MINUTES OF MEETING

AUDIT AND RISK COMMITTEE

HELD THURSDAY 24 MARCH 2011

NOTE: All minutes are subject to confirmation at a subsequent Council or Planning and Strategy Committee meeting.

PRESENT:

Councillors

Cllr Jean Hay, AM, Mayor	Manly Council
Cllr Cathy Griffin	Manly Council

Other Representatives

John Gordon	Community Member (Chair)
Brian Hrnjak	Community Member

Council Staff

Ross Fleming	Deputy General Manager, PPI (arrived 9.20am)
Anthony Hewton	Staff in Charge GMU
Michael Quirk	Head of Internal Audit, North Shore Councils
Jenny Nascimento	Manager Financial Services (8.40 am to 9.20am)

Invited Guests

Andrew Marsden	O'Connor Marsden & Associates (for Item 4 only)

Apologies

Cllr Hugh Burns	Manly Council

TO THE MAYOR AND COUNCILLORS OF THE COUNCIL

The **Audit and Risk Committee (the Committee)** met on 24th March 2011, to consider the matters referred to it and now provides the following advice to Council.

OPEN	The meeting commenced at 8.40am.	**ACTION**
ITEM 1	**APOLOGIES AND LEAVE OF ABSE** Cllr Hugh Burns was an apology for the meeting. Cllr Norek was absent from the meeting without apology. The Mayor expressed her disappointment at his ongoing non attendance. Cllr Norek's record of attendance at the Committee is as follows: 28 April 2010: Absent without apology 31 August 2010: Absent with apology 13 September 2010: Absent without apology 23 November 2010: Absent without apology	

		ACTION
	The Chair referred to the Terms of Reference relating to non attendance. Secretariat to write to Cllr Norek informing him that he has now missed three consecutive meetings and is required to indicate if he intends to continue as a member of the Committee. The matter of the Mayor's membership of the Committee was discussed and reference was made to the General Manager's communication with the Director General, Division of Local Government, where the Director General indicated he was in concurrence with her ongoing attendance. The Committee is supportive of the ongoing membership of the Mayor notwithstanding the recommendation in the most recent Guidelines issued by the Division of Local Government.	
	Recommendation: Secretariat to write to Cllr Norek informing him that he has been absent from the Committee on three consecutive occasions without apology and is therefore requested to indicate if he intends to remain as a member of the Committee. Council should consider minuting its support for the ongoing attendance of the Mayor at meetings of the Audit and Risk Committee.	Secretariat to write to Cllr Norek. All to note Mayor is a member of the Committee.
ITEM 2	**DECLARATION OF INTEREST** There were no declarations of interest declared by those present.	For notation
ITEM 3	**CONFIRMATION OF MINUTES** The minutes of the Committee meeting held 23 November 2010 were confirmed. These minutes were adopted by Council on 14th March 2011.	
	Recommendation: That the minutes of the Committee meeting held 23 November 2010 were confirmed. These minutes were adopted by Council on 14th March 2011.	For notation
ITEM 3.1	**Business Arising** The Chair requested that staff produce an Action List for the Secretariat for key resolutions of the Committee, tracking actions arising and progress towards completion. This Action List is to be signed off by the Committee at the beginning of each subsequent meeting.	
	Recommendation: That staff produce an Action List for the Secretariat for key resolutions of the Committee.	Secretariat & staff to note
ITEM 4	**Report – Internal Auditor's Report on Legal Services Expenditure** The Chair agreed to allow this matter (Item 8 on the Agenda) to be the first Report considered by the Committee. The Chair provided some background to the selection of O'Connor Marsden & Associates for this review, and the confidential Report was tabled at the meeting. Council has established a Committee of the whole of Council to manage the implementation of the NSW Ombudsman's recommendations. The Audit And Risk Committee has been tasked to oversee this review.	

The Internal Auditor then introduced Mr Andrew Marsden of O'Connor Marsden & Associates, who was engaged by Council to undertake a review of the expenditure of Council funds on legal advice and legal action. The review arose out of a report by the NSW Ombudsman, dated September 2010 (recommendation 7.8).

