



Audit and Risk Committee

Minutes

Wednesday 8 May 2024



Our Vision

Where environment, lifestyle and opportunity meet

Community Aspirations



KEY THEME 1

Environment

An environment that is valued, conserved and enjoyed by current and future generations.



KEY THEME 2

Lifestyle

A place that is relaxed, safe and friendly, with services and facilities that support positive lifestyles and wellbeing.



KEY THEME 3

Opportunity

A vibrant City with diverse opportunities and a prosperous economy.



KEY THEME 4

Leadership

A Council that connects with the community and is accountable in its decision making.

MINUTES

Minutes of a meeting of the Audit and Risk Committee held in the Council Chambers, Administration Building, Southern Drive, Busselton, on Wednesday 8 May 2024 at 10:00 am, and Wednesday 15 May 2024 at 4:00pm.

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1 OFFICIAL OPENING

The meeting opened at 10:04am.

The Presiding Member welcomed Committee Members, staff, guests and members of the public to the Audit and Risk Committee Meeting of 8 May 2024.

The Presiding Member acknowledged the Wadandi and Bibbulmun people as the traditional custodians of this region and paid respects to Elders past and present.

This meeting was audio recorded for minute taking purposes.

2 ATTENDANCE

PRESIDING MEMBER	MEMBERS
Cr Andrew Macnish	Mayor Phill Cronin
	Cr Anne Ryan
	Cr Val Kaigg
	Cr Kate Cox
	Cr Mikayla Love
	Cr Jarrod Kennedy
	Cr Jodie Richards
INDEPENDENT EXTERNAL MEMBER	Mr Ben Townend

OFFICERS	
Mr Tony Nottle	Chief Executive Officer
Ms Sarah Pierson	Director Corporate Strategy and Performance
Ms Tegan Robertson	Governance and Risk Coordinator
Mr Cobus Botha	Commercial and Contracts Advisor
Ms Jo Barrett-Lennard	Governance Officer

APOLOGIES	
Cr Richard Beecroft	Wednesday 8 May 2024

PUBLIC
1

3 DISCLOSURES OF INTEREST

DISCLOSURES OF FINANCIAL INTEREST

Nil

DISCLOSURES OF IMPARTIALITY INTEREST

Nil

4 PUBLIC QUESTION TIME

Mrs Mariah Gorla

Question

On 26 April 2017 the Council resolved to endorse the direction and priorities for the development and review of the City's development control framework which included consideration of an extractive industry local law. Subsequently John Woodhouse reviewed the City's governance systems and recommended consideration of the introduction of an extractive industry local law. Ultimately an extractive industry local law was not recommended by officers or adopted by the Council.

Will part of the audit [proposed in Cr Andrew Macnish's Notice of Motion at item 6.1 on this agenda] be reviewing the Council's decision not to implement an extractive industry local law?

Response

(Cr Andrew Macnish)

The objectives, scope and structure of any future audit program will be developed in conjunction with the third party engaged to undertake that program of works, and endorsed by the Council.

Question

The City's Council meeting records indicate that extractive industry local laws were not adopted because the City already had a policy in place that enabled the City to issue fines for non-compliance. Could a review be undertaken to assess how effective the City's *Local Planning Policy 2.3 Extractive Industries* and *Dust and Building Control Local Law 2010* have been to ensure extractive industry compliance?

Response

(Cr Andrew Macnish)

It would be my expectation that prior to undertaking audit activities, the internal auditor would familiarise themselves with the relevant contextual information. If extractive industry is considered in a future audit program, the background information to be considered may include previous Council decisions.

Question

If the City had an extractive industry local law, would future extractive industry applications assessed by the Development Assessment Panel be considered in the context of the City's local law?

Response

(Cr Andrew Macnish)

Consideration is required as to the City's overall strategy for extractive industry in the district, including the interaction between the development approval process and local laws.

