (3) step consideration process was carried out:-

1. Mr John Comrie, Councillor Keen and Councillor Panella along with the Chief Executive Officer and the General Manager – Finance and Economic Development, considered the twelve (12) written applications, and shortlisted three (3) applicants for interview (in keeping with Council Resolution 2018/378);
2. The three (3) shortlisted applicants were subsequently interviewed on 17 October 2018 (in keeping with Council Resolution 2018/378); and
3. The Mayor, Chief Executive Officer and two (2) Elected Members appointed to the Audit Committee then evaluated the potential independent members in the context of the Interview Panel's recommendations (in keeping with 3.7 of the Terms of Reference).

A summary of each interview is presented as **Attachment 3** to this Report.

In keeping with part 3.7 of the Terms of Reference, the Chief Executive Officer, Mayor, and Elected Members appointed to the Audit Committee have evaluated potential independent members.

It is recommended that the following two (2) Independent Members be appointed to Council's Audit Committee:-

1. Alan Rushbrook; and
2. Peter Fairlie-Jones.

It is further recommended that Alan Rushbrook be appointed as Chairperson.

Notwithstanding that the Terms of Reference provide that members may be appointed for up to four (4) years, it is recommended that members be appointed for two (2) years to reflect what was advertised in the call for Expressions of Interest.

## Conclusion

It is recommended that Council acknowledge the existence of its Audit Committee and in doing so consider the adoption of the Terms of Reference.

It is further recommended that Council appoints Mr Alan Rushbrook as Chairperson, Mr Peter Fairlie-Jones as Independent Member for a two (2) year period. It is for Council to determine which three (3) Elected Members of Council it wishes to appoint to the Audit Committee.

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## References

### Legislation

*Local Government Act 1999, Section 126*

*Local Government (Financial Management) Regulations 2011*

### Council Policies/Plans

*Audit Committee Terms of Reference*

 <b>Adelaide Plains Council</b>	<b>Audit Committee Terms of Reference</b>	
	<b>Adoption by Council:</b>	2018
	<b>Resolution Number:</b>	2018/149
	<b>Administered by:</b>	General Manager - Finance and Economic Development
	<b>Last Review Date:</b>	<b>2018</b>
	<b>Next Review Date:</b>	<b>2020</b>
<b>TRIM DOC:</b> D18/12965	<b>Strategic Focus Area:</b> <b>4.5 Accountable &amp; Sustainable Governance</b>	

## 1. Establishment

- 1.1 Pursuant to Section 41 of the Local Government Act 1999 (**the Act**) the Council maintains a Committee to be known as the Audit Committee (**Committee**).
- 1.2 The purpose of the Committee will be to monitor and assist Council in the effective implementation and conduct of its responsibilities for financial reporting, management of risk and maintaining a reliable system of internal controls. The Committee will enquire into and report to Council in respect of those matters conferred upon it, and as set out in these Terms of Reference.

## 2. Functions

Subject to compliance with all legislation, policies, plans and procedures of the Council, the functions of the Committee are as follows:

### 2.1 Financial Reporting

- 2.1.1 The primary objective of the Committee is to assist Council in the effective conduct of its responsibilities for financial reporting, management of risk and maintaining a reliable system of internal controls.
- 2.1.2 The Committee shall monitor the integrity of the financial statements of the Council, including its annual report, reviewing significant financial reporting issues and judgments which they contain.
- 2.1.3 The Committee shall review and challenge where necessary:
- 2.1.3.1 the consistency of, and/or any changes to, accounting policies;
  - 2.1.3.2 the methods used to account for significant or unusual transactions where different approaches are possible;
  - 2.1.3.3 whether the Council has followed appropriate accounting standards and made appropriate estimates and judgments, taking into account the views of the external auditor;

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2.1.3.4 the clarity of disclosure in the Council's financial reports and the context in which statements are made; and

2.1.3.5 all material information presented with the financial statements, such as the operating and financial review and the corporate governance statement (insofar as it relates to the audit and risk management).