Mr Marsden gave a verbal report to the Committee on the **Assurance Report from the Review of Legal Services Expenditure and Action**, including:

- Manly Council is no different to any other council in Australia in that it has to obtain legal advice, particularly in regard to matters before the Land and Environment Court, where costs can often be outside the control of Council;
- Manly Council's engagement process is consistent with other councils;
- Council has in place a procedure for obtaining internal legal advice and external legal advice and a number of internal controls, including the establishment of a legal unit within Council;
- The decision to enforce actions is normally taken following legal advice, and only by Council's General Counsel, and Deputy General Manager Landuse and Sustainability, or the General Manager;
- Council is reviewing the panel of legal service providers as the current panel has been in place for the past 12 years.

There was discussion of the roles and competencies of each member of Council's 'in-house' legal unit. Mr Marsden stated that the appointment of an in-house Counsel afforded Council the advantage of checking the legalities of certain issues without the need to seek external legal advice.

The Committee was informed that the current General Manager has more delegation than the previous incumbent in matters relating to the engagement of external legal services. The General Manager provides a monthly written report to Council on legal matters before Council.

The Community Representative informed the Committee that Pittwater Council has a committee to oversee legal expenditure; there was discussion of the merits of implementing this at Manly Council. Mr Marsden suggested a system of tracking key decision points, eg proceed / defend.

Cllr Griffin raised the matter of the use of individual staff names in the report and Appendix B, and requested that the Final Report be amended to refer to staff positions only. The Committee agreed with this recommendation and noted that it is not unreasonable to list the names of those staff that were consulted during the review in an appendix to the report.

The Chair noted that the Committee should revisit this matter in 12 month's time when the Internal Auditor had reviewed progress.

Mr. Marsden left the meeting.

Recommendation:
The Committee recommends to Council that: GM

i. The Assurance Report from the Review of Legal Services Expenditure and Action prepared by O'Connor Marsden be received and noted;
ii. The names of individual staff members be removed from the Report before it becomes a public document;
iii. The Internal Auditor bring back to the Committee a schedule of actions arising from the Report and actions taken to date;
iv. The Councillors Implementation Working Group on Ombudsman's Recommendations be informed of this Committee's recommendation via the General Manager at its next scheduled meeting (29 March 2011).

ITEM 5 Report - Internal Auditor's report on Tendering Procedures Review Implementation

An internal audit of Tendering Procedures at Manly Council has been completed and the results of the audit were reported to the Manly Council Audit and Risk Committee on 23 November 2010.

The Internal Auditor's Report on Tendering Procedures Review Implementation was discussed by the Committee. The following points were noted:

- An internal audit of Tendering Procedures at Manly Council has been completed and the results of the audit were reported to the Manly Council Audit and Risk Committee on 23 November 2010;
- The Report found no issues in regard to fraud or breeches of procedure;
- Council's 2006 Tendering Guidelines need to be updated;
- A standardised Tendering System should be considered by Council;
- There are good controls over communication with Tenderers and Third Parties, as these are managed via Tender Link;
- The Action Plan for Implementation was reviewed and discussed. The Chair questioned the timing of the recommended actions. The Internal Auditor stated that he will be relying on Managers to provide input and that the Tender Review Panel will also have oversight of the Action Plan for Implementation. An extra column marked as "Current Status" will be added to provide this information to the Committee in future reports.

Recommendation:

The Committee recommends to Council that:

i. The Committee receives and notes the Internal Auditor's Report on Tendering Procedures Review Implementation.
ii. The Committee receives feedback from the Internal Auditor at periodic intervals on how each of the recommendations is being implemented by Council.
iii. Format of the Internal Auditor's recommendations to be revised to include implementation dates and details of progress re implementation.

ITEM 6 Report - Internal Auditor's report on Cash Handling Review Implementation

An internal audit of Cash Handling at Manly Council has been completed and the results of the audit were reported to the Manly Council Audit and Risk Committee on 23 November 2010.

The Internal Auditor's Report on Cash Handling Review Implementation was discussed by the Committee. The following points were noted from his presentation:

- Manly Council has a fairly widely distributed network of sites. The audit was conducted on 4/5 significant sites;
- The results were positive, with no evidence of fraud;
- Council should consider the wider availability of EFTPOS and Credit Card facilities as a means of reducing cash handling;
- Council should consider the development of a Cash Handling Procedure at the Corporate Level;
- Regular 'surprise' cash counts be conducted to keep staff alert;
- Discussion on the benefits of including any council charity collections into the audit. However these were considered outside the parameters of this audit. The Chair suggested that a procedure be developed for such collections to formalise the processes currently in place.