Response

(Cr Kate Cox)

The City provides input to the Development Assessment Panel by way of a Responsible Authority Report, which is then considered by the Panel in determining the development application.

Question

Will the internal audit program consider how different extractive industry sites have been regulated by the City, and the potential for conflicts of interest if the City is purchasing materials from sites it is regulating?

Response

(Cr Andrew Macnish)

The objectives and scope of any future internal audit program is yet to be set by the Council.

Response

(Mr Tony Nottle, Chief Executive Officer)

To clarify with respect to potential conflicts of interest, the City has separate departments to ensure that development approval processes are separate from the procurement requirements of the local government.

Question

Would an audit include consultation with community members, including community members who have made complaints about extractive industry?

Response

(Cr Andrew Macnish)

Again, the scope of any future internal audit program is yet to be set by the Council.

Question

Would an audit consider what laws underpin the way that the City of Busselton regulates extractive industry, in particular environmental laws and Chain of Responsibility legislation? Will the City review its responsibilities as to purchasing raw materials from a company that is non-compliant with relevant legislation?

Response

(Cr Andrew Macnish)

The purpose of internal audit is for an independent third party to ensure that the City is complying with its internal processes and controls, and that these processes and controls are effective.

Question

Will the City consider implementing further regulations on extractive industry to limit the use of some machinery to improve compliance with noise and dust regulations?

Response

(Cr Andrew Macnish)

There is a noise and dust threshold, and whatever mechanism the operator chooses to use is at their discretion provided they are compliant with those thresholds.

Response

(Mr Tony Nottle, Chief Executive Officer)

Provided all machinery complies with Australian Standards, the City is limited in its ability to prescribe additional conditions with respect to the types of machinery used.

5 CONFIRMATION AND RECEIPT OF MINUTES

5.1 Audit and Risk Committee 13 March 2024

COMMITTEE DECISION

AU2405/10 Moved Cr Jarrod Kennedy, seconded Cr Val Kaigg

That the Minutes of the Audit and Risk Committee 13 March 2024 be confirmed as a true and correct record (as published on the City of Busselton website as at 1 May 2024:

<https://www.busselton.wa.gov.au/documents/13211/20240313-minutes-audit-and-risk-13-march-2024>)

CARRIED 9 / 0

FOR: Mayor Phill Cronin, Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy and Mr Ben Townend

AGAINST: Nil

6 REPORTS

6.1 Complaints Handling Process

Strategic Theme:	Key Theme 4: Leadership 4.4 Govern a professional organisation that is healthy, capable and engaged.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Director Corporate Strategy and Performance - Sarah Pierson
Authorised By:	Director Corporate Strategy and Performance - Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	Nil

The officer recommendation was moved, there was opposition and debate ensued.

During debate, Cr Andrew Macnish foreshadowed an alternative that was different to the officer recommendation.

The officer recommendation was lost.

COMMITTEE DECISION

AU2405/11 Moved Cr Kate Cox, seconded Cr Mikayla Love

That the Council

- 1. request the CEO to undertake a review of the Council's Complaints Management Policy through its Policy and Legislation Committee; and**
- 2. include complaints handling as a topic for audit in the City's internal audit plan when established.**

LOST 4 / 5

FOR: Mayor Phill Cronin, Cr Val Kaigg and Cr Kate Cox and Mr Ben Townend

AGAINST: Cr Anne Ryan, Cr Jodie Richards, Cr Andrew Macnish, Cr Mikayla Love and Cr Jarrod Kennedy

With the officer recommendation being lost, Cr Andrew Macnish moved an alternative motion.

There was opposition and debate ensued.

The alternative recommendation was carried.

COMMITTEE RECOMMENDATION

AU2405/12 Moved Cr Andrew Macnish, seconded Cr Jodie Richards

That the Council re-iterates its resolution C2402/39 and clarifies that all three action items for moving forward contained therein (3 a), b), c)), be implemented.