## **2.2 Governance, Internal Controls and Risk Management Systems**

The Committee shall:

2.2.1 ensure Council's compliance with legislative requirements, as well as use of best practice and Governance principles and guidelines;

2.2.2 keep under review the effectiveness of Council's internal controls and risk management framework;

2.2.3 review and recommend the approval, where appropriate, of statements to be included in the annual report concerning internal controls and risk management; and

2.2.4 understand the business of the Council to appreciate the risks it manages on a daily basis and to ensure that there are appropriate management plans to manage and mitigate identified business risks. This will include insurance matters, financial reporting, legal and regulatory compliance, business continuity, and statutory compliance. This can be facilitated by discussions with the Committee and external auditors and by presentations by management on how business risks are identified and managed.

## **2.3 Whistle Blowing**

The Committee shall review Council's arrangements for its employees to raise concerns, in confidence, about possible wrongdoing in financial reporting or other matters. The Committee shall ensure these arrangements allow independent investigation of such matters and appropriate follow-up action.

## **2.5 External Audit**

The Committee shall:

2.5.1 develop and implement a policy on the supply of non-audit services by the external auditor, taking into account any relevant ethical guidance on the matter;

2.5.2 consider and make recommendations to the Council, in relation to the appointment, re-appointment and removal of the Council's external auditor;

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

2.5.3.1 reviewing 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;

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- 2.5.3.2 reviewing 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;
- 2.5.3.3 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;
- 2.5.3.4 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);
- 2.5.3.5 monitoring the external auditor's compliance with legislative requirements on the rotation of audit partners; and
- 2.5.3.6 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).
- 2.5.4 meet with the external auditor as required. The Committee shall meet the external auditor at least once a year, with or without management being present; to discuss the external auditor's report and any issues arising from the audit;
- 2.5.5 review and make recommendations on the annual audit plan, and in particular its consistency with the scope of the external audit engagement;
- 2.5.6 review the findings of the audit with the external auditor. This shall include, but not be limited to, the following;
  - 2.5.6.1 a discussion of any major issues which arose during the external audit;
  - 2.5.6.2 any accounting and audit judgments; and
  - 2.5.6.3 levels of errors identified during the external audit.

The Committee shall also:

- 2.5.7 review the effectiveness of the external audit.
- 2.5.7 review any representation letter(s) requested by the external auditor.
- 2.5.8 review the management letter and management's response to the external auditor's findings and recommendations.

### **3. Membership**

- 3.1 Members of the Committee are appointed by the Council. The Committee shall consist of five (5) members. The Committee shall consist of two (2) independent members with three (3) members from the Elected Members of Council – consistent with any Regulations.
- 3.2 Independent member(s) of the Committee shall have recent and relevant financial and / or risk management, internal audit etc experience. The Chairperson of the Council shall be a member of the Committee.

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- 3.3 Only members of the Committee are entitled to vote in Committee meetings. Unless otherwise required by the Act not to vote, each member must vote on every matter that is before the Committee for decision. However other individuals such as the Chief Executive Officer, General Manager Corporate and Community Services and other staff with relevant responsibilities may attend any meeting as observers or be responsible for preparing reports for the Committee. In accordance with the principles of open, transparent and informed decision making, Committee meetings must be conducted in a place open to the public. The agenda and minutes of the Committee meetings, subject to any items that are discussed in confidence under Section 90 of the Act and subsequently retained as confidential under Section 91 of the Act, are also required to be made available to the public.
- 3.4 Council's external auditors may be invited to attend meetings of the Committee.
- 3.5 Appointment to the Committee shall be for a period of up to four years (4), or until the end of the term of the Council. Appointees may be reappointed by Council.
- 3.6 The Council shall appoint the Chairperson of the Committee.
- 3.7 The evaluation of potential independent members of the Audit Committee will be undertaken by the Mayor and Chief Executive Officer and two (2) Elected Members appointed to the Audit Committee, taking account of the experience and qualifications of candidates and their likely ability to apply appropriate analytical and strategic management skills, and a recommendation for appointment put to Council.
- 3.8 Expressions of Interest from prospective Independent Members shall be sought by the Council by way of a public advertisement.
- 3.9 Remuneration will be paid to each Independent Member of the Committee (based on a set fee per meeting attended).
- 3.10 Membership of the Audit Committee continues for the term of the Committee, unless a Member resigns from the Committee or is removed earlier by resolution of Council.
- 3.11 If the Council proposes to remove a Member of the Committee, it must give written notice to the Member of its intention to do so and provide that Member with the opportunity to be heard at a Council meeting which is open to the public, if that Member so requests.