Recommendation:
The Committee recommends to Council that:

i. The Internal Auditor's Final Report on Implementation Recommendations of Cash Handling Review Implementation at Manly Council be received and noted;

ii. The Committee receives feedback from the Internal Auditor at periodic intervals on how each of the recommendations is being implemented by Council.

ITEM 7 Report - Internal Auditor's report on Credit Card Usage

An audit of credit cards forms part of the Audit Program confirmed by the participating North Shore Councils. The audit has been completed and the Internal Audit Executive Summary is attached.

The following points were noted from the Internal Auditor's presentation:

- Council's exposure to Credit Card fraud is low due to Council's internal controls;
- The Mayor and General Manager do not hold corporate credit cards;
- One corporate credit card is held by the Office Manager Corporate Services and is used for such items as purchase of airfares;
- Council does have a number of staff who have a Coles card for purchases of incidentals;
- Generally staff incur their costs up front and then seek reimbursement from Council.

Recommendation:
The Committee recommends to Council that:

i. The Internal Auditor's Report on Credit Card Processes at Manly Council be received and noted;

ii. The Committee receives feedback from the Internal Auditor at periodic intervals on how each of the recommendations is being implemented by Council.

ITEM 8 Report - Internal Auditor's report on Records Management Review Implementation

The Mayor of Manly Council, and the General Manager requested that an internal audit be undertaken related to Records Management arising out of recommendations (Recommendation 7.21) in a report by the NSW Ombudsman (September 2010).
The following points were noted from the Internal Auditor's presentation:

- The Internal Auditor informed the Committee that the purpose of the audit was to ascertain the degree to which Council had implemented the 30 Sinc Solutions' recommendations, not whether Council complied with the State Records Act;
- 27 out of the 30 recommendations had been implemented in full or in part;
- A number of the recommendations in the Sinc Solutions Report required changes to Council's systems which have not been finalised, as this is a lengthy process and of a substantial cost to Council.
- The Deputy General Manager informed the Committee that funds for any new system upgrade would require and be subject to a budget bid.
- The Records Manager should continue the program of site visits aimed at resolving records management issues across Council;
- The Records Key User Group should be re-established to continue the work of improving records management practices.

Recommendation:

The Committee recommends to Council that:

i. The Internal Auditor's Report on Implementation of Recommendations of Solutions' Report of December 2008 be received and noted.
ii. The Committee receives feedback from the Internal Auditor at periodic intervals on how each of the recommendations is being implemented by Council.
iii. The Councillors Implementation Working Group on Ombudsman's Recommendations be informed of this Committee's recommendation via the General Manager at its next scheduled meeting (29 March 2011).

ITEM 9 Report - Update on Overall Internal Audit Program

The Internal Auditor presented the written report - Update on Overall Internal Audit Program (see attached).
Points noted:

- There were reports presented to this Committee on three new audits (Credit Card Usage; Records Management and Legal Services Expenditure).
- Work will commence soon on an audit of Payroll Integrity.
- The Internal Auditor will prepare a report for the next

committee meeting on the impact of the recently revised Division of Local Government guidelines for Internal Audit/Audit Committees.

- In mid April the Internal Auditor will be meeting with the North Shore Council General Managers to develop the audit program for the next Financial Year. The Chair requested an overview of this at the next meeting in May.
- The Chair thanked the Internal Auditor for the quality Reports received thus far.

Recommendation:

The Committee recommends to Council that the Internal Auditor's Report on the overall Internal Audit Program be received and noted. The Chair thanked the Internal Auditor for his work on bringing these audits to finalization.

ITEM 10 General Business

Cllr Griffin thanked the Committee members for all their efforts in making this a successful Committee.

ITEM 11 NEXT MEETING DATE:

Date: Tuesday 24 May, 2011
Time: 8.30am
Venue: The Councillors' Room, Manly Council Chambers.

All to note

Meeting closed at 10.35am