CARRIED 7 / 2

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish,
Cr Mikayla Love, Cr Jarrod Kennedy and Mr Ben Townend**

AGAINST: Mayor Phill Cronin and Cr Kate Cox

OFFICER RECOMMENDATION

That the Council

1. request the CEO to undertake a review of the Council's Complaints Management Policy through its Policy and Legislation Committee; and
2. include complaints handling as a topic for audit in the City's internal audit plan when established.

EXECUTIVE SUMMARY

Further to Council Resolution C2402/39, this report seeks consideration of, and a recommendation from, the Audit and Risk Committee (ARC) in relation to a review or audit of the City's complaint handling process. Officers recommend that the Council include the topic in an Internal Audit Plan to be established, and that ahead of this the CEO undertake a review of the Council's Complaints Management Policy

STRATEGIC CONTEXT

A robust complaint handling process aids in a positive customer experience and provides opportunity for the organisation to continually improve its service delivery.

BACKGROUND

At its ordinary meeting on 21 February 2024, the Council considered a report in relation to a review undertaken by officers of customer service and communications practices at the City, and what improvements the City could look to implement. This review was undertaken in response to the following CEO performance criterion:

Outcome:

To have a best practice customer service and communication model in place across the City which increases community engagement and understanding of City processes and decisions.

Deliverable:

Provide a report to council outlining measures undertaken to:

- a. implement a best practice customer service model following consultation with peer local governments;*
- b. ensure the City's communication with its customers is understandable, uses simple language wherever possible, and clearly explains the impacts of decisions or potential decisions and why they have been made.*

The Council resolved in response to the report (C2402/39):

That the Council:

- 1. Observes the report providing measures and opportunities increasing community engagement and understanding of City processes and decisions addressing the relevant CEO KPI deliverable, but also notes the strategy to be a collection of process inputs NOT outcomes (which are yet to be fully assessed in terms of successfully delivering the desired customer service experience levels).*
- 2. Accordingly, refers the matter of consideration of the CEO's performance meeting KPI criterion #4 to the next CEO Performance Committee meeting for its advice to the Council.*
- 3. Refers the opportunity identified in the officer's report of a risk-based approach to communications and capitalising on the value offered primarily from complaints to its Audit and Risk Committee (ARC) to consider (but not be limited to) the following options moving forward:*
 - a. the CEO undertake a review of the City's complaint handling process and provide a report to the ARC outlining the risks and opportunities for improvement of the current process as it relates to customer service.*
 - b. the CEO to engage an independent auditor to undertake a review of the City's complaint handling processes and provide a report to the ARC outlining the risks and opportunities for improvement.*
 - c. the CEO include complaints handling as an area for audit in any future internal audit plan (noting that there is a report scheduled for the March ARC meeting that will address an internal audit plan).*

This report responds to part 3 of that resolution.

OFFICER COMMENT

Current complaints management approach

The Council has an adopted Complaints Management Policy (the Policy) which sets out the City's complaints management approach as applicable to complaints as defined within the Policy.

A Complaint is defined in the Policy as:

an expression of dissatisfaction with a level of service, repeated lack of promised service or response, or the conduct of any person employed by the City of Busselton, which is not anonymous, made to the City of Busselton through its Councillors, the Chief Executive Officer

or any of its employees in writing or verbally, where a response or resolution is explicitly or implicitly expected

The Policy further sets out that a Complaint is not:

- a. a request for service;*
- b. a request for information;*
- c. the lodging of an appeal in accordance with a standard procedure or policy;*
- d. a freedom of information enquiry;*
- e. an allegation of a breach of the law by a third party; or*
- f. an expression of dissatisfaction with a decision.*

The Policy identifies Complaints as an opportunity to learn and improve service delivery, and outlines principles to guide the management of Complaints, including being responsive, empathetic, objective, fair, outcome focused, and there being no reprisals for any person involved in the process.

