

Terms of Reference: Independent Governance and Financial Audit of NIRC Operations

1. Introduction

The Norfolk Island Regional Council (Council) commenced on 1 July 2016 and consists of five Councillors who are elected for a four-year term. The Council is unique in that it provides local government services, runs several business enterprises and is contracted to provide Commonwealth funded state services such as: land titles registration, motor vehicle and drivers licensing, courts and legal services, companies registration and ports management.

The Council operates under the imposed NSW local government framework, comprising the *Local Government Act 1993 (NSW) (NI)* (applied Local Government Act) and the *Local Government (General) Regulation 2005 (NSW)(NI)*, as well Norfolk Island continued laws.

The day to day management of Council is the responsibility of the General Manager who reports to the Councillors. The General Manager is supported by seven managers. The current General Manager commenced in January 2020, and through a series of internal reviews, and addressing challenges that have arisen due to the Covid-19 pandemic, Council's financial position has exposed a number of flaws in the operation of the Council.

On 24 June 2020, Council resolved that there should be a full audit of the finances and governance of the Council's operations (**Attachment A**). The relevant audit powers under the applied Local Government Act sit with the Commonwealth Minister responsible for Norfolk Island and her delegates.

2. Consultancy Engagement

A suitably qualified consultant is sought to conduct a performance audit, under Division 2A and Division 3 of Part 3 of Chapter 13 of the applied Local Government Act to cover governance, financial and operational matters as set out below under Scope of Audit, and where appropriate provide advice on possible improvements to Council arrangements. The findings of the audit will be presented in a draft and final report as set out under Deliverables.

Under the applied Local Government Act, a performance audit is to determine whether the Council is carrying out its activities effectively, economically and efficiently and in compliance with all relevant laws.

The Contract Manager is Ms Nicole Pearson, Assistant Secretary, Norfolk Island and ACT/NT Branch in the Department of Infrastructure, Transport, Regional Development and Communications (Department). The key contact officer for the Council is the General Manager, Mr Andrew Roach.

NIRC will provide open access to all Council sites, records, computer systems, and access to NIRC staff during onsite visits. Arrangements for conducting the audit and accessing information may also be set out in the contract. A reference list is included at **Attachment B**.

3. Scope of Audit

The provider is to consider and advise on the matters set out below in its report.

a. Council Governance and Operations

- Areas where the Council is encountering challenges administering continued laws, such as planning laws, and the priority areas for reform.
- Council's policies and procedures, in particular the extent to which they align with the requirements of the applied NSW local government framework
- The optimal efficient staffing structure to meet Council's business delivery requirements.
- Council reporting arrangements, including the optimal arrangements for:

- meeting the requirements of the applied local government framework;
- reporting against performance indicators set by the Department under the Service Delivery Agreement with the Council;
- ensuring open and transparent reporting to provide better community access to information.
- Suitability of Council IT systems for meeting legislative requirements.
- Effectiveness of communication arrangements between Council and the Department regarding the Service Delivery Agreement and other Department initiatives.
- Record keeping of statutory appointments and arrangements for delegations to staff and statutory office holders.

b. Financial Performance

- The financial performance of the Council for the following financial years: 2016-17; 2017-18; 2018-19; 2019-20, with consideration of the 2015 – 2016 final Administration Audit.
- Council's cash position, considering contractual commitments, overruns, legal disputes and Covid-19 impacts.
- The minimum level of working capital the Council should maintain.
- Current asset management plans and identification of any financial gap in the minimum accepted standard of assets (road, water, wastewater, buildings, footpaths, ancillary road assets, stormwater).
- Council's ledger structure and its effectiveness, including the use of work orders.
- Moving the budgeting process from spreadsheets to a web-based solution.
- Possible improvements to the Civica Local Government System and the use of the following models to optimise the efficiency of the Council's operations, being the Plant Asset system, the distribution of overheads, Stores system, Online Ordering, Purchase Cards, Operation of external trust accounts held by Council, Payroll System, and Asset Management

c. Financial Sustainability

- Council's revenue raising abilities, including the role of user charges and land-based rating systems.
- How revenue raising could be structured to provide a sustainable revenue base, including providing the ability to minimise the effects of catastrophic events.
- The financial position of Council's government business enterprises, including electricity provision, telecommunications and liquor bond, and optimal ownership, management and service delivery arrangements of these enterprises.
- The current fire service arrangement to the community and airport, including the relative cost to Council.
- Consideration given to the challenge of "State disconnect" for matters like, not being able to access the Small Grants, and other economic stimulus opportunities that existed in recent months during the pandemic

4. Deliverables and Proposed Timeline

The provider will produce a draft report and a final report. The draft report will be available to NIRC and DITRDC for comment, with comments to be taken into account in producing a final report.