#### **4. Chairperson**

- 4.1 When the Chairperson is absent from a meeting the Committee Members may appoint a person from those present to act as Chairperson for the duration of the meeting

#### **5. Quorum**

- 5.1 The quorum necessary for the transaction of business shall be three (3) members of the Committee, including at least one (1) independent member. A duly convened meeting of the Committee at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Committee

#### **6. Meetings**

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## **6.1 Voting**

6.1.1 All decisions of the Committee shall be made on the basis of a majority decision of the members present.

6.1.2 Members present must vote on all resolutions of the Committee. Proxy votes are not permitted.

## **6.2 Meeting Frequency**

6.2.1 The Committee shall meet at least four (4) times annually at appropriate times in the reporting and audit cycle and otherwise as required.

6.2.2 Ordinary meetings of the Committee will be held at times and places determined by Council or, subject to a decision of Council, the Committee. A special meeting of the Committee may be called in accordance with the Act.

6.2.3 Notice of each meeting confirming the venue, time and date, together with an agenda of items to be discussed, shall be forwarded to each member of the Committee and observers, no later than three (3) clear days before the date of the meeting. Supporting papers shall be sent to Committee members (and to other attendees as appropriate) at the same time.

6.2.4 The Chief Executive Officer shall ensure that the proceedings and resolutions of all meetings of the Committee, including recording the names of those present and in attendance are minuted and that the minutes otherwise comply with the requirements of the *Local Government (Procedure at Meetings) Regulations 2000*.

6.2.5 Minutes of Committee meetings shall be circulated within five (5) days after a meeting to all members of the Committee and to all members of the Council and will (as appropriate) be available to the public.

## **6.3 Delegations**

6.3.1 Pursuant to Section 44 of the Local Government Act 1999, the Audit Committee does not enjoy the delegation of any powers, functions and duties of the Council. All decisions of the Committee will, therefore, constitute only recommendations to the Council.

## **6.4 Meeting Procedures**

6.4.1 Procedures at meetings will be in accordance with Council's Code of Practice – Meeting Procedures and the requirements of the Local Government (Procedures at Meetings) Regulations 2000.

## **6.5 Administrative Resources**

6.5.1 The Chief Executive Officer shall provide sufficient administrative resources to the Committee to enable it to adequately carry out its functions. The Committee shall:

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- 6.5.1.1 have access to reasonable resources in order to carry out its duties; subject to any budget allocation approved by Council;
- 6.5.1.2 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;
- 6.5.1.3 give due consideration to laws and regulations of the Act;
- 6.5.1.4 make recommendations on co-ordination of the internal and external auditors;
- 6.5.1.5 oversee any investigation of activities which are within its Terms of Reference;
- 6.5.1.6 oversee action to follow up on matters raised by the external auditors; and
- 6.5.1.7 at least once a year, review its own performance and Terms of Reference to ensure it is operating at maximum effectiveness and recommend changes it considers necessary to the Council for approval.

## **7. Reporting Responsibilities**

- 7.3.1 Pursuant to Section 41(8) of the Act the Committee is responsible to and reports direct to Council.
- 7.3.2 The Committee shall make whatever recommendations to the Council it deems appropriate on any area within its Terms of Reference where in its view action or improvement is needed.

## **8. Review**

These terms of reference will be subject to review by the Council on a two (2) year basis, or as determined by Council.

## Attachment 2 to Item 22.1

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## **RECOMMENDATION**

**“that Council, having considered the matter of Agenda Item 22.1 – *Audit Committee – Terms of Reference and Appointment of Members* in confidence under sections 90(2) and 90(3)(a) of the *Local Government Act 1999*, resolves that:-**

- 1. The staff report and the minutes pertaining to Agenda Item 22.1 – *Audit Committee – Terms of Reference and Appointment of Members* remain confidential and not available for public inspection until all the applicants for positions on the Audit Committee have been advised of the outcome of their application;**
- 2. Attachments 2 and 3 to Agenda Item 22.1 – *Audit Committee – Terms of Reference and Appointment of Members* remain confidential and not available for public inspection until further order of Council;**
- 3. Pursuant to section 91(9)(a) of the *Local Government Act 1999*, the confidentiality of the matter will be reviewed every 12 months; and**
- 4. Pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke this confidentiality order to the Chief Executive Officer.”**