The City's customer service area is responsible for recording and coordinating the management of Complaints in accordance with the Policy. Officers who receive a Complaint are asked to forward the Complaint to the Customer Service Coordinator, who will then log them in the City's complaints system, and work with the relevant Manager to ensure they are responded to. It is important to note that only Complaints that meet the definition of a Complaint under the Policy, noting also the specific exclusions in the Policy, are centrally recorded and coordinated.

Review or Audit of Complaints Handling

The Council resolved to request the ARC to consider (but not be limited to) the following options for review of the City's complaints handling process:

- a. the CEO undertake a review of the City's complaint handling process and provide a report to the ARC outlining the risks and opportunities for improvement of the current process as it relates to customer service.
- b. the CEO to engage an independent auditor to undertake a review of the City's complaint handling processes and provide a report to the ARC outlining the risks and opportunities for improvement.
- c. the CEO include complaints handling as an area for audit in any future internal audit plan

The Council's decision was in relation to how complaints handling relates to or influences customer experience (customer service and communications).

Officers believe that improvements can be made to the City's approach to complaints management, including through a review of the City's Complaints Management Policy and specifically how complaints are defined. Officers therefore recommend that the Council (on recommendation from the ARC) requests the CEO to undertake a review of the City's Complaints Management Policy through its Policy and Legislation Committee. This will set / reconfirm the strategic direction in relation to complaints management.

Further to this, it is then recommended that the Council resolve to include complaints handling as an area for audit in its internal audit plan, to be established.

The City is currently seeking quotations from suitably qualified consultancies to establish an internal audit plan. It is anticipated that this plan will span over multiple years, commencing 2024/2025, with the Council (again on recommendation from the ARC) determining the areas of audit.

Statutory Environment

Not Applicable

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plan or policy:

Plan:

Not applicable.

Policy:

[Complaints Management](#)

Financial Implications

Not Applicable

External Stakeholder Consultation

Not Applicable

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could

1. request the CEO engage a suitably qualified consultant to audit the City's complaint handling process, outside of and separate to its internal audit plan; or
2. request the CEO to undertake an internal review of the City's complaints handling processes.

If the Council was to resolve on option 1 there would be financial implications, with additional costs to conduct a standalone audit estimated at around \$7,000. This would need to be funded from the CEO's contingency budget.

CONCLUSION

Officers believe that a review of the City's complaints process would be of benefit to identify improvements. In particular officers believe that the definition of a Complaint and the Council's strategic approach to Complaints should be reviewed. Officers note that an internal audit function / plan is in the process of being established and therefore believes it would be prudent for the Council to include an audit of complaints handling processes as part of that plan.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Complaints Management Policy Review to P&L	31 July 2024
Internal Audit Plan established	30 September 2024

7 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

7.1 Notice of Motion – Complaints and Audit List

Cr Andrew Macnish, having given notice, moved the below motion.

SUBSTANTIVE MOTION

Moved Cr Andrew Macnish, seconded Cr Anne Ryan

1. Pursuant to Council resolution C2402/39*, the ARC establish a list of items/functions/matters the subject of 'complaint', to be reviewed through an independent or internal audit/auditor^.
2. An internal audit plan be developed prior to the commencement of the application of the budgeted resourcing and it be priority headed by the following list. The draft internal audit plan to be presented by the scheduled July ARC meeting.
3. The internal audit plan list to include (in order of priority) but not be limited to:
 - A review of the definition of a Complaint (for monitoring/analysis).
 - The process of assessing and monitoring and also dealing with third parties (pre and post approval) involving extractive industry Development Applications.
 - The City's Planning department's system of application of assessment and subsequent interaction with applicants where i) DA's are triaged upon receipt and ii) about to or have progressed to their 60/90 day limit.
4. The Council requests members of the ARC to submit (complaint-related) matters with accompanying justification/reasons by 5:30, 22nd May 2024 , for the CEO to collate and list as an ARC agenda item for discussion for future programming into the internal audit function at the next ARC meeting.

^ The Council has allocated a combined \$145,000 to resource (via officer and consultant) the undertaking of the internal audit function.