The report/s will include the findings on the matters outlined in the Scope of audit, and where appropriate recommendations. The report should also identify particular areas or matters that would benefit from further work or analysis.

The following indicative timeline is proposed:

- Terms of Reference agreed by Council – by 4 July 2020
- Consultant/s engaged – by 11 July 2020
- Consultant/s commence – No later than 20 July.

- Draft report due – No later than 11 September
- Final Report due – No later than 21 September
- Council consider report recommendations (Extraordinary meeting) – 30 September

Attachment A

**MAYORAL MINUTE FOR 24 JUNE 2020
INDEPENDENT GOVERNANCE AND FINANCIAL AUDIT OF NIRC OPERATIONS**

BACKGROUND

Council for some months now has been addressing financial challenges in developing the 2020/21 Operational Plan primarily resulting from decisions by previous management and which have been further magnified by the effects of the COVID-19 pandemic. Whilst the Council is still receiving community submissions on the Operational Plan, recently highlighted financial exigencies now require Council to take decisive action to ensure Council is able to continue to deliver services; and to adopt a "reduced business as usual" plan on 30 June. Whilst this will allow Council to continue in a reduced capacity during these times of austerity, I believe it is imperative that this elected Council provide a newly elected Council with a list of recommendations to allow them to start their term on the best possible footing.

To recap. This, the first Norfolk Island Regional Council, has had to address many challenges throughout its term, and in particular the following challenges in the past 6 months:

- Council has been provided poor information in many of their decision making processes by previous management.
- The 'State Disconnect' and the resulting systemic and structural deficiencies in the arrangements between NIRC and the Commonwealth as our "State".
- Existing contractual obligations will exhaust NIRC's entire cash position and our financial position for 30 June 2021 will be zero cash in reserve.
- NIRC's revenue streams are so reliant on the Tourism economy; and a review must be undertaken to improve resilience and sustainability.
- Existing NIRC governance systems are inadequate, and financially unsustainable.
- NIRC employees require training and support to make sure our systems are operationally efficient.

Unless substantial change is achieved in our operational program, and the Islands economy recovers sufficiently, NIRC's future remains uncertain.

Councillors and I as Mayor believe it is now time to act, and to provide an incoming Council with a clear pathway to success, allowing them an opportunity to either drive change or accept what we have.

With that in mind, I now propose the following:

THAT –

- i. Council instructs the General Manager as a matter of priority to bring to Council for its endorsement terms of reference for the engagement of an appropriate consultant to conduct a full independent governance and financial audit of NIRC operations; and that the General Manager request the Commonwealth Government to meet the audit cost.
- ii. The terms of reference include legislative, regulatory and policy framework amendments to improve the operation of NIRC, with an underlying principle of reduction of service delivery cost and red tape.
- iii. In calling for this review/audit, Council acknowledges that these actions have been taken to ensure a stronger future for the Island through sustainable revenue sources, expenditure management and a pathway towards less reliance on Commonwealth funding.
- iv. Council lead the communication locally as this must be an Island driven initiative.

Notwithstanding Council resolution 2020/56 of 20 May 2020 Council now requests the election be delayed by two months or to a later date if deemed necessary by the Commonwealth to allow for the review/audit to be undertaken and a report received and adopted by the existing Council to allow the newly elected Council to enter their term unburdened by this process

Attachment B**Reference Material**

- NIRC Operational Plan 2020/21
- NIRC Strategic Community Plan and other NIRC plans
- NIRC Policies and Procedures
- Australian National Audit Office report 2018
- Submission from Mayor of NIRC to ANAO report 2018 – Ms Robin Adams
- IT Report on Network – February 2020
- Balmoral Report into Wastewater improvements
- 2019 CGC and KPMG reports and others on the department's website: <https://www.regional.gov.au/territories/publications/index.aspx>.
- Norfolk Island Advisory Council 2015/16
<https://webarchive.nla.gov.au/awa/20160629170839/http://pandora.nla.gov.au/pan/156846/20160630-0255/www.norfolkislandadvisorycouncil.nf/2016/06/20/niac-final-report/index.html>

EXTRAORDINARY COUNCIL MEETING AGENDA

3 JULY 2020

- 7 URGENT BUSINESS WITHOUT NOTICE**
- 8 QUESTIONS FOR THE NEXT MEETING**
- 9 CLOSE OF COUNCIL MEETING**