Pursuant to clause 10.8 of the City of Busselton *Standing Orders Local Law 2018*, Cr Andrew Macnish altered the wording of the motion with the consent of the seconder, Cr Anne Ryan.

There was opposition and debate ensued.

The motion was carried.

COMMITTEE RECOMMENDATION

AU2405/13 Moved Cr Andrew Macnish, seconded Cr Anne Ryan

1. Pursuant to Council resolution C2402/39*, the ARC establish a list of items/functions/matters the subject of 'complaint', to be reviewed through an independent or internal audit/auditor^.

2. An internal audit plan list be drafted prior to the commencement of the application of the budgeted resourcing and it be priority headed by the following list. The draft internal audit plan list to be presented by the scheduled July ARC meeting.
3. The internal audit plan list to include (in order of priority) but not be limited to:
 - A review of the definition of a Complaint (for monitoring/analysis).
 - The process of assessing and monitoring and also dealing with third parties (pre and post approval) involving extractive industry Development Applications.
 - The City's Planning department's system of application of assessment and subsequent interaction with applicants where i) DA's are triaged upon receipt and ii) about to or have progressed to their 60/90 day limit.
4. The Council requests members of the ARC to submit (complaint-related) matters with accompanying justification/reasons by 5:30, 22nd May 2024 , for the CEO to collate and list as an ARC agenda item for discussion for future programming into the internal audit function at the next ARC meeting.

^ The Council has allocated a combined \$145,000 to resource (via officer and consultant) the undertaking of the internal audit function.

CARRIED 7 / 2

FOR: Mayor Phill Cronin, Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish and Cr Jarrod Kennedy and Mr Ben Townend

AGAINST: Cr Mikayla Love and Cr Kate Cox

NOTICE OF MOTION

Cr Andrew Macnish has given notice that at the Audit and Risk Committee meeting on 8 May 2024, he will move the above motion.

REASONS

- The originating resolution had the Council recognising the value to be sourced in reviewing complaints for future learning.
- The Internal Auditor (function) will, once commenced, need functional direction from the ARC as per the ARC's ToR.
- There is currently a growing reputational risk the City does not listen to nor care to resolve long-standing matters of concern. This is a chance to honour the efforts of those to have their complaints heard AND assessed for improvement.
- Another matter of significant complaint, Saltwater (at least the business plan and associated decision-making) has not been included on the priority list given its particulars are ideally to be dealt with separately directly by the Council.
- The ARC members are asked to consider what other matters would be valuable to consider for audit assessment. This might include such things as the Vasse River project management and cyno- bacteria communication.
- The CEO could also avail himself of this opportunity to request the ARC to consider more administrative matters to be included on the list to be discussed and recommended to the Council.

*

Refers the opportunity identified in the officer's report of a risk-based approach to communications and capitalising on the value offered primarily from complaints to its Audit and Risk Committee (ARC) to consider (but not be limited to) the following options moving forward:

- a. the CEO undertake a review of the City's complaint handling process and provide a report to the ARC outlining the risks and opportunities for improvement of the current process as it relates to customer service.
- b. the CEO to engage an independent auditor to undertake a review of the City's complaint handling processes and provide a report to the ARC outlining the risks and opportunities for improvement.
- c. the CEO include complaints handling as an area for audit in any future internal audit plan (noting that there is a report scheduled for the March ARC meeting that will address an internal audit plan).

CARRIED 7 / 0

OFFICER COMMENT

Officers do not support this notice of motion for the reasons outlined below.

At its ordinary meeting in February Council resolved (C2402/39):

That the Council:

1. *Observes the report providing measures and opportunities increasing community engagement and understanding of City processes and decisions addressing the relevant CEO KPI deliverable, but also notes the strategy to be a collection of process inputs NOT outcomes (which are yet to be fully assessed in terms of successfully delivering the desired customer service experience levels).*
2. *Accordingly, refers the matter of consideration of the CEO's performance meeting KPI criterion #4 to the next CEO Performance Committee meeting for its advice to the Council.*
3. *Refers the opportunity identified in the officer's report of a risk-based approach to communications and capitalising on the value offered primarily from complaints to its Audit and Risk Committee (ARC) to consider (but not be limited to) the following options moving forward:*
 - a. *the CEO undertake a review of the City's complaint handling process and provide a report to the ARC outlining the risks and opportunities for improvement of the current process as it relates to customer service.*
 - b. *the CEO to engage an independent auditor to undertake a review of the City's complaint handling processes and provide a report to the ARC outlining the risks and opportunities for improvement.*
 - c. *the CEO include complaints handling as an area for audit in any future internal audit plan (noting that there is a report scheduled for the March ARC meeting that will address an internal audit plan).*

Item 6.1 on the current Audit and Risk Committee agenda responds to (relevantly) part 3 of that Council decision and recommends that the Council include complaints handling as a topic for audit in the City's internal audit plan when established (in addition to recommending that a review of the Council's Complaints Management Policy is undertaken).

An internal audit program / plan provides an independent overview of the adequacy and effectiveness of reporting and management frameworks and corporate governance processes. An internal audit program is designed to explore frameworks, processes and systems in place within an organisation, and identify opportunities for improvement. While an internal auditor may look at individual examples to determine how a process has, or has not, been applied, it's important to note that it is not the role of an auditor to make findings in relation to individual examples; in this context, individual complaints. It is also important for the Auditor to maintain independence and to determine how they audit the various matters. To provide particular examples or a set of examples, as proposed in part 1 and 4 of this notice of motion, puts at risk this independence, and would also be in advance of the auditor determining their audit approach.

The Council has (C2403/51) resolved to establish an internal audit function and has allocated \$35,000 to engage an experienced and appropriately qualified external consultant for that purpose. The engagement of an external consultant also ensures independence. Development of an internal audit plan by officers, as proposed in part 2 of the motion, goes against that council decision, and is not recommended. The RFQ for the engagement of the internal auditor has been / will be imminently released, and it is expected that an appointment would be made in July.

With respect to part 3 of the motion, it is recommended that the ARC (and the Council) await discussion with, and the advice of the appointed auditor, before determining (more broadly) what to include in the internal audit plan. It is anticipated that the ARC will have the opportunity to discuss the plan with the auditor in August / September, post their appointment.

The Presiding Member moved a procedural motion under clause 11.6(3) of the City of Busselton *Standing Orders Local Law 2018* to adjourn the meeting, and to recommence at 4:00pm on Wednesday 15 May 2024.

The motion was carried.

COMMITTEE DECISION

AU2405/14 Moved Cr Andrew Macnish, seconded Cr Anne Ryan

That the meeting of the Audit and Risk Committee of 8 May 2024 is adjourned, to recommence at 4:00pm on Wednesday 15 May 2024.

CARRIED 8 / 1

FOR: Mayor Phill Cronin, Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love and Cr Kate Cox and Mr Ben Townend

AGAINST: Cr Jarrod Kennedy

Wednesday 8 May 2024, 12:07pm: At this time the meeting was adjourned until 4:00pm on Wednesday 15 May 2024.

Wednesday 15 May 2024, 4:19pm: At this time, the meeting resumed.

The Presiding Member resumed the Audit and Risk Committee meeting at 4:19pm on Wednesday 15 May 2024, following the adjournment of the Audit and Risk Committee meeting on 8 May 2024.

PRESIDING MEMBER	MEMBERS
Cr Andrew Macnish	Mayor Phill Cronin
	Cr Anne Ryan
	Cr Val Kaigg
	Cr Kate Cox
	Cr Mikayla Love
	Cr Jarrod Kennedy
	Cr Jodie Richards
	Cr Richard Beecroft
INDEPENDENT EXTERNAL MEMBER	Mr Ben Townend (<i>via remote attendance</i>)

OFFICERS	
Mr Tony Nottle	Chief Executive Officer
Mr Ben Whitehill	Manager Legal, Governance and Risk
Mr Cobus Botha	Commercial and Contracts Advisor
Ms Jo Barrett-Lennard	Governance Officer

8 CONFIDENTIAL MATTERS

The Presiding Member called on a Committee Member to move a motion to close the meeting to the public.

The motion was moved and carried.

COUNCIL DECISION

AU2405/15 Moved Mayor Phill Cronin, seconded Cr Val Kaigg

That the Council close the meeting to the public to discuss an item which is confidential under sections 5.23(2)(d) of the *Local Government Act 1995*.

CARRIED 10 / 0

FOR: Mayor Phill Cronin, Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox, Cr Jarrod Kennedy, Cr Richard Beecroft and Mr Ben Townend

AGAINST: Nil

8.1 Notice of Motion – Legal Advice

This item contains information of a confidential nature in accordance with sections 5.23(2)(d) of the *Local Government Act 1995*, as it contains information relating to legal advice obtained, or which may be obtained by the local government.

Cr Andrew Macnish has given notice that at the Audit and Risk Committee meeting on 8 May 2024, he will move the motion as written.

The motion was moved, there was opposition and debate ensued.

The motion was carried.

COMMITTEE RECOMMENDATION

AU2405/16 Moved Cr Andrew Macnish, seconded Cr Anne Ryan

That the ARC recommend the following motion to the Council:

- 1. The CEO source external alternative legal advice (to that provided in December 2020 by McLeods) to provide a second opinion on the statutory requirement to advertise the BPACC (now Saltwater) business plan pursuant to s3.59 (Major Land Transaction) Local Government Act 1995.**
- 2. The brief for the external alternative legal advice to provide all of the information that was provided to McLeods information causing its initial advice (to Dec 15, 2020 inclusive), and the new information causing subsequent advice (post 15 Dec, 2020) along with the Council's most up to date position for purposes of seeking advice in relation to:**
 - a. The appropriateness (or otherwise) of including contracts including but not limited to; construction, management and leases together for a common overall purpose being that of contributing/combining to the implementation of the BEACH then BPACC (later to be described as Saltwater) project proposal for the purposes of forming a Major Land Transaction (s3.59 LG Act); and**
 - b. The triggering of the need to re-advertise a business plan (under s3.59) when planned State funding of \$9.5m[^] did not eventuate (causing this amount to be replaced via further debt funding contributed by City ratepayers).**

If the balance of the advice in the interests of transparency is to support public advertising under s3.59 at any time now or in the past then what options exist to ameliorate this situation from this point forward to mitigate risk (in a broad sense). Specific advice is required pursuant to LG Act s3.59(9).

[^]\$9.5m exceeded the Reg 8 threshold of approx. \$7.7m at the time.

CARRIED 6 / 4

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Andrew Macnish, Cr Jarrod Kennedy,
Cr Richard Beecroft and Mr Ben Townend**

AGAINST: Mayor Phill Cronin, Cr Val Kaigg, Cr Mikayla Love and Cr Kate Cox

The Presiding Member called on a Committee Member to move a motion to re-open the meeting to the public.

The motion was moved and carried.

COMMITTEE DECISION

AU2405/17 Moved Mayor Phill Cronin, seconded Cr Anne Ryan

That the meeting be reopened to the public.

CARRIED 10 / 0

FOR: Mayor Phill Cronin, Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy, Cr Richard Beecroft and Mr Ben Townend

AGAINST: Nil

5:04pm: At this time, the meeting reopened to the public.

9 NEXT MEETING DATE

Wednesday 24 July 2024

10 CLOSURE

The meeting was closed at 5:04pm.

The minutes of the Audit and Risk Committee meeting held 8 May 2024, and resumed on 15 May 2024 were confirmed as a true and correct record on:

Date:

Presiding Member: