



Central Coast Council  
Business Paper  
Ordinary Council Meeting  
**24 January 2023**





# COMMUNITY STRATEGIC PLAN 2018-2028

**ONE – CENTRAL COAST IS THE COMMUNITY STRATEGIC PLAN (CSP) FOR THE CENTRAL COAST LOCAL GOVERNMENT AREA**

**ONE – CENTRAL COAST DEFINES THE COMMUNITY'S VISION AND IS OUR ROADMAP FOR THE FUTURE**

**ONE – CENTRAL COAST BRINGS TOGETHER EXTENSIVE COMMUNITY FEEDBACK TO SET KEY DIRECTIONS AND PRIORITIES**

One - Central Coast will shape and inform Council's business activities, future plans, services and expenditure. Where actions are the responsibility of other organisations, sectors and groups to deliver, Council will work with key partners to advocate on behalf of our community.

Ultimately, every one of us who live on the Central Coast has an opportunity and responsibility to create a sustainable future from which we can all benefit. Working together we can make a difference.

## RESPONSIBLE

**WE'RE A RESPONSIBLE COUNCIL AND COMMUNITY, COMMITTED TO BUILDING STRONG RELATIONSHIPS AND DELIVERING A GREAT CUSTOMER EXPERIENCE IN ALL OUR INTERACTIONS.**

We value transparent and meaningful communication and use community feedback to drive strategic decision making and expenditure, particularly around the delivery of essential infrastructure projects that increase the safety, liveability and sustainability of our region. We're taking a strategic approach to ensure our planning and development processes are sustainable and accessible and are designed to preserve the unique character of the coast.



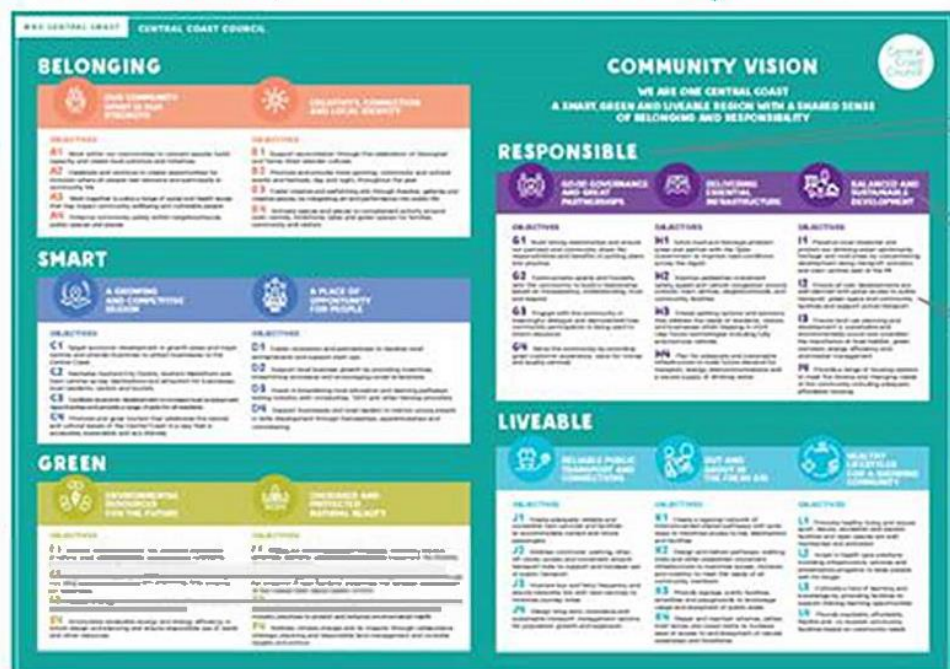
**Good governance and great partnerships**

**G2** Engage and communicate openly and honestly with the community to build a relationship based on trust, transparency, respect and use community participation and feedback to inform decision making

**There are 5 themes, 12 focus areas and 48 objectives**

### COMMUNITY STRATEGIC PLAN 2018-2028 FRAMEWORK

All council reports contained within the Business Paper are now aligned to the Community Strategic Plan. Each report will contain a cross reference to a Theme, Focus Area and Objective within the framework of the Plan.



Theme

Focus Area

Objective

# Meeting Notice

**The Ordinary Council Meeting  
of Central Coast Council  
will be held in the Council Chamber,  
2 Hely Street, Wyong  
on Tuesday 24 January 2023 at 6.30pm,  
for the transaction of the business listed below:**

**The Public Forum will commence at 5.45pm, subject to any  
registered speaker/s to items listed on this agenda.**

Further information and details on registration process:

[www.centralcoast.nsw.gov.au/council/meetings-and-minutes/council-meetings](http://www.centralcoast.nsw.gov.au/council/meetings-and-minutes/council-meetings)

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David Farmer  
**Chief Executive Officer**

**Item No:** 1.1  
**Title:** Disclosure of Interest  
**Department:** Corporate Services

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24 January 2023 Ordinary Council Meeting

Reference: F2022/00021 - D15492871



## Recommendation

***That Council and staff now disclose any conflicts of interest in matters under consideration by Council at this meeting.***

Chapter 14 of the *Local Government Act 1993* ("LG Act") regulates the way in which the councillors and relevant staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public functions.

Section 451 of the LG Act states:

- "(1) A councillor or a member of a council committee who has a pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.*
- (2) The councillor or member must not be present at, or in sight of, the meeting of the council or committee:*
  - (a) at any time during which the matter is being considered or discussed by the council or committee, or*
  - (b) at any time during which the council or committee is voting on any question in relation to the matter.*
- (3) For the removal of doubt, a councillor or a member of a council committee is not prevented by this section from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or member has an interest in the matter of a kind referred to in section 448.*
- (4) Subsections (1) and (2) do not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting, if:*
  - (a) the matter is a proposal relating to:*
    - (i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or*

- (ii) *the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and*
- (a1) *the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under section 443) in that person's principal place of residence, and*
  - (b) *the councillor made a special disclosure under this section in relation to the interest before the commencement of the meeting.*
- (5) *The special disclosure of the pecuniary interest must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and must:*
  - (a) *be in the form prescribed by the regulations, and*
  - (b) *contain the information required by the regulations."*

Further, the Code of Conduct adopted by Council applies to all councillors and staff. The Code relevantly provides that if a councillor or staff have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed as well as providing for a number of ways in which a non-pecuniary conflict of interests might be managed.

**Item No:** 1.2  
**Title:** Confirmation of Minutes of Previous Meeting  
**Department:** Corporate Services

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24 January 2023 Ordinary Council Meeting

Reference: F2022/00021 - D15484444



### **Recommendation**

***That Council confirm the minutes of the Ordinary Meeting of Council held on 13 December 2022.***

### **Summary**

Confirmation of minutes of the Ordinary Meeting of Council held on 13 December 2022.

### **Attachments**

<b>1</b>	MINUTES - Council Meeting - 13 December 2022	Provided Under Separate Cover	D15476219
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**Item No:** 1.3  
**Title:** Notice of Intention to Deal with Matters in Confidential Session  
**Department:** Corporate Services

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24 January 2023 Ordinary Council Meeting

Trim Reference: F2022/00021 - D15492872



### **Recommendation**

***That Council note that no matters have been tabled to deal with in a closed session.***

### **Summary**

It is necessary for the Council to adopt a resolution to formalize its intention to deal with certain matters in a closed and confidential Session. The report is incorporated in the "Confidential" business paper which has been circulated.

The *Local Government Act 1993* requires the Chief Executive Officer to identify those matters listed on the business paper which may be categorized as confidential in terms of section 10A of the *Local Government Act 1993*. It is then a matter for Council to determine whether those matters will indeed be categorized as confidential.

### **Context**

Section 10A of the *Local Government Act 1993* (the Act) states that a Council may close to the public so much of its meeting as comprises:

- 2(a) *personnel matters concerning particular individuals (other than Councillors),*
- 2(b) *the personal hardship of any resident or ratepayer,*
- 2(c) *information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,*
- 2(d) *commercial information of a confidential nature that would, if disclosed:*
  - (i) *prejudice the commercial position of the person who supplied it, or*
  - (ii) *confer a commercial advantage on a competitor of the Council, or*
  - (iii) *reveal a trade secret,*
- 2(e) *information that would, if disclosed, prejudice the maintenance of law,*

- 2(f) matters affecting the security of the Council, Councillors, Council staff or Council property,*
- 2(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,*
- 2(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.*
- 2(i) alleged contraventions of any code of conduct requirements applicable under section 440*

It is noted that with regard to those matters relating to all but 2(a), 2(b) and 2(d)(iii) it is necessary to also give consideration to whether closing the meeting to the public is, on balance, in the public interest.

Further, the Act provides that Council may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public (section 10A(3)).

As provided in the Office of Local Government Meetings Practice Note August 2009, it is a matter for the Council to decide whether a matter is to be discussed during the closed part of a meeting. The Council would be guided by whether the item is in a confidential business paper, however the Council can disagree with this assessment and discuss the matter in an open part of the meeting.

### **Attachments**

Nil



**Item No:** 2.1  
**Title:** Monthly Finance Report November 2022  
**Department:** Corporate Services

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24 January 2023 Ordinary Council Meeting

Reference: F2020/03205 - D15489247  
Author: Peter Correy, Group Financial Controller, Finance  
Executive: Emma Galea, Chief Financial Officer  
Marisa Racomelara, Director Corporate Services

## **Recommendation**

***That Council receive the report Monthly Financial Reports – November 2022***

## **Report purpose**

To present to Council the monthly financial reports for November 2022.

## **Executive Summary**

This report presents the November 2022 monthly financial reports for Central Coast Council. The report is presented at the January Council Meeting due to the early scheduled timing of the December Council meeting. The December monthly financial reports will be presented together with the January 2023 financial reports at the February 2023 Council meeting.

## **Background**

The monthly financial reports have been prepared in accordance with the requirements of the *Local Government Act 1993* ("**LG Act**"), the *Local Government (General) Regulation 2005* ("**LG Reg**"), and the relevant accounting and reporting requirements of the Office of Local Government prescribed Code of Accounting Practice and Financial Reporting and Australian Accounting Standards.

## **Report**

The reports disclose the year-to-date financial results in Operating Statement format, they reflect the organisational structure and are presented by Department and Unit. The reports include a traffic light indicator of current status – on track (green light), off track (red light) continue to monitor status (orange light). Relevant supporting comments are included, as well as a graphical representation of the financial results.

The Local Government Code of Accounting Practice and Financial Reporting (Guidelines) require Council to recognise rates income at the beginning of the financial year when levied.

However, for internal reporting purposes Council recognises rates revenue on a continual basis throughout the financial year thereby aligning revenue with Council's expenditure for the delivery of services to the community.

### **Consultation**

In the preparation and finalisation of the monthly reports for November, all business areas of Council contributed to the information contained within the financial reports.

### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

### **Financial Strategy Ratios**

This Report is prepared in conjunction with Council's Financial Strategy, adopted by Council on 23 August 2022 and reports the following financial performance ratios:

- Operating Performance Ratio
- Unrestricted Current Ratio
- Unrestricted Cash Position
- Loan Principal Payments
- Capital Program Funding

#### Operating Performance Ratio – 10.3%

The Operating performance ratio measures Council's achievement of containing operating expenditure within operating revenue and is set between 1% and 8%. It is calculated as

$$= \frac{\text{Total continuing operating revenue (excluding capital grants and contributions) less operating expenses}}{\text{Total continuing operating revenue (excluding capital grants and contributions)}}$$

Council is currently exceeding its operating performance ratio by 2.3%

#### Unrestricted Current Ratio – 1.6

The unrestricted current ratio identifies whether there are sufficient funds available to meet short term obligations and is set at the industry benchmark of 1.5. It is calculated as

$$= \frac{\text{Current assets less all external restrictions}}{\text{Current liabilities less specific purpose liabilities}}$$

### Unrestricted Cash Position

Unrestricted Cash are funds available to cover operational needs and unexpected or emergency costs within each fund. Council will aim to maintain unrestricted cash in each fund and set a target band of between 3% and 10% for each fund. This will monitor the targeted use of unrestricted funds on community services and infrastructure. It is calculated as

$$= \frac{\text{Unrestricted Funds}}{\text{Total continuing operating revenue (excluding capital grants and contributions)}}$$

Consolidated – 38.7%

General Fund (including Drainage) – 29.2%

Water Fund – 0.0%

Sewer Fund – 127.7%

Domestic Waste – 22.3%

The unrestricted cash balance is considered appropriate to meet current and planned operational needs.

### Loan Principal Repayments

The operating result (excluding capital grants and contributions) for each fund for the year plus if necessary, pre-existing unrestricted cash reserves in each fund needs to at least cover the net loan principal repayments of that fund for that same year. This excludes the emergency loans in the General Fund as the balance on 31 October 2022 of \$132.6M is repaid under different terms set by the lending institutions. Loan repayment coverage is calculated as

$$= \frac{\text{YTD operating revenue (excluding capital grants and contributions) less operating expenses}}{\text{YTD loan principal repayments}}$$

Consolidated – 5.7x

General Fund (including Drainage) – 5.7x.

Water Fund – 2.8x

Sewer Fund – 8.2x

### Capital Program Funding

Council's intent is to provide at least sufficient funds from operations for the capital budget to replace assets as they fall due. The depreciation target is currently used as a proxy for the long-term annual funding requirement to replace Council's assets at their gross replacement value. Council will aim to achieve the industry benchmark of 100% in each fund. Capital funding percentage is calculated as

$$= \frac{\text{YTD Capital budget}}{\text{YTD Depreciation expense}}$$

Consolidated – 111%

General Fund (including Drainage) – 119%

Water Fund – (53%)

Sewer Fund – 140%

### **Trading Results**

The attached financial reports record actual revenue and expenditure, tracking against the Q1 adjusted budget and for the year-to-date reporting period to 30 November 2022.

For the month of November 2022, Council is reporting an operating result surplus of \$17.5M, before capital income, which was favourable to budget by \$5.5M and a net operating surplus including capital income of \$23.0M which was favourable to budget by \$8.4M.

November year-to-date, Council is reporting an operating result surplus of \$28.4M, before capital income, which was favourable to budget by \$13.8M and a net operating surplus including capital income of \$51.1M which was \$13.1M favourable to budget.

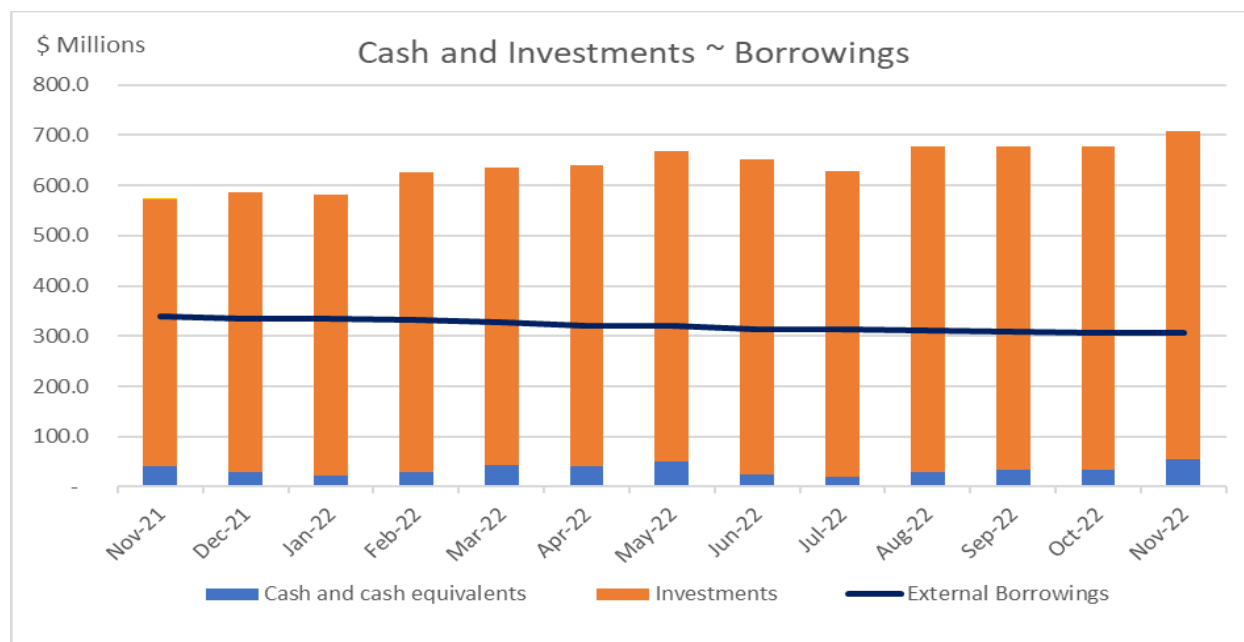
Consolidated Operating Statement November 2022											
	CURRENT MONTH			YEAR TO DATE				FULL YEAR			
	Actuals	Adopted Budget	Variance	Actuals	Adopted Budget	Variance	Last Year YTD Actuals	Last Year Actual	Original Budget	Adopted Changes	Q1 Adopted Budget
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Operating Income</b>											
Rates and Annual Charges	39,951	39,040	911	162,782	161,486	1,296	155,465	365,740	390,335	150	390,485
User Charges and Fees	14,978	12,835	2,143	63,676	60,266	3,410	54,427	140,237	145,542	3,689	149,231
Other Revenue	2,363	664	1,699	7,451	3,871	3,580	4,868	12,856	9,666	195	9,861
Interest	1,828	3,910	(2,082)	7,378	5,517	1,861	2,117	5,470	4,890	3,622	8,512
Grants and Contributions	3,506	1,414	2,092	9,387	7,281	2,106	10,786	47,717	34,046	10,745	44,791
Gain on Disposal	-	-	-	1,014	1,034	(20)	-	26,056	5,294	-	5,294
Other Income	891	1,030	(139)	4,014	3,448	566	3,004	7,909	7,917	242	8,158
Internal Revenue	5,200	5,980	(780)	25,238	25,193	45	27,949	68,851	58,441	(652)	57,788
<b>Total Income attributable to Operations</b>	<b>68,717</b>	<b>64,873</b>	<b>3,844</b>	<b>280,939</b>	<b>268,095</b>	<b>12,844</b>	<b>258,614</b>	<b>674,838</b>	<b>656,131</b>	<b>17,990</b>	<b>674,121</b>
<b>Operating Expenses</b>											
Employee Costs	13,598	12,163	(1,435)	67,984	68,595	611	63,833	162,831	180,750	(705)	180,045
Borrowing Costs	981	1,042	61	4,456	4,468	12	5,029	12,940	11,421	1,475	12,896
Materials and Services	17,775	19,278	1,503	81,032	82,659	1,627	58,588	174,256	205,479	15,334	220,813
Depreciation and Amortisation	11,947	11,947	-	60,426	60,426	-	60,768	162,450	158,781	(526)	158,256
Other Expenses	2,981	3,642	660	17,953	16,455	(1,498)	13,530	50,717	38,252	1,353	39,605
Loss on Disposal	-	-	-	-	-	-	-	4,469	-	-	-
Internal Expenses	3,888	4,783	895	20,716	20,923	207	24,514	60,136	51,691	(657)	51,034
<b>Total Expenses attributable to Operations</b>	<b>51,171</b>	<b>52,855</b>	<b>1,684</b>	<b>252,567</b>	<b>253,526</b>	<b>959</b>	<b>226,264</b>	<b>627,799</b>	<b>646,373</b>	<b>16,275</b>	<b>662,648</b>
<b>Operating Result after Overheads and before Capital Amounts</b>	<b>17,546</b>	<b>12,018</b>	<b>5,528</b>	<b>28,372</b>	<b>14,569</b>	<b>13,803</b>	<b>32,351</b>	<b>47,038</b>	<b>9,758</b>	<b>1,715</b>	<b>11,473</b>
Capital Grants	2,868	3,037	(168)	14,384	17,172	(2,788)	11,452	35,785	55,740	(2,470)	53,269
Capital Contributions	2,572	(484)	3,056	8,347	6,230	2,117	6,065	25,667	20,143	4,967	25,110
<b>Grants and Contributions Capital Received</b>	<b>5,440</b>	<b>2,553</b>	<b>2,888</b>	<b>22,732</b>	<b>23,402</b>	<b>(671)</b>	<b>17,517</b>	<b>61,452</b>	<b>75,883</b>	<b>2,497</b>	<b>78,379</b>
<b>Net Operating Result</b>	<b>22,986</b>	<b>14,571</b>	<b>8,416</b>	<b>51,104</b>	<b>37,971</b>	<b>13,133</b>	<b>49,868</b>	<b>108,490</b>	<b>85,640</b>	<b>4,212</b>	<b>89,852</b>

### Cash and Investments / External Borrowings / Cash Flows

During November, total cash and investments increased by \$29.12M from \$677.88M to \$707.00M. The increase during November is due to receipts in quarterly rates due and received at the end of November.

## 2.1 Monthly Finance Report November 2022 (contd)

External borrowings at 30 November 2022 were \$305.7M. During November, principal loan repayments of \$2.0M fell due and were repaid bringing total year-to-date principal loan repayments to \$7.7M which is in line with the lending institutions loan repayments schedules.



CONSOLIDATED CASH FLOW MOVEMENTS	Actual YTD @ 30 Nov 2022 \$'000	Rolling Forecast @ 30 Nov 2022 \$'000	Variance \$'000	Revised Forecast @ 30 June 2023 \$'000	Original Forecast @ 30 June 2023 \$'000
Opening cash & investments @ 1 July 2022	652,137	652,137	-	652,137	652,137
Income receipts (incl Capital grants & contributions)	316,112	308,812	7,300	756,571	726,530
Operational payments	(194,966)	(197,039)	2,073	(508,139)	(483,681)
<b>Net operating cash inflow / (outflow)</b>	121,146	111,773	9,373	248,431	242,849
Capital projects payments	(61,418)	(59,661)	(1,757)	(182,054)	(176,509)
Asset sales	2,821	2,703	119	2,821	24,940
Financing receipts	-	-	-	0	80,000
Financing repayments	(7,685)	(6,436)	(1,250)	(13,451)	(157,485)
<b>Total cash inflow / (outflow)</b>	54,864	48,378	6,486	55,747	13,795
Closing cash & investments @ 30 Nov 2022	707,001	700,515	6,486	707,884	665,932

ACTUAL v FORECAST MONTHLY CASH FLOW GENERAL FUND (incl DRAINAGE FUND)	Actual YTD @ 30 Nov 2022 \$'000	Revised Forecast @ 30 June 2023 \$'000	Original Forecast @ 30 June 2023 \$'000
Opening cash & investments @ 1 July	404,295	404,295	404,295
Income receipts (incl Capital grants & contributions)	200,918	460,092	447,897
Operational payments	(135,633)	(325,208)	(303,844)
<b>Net operating cash inflow / (outflow)</b>	<b>65,285</b>	<b>134,884</b>	<b>144,053</b>
Capital projects payments	(38,006)	(108,847)	(113,579)
Asset sales	2,821	2,821	24,940
Financing receipts	429	429	50,000
Financing repayments	(4,072)	(4,368)	(113,314)
<b>Total cash inflow / (outflow)</b>	<b>26,457</b>	<b>24,920</b>	<b>(7,900)</b>
Closing cash & investments @ 31 November	<b>430,752</b>	<b>429,215</b>	<b>396,395</b>

### Restricted Funds

Fund	General Fund	Drainage Fund	Total General Fund	Water Fund	Sewer Fund	Domestic Waste Fund
	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)
External Restricted Funds	193,299	37,490	230,789	12,339	21,367	99,946
Internal Restricted Funds	104,137	20	104,157	908	877	47
<b>Total Restricted Funds</b>	<b>297,436</b>	<b>37,510</b>	<b>334,946</b>	<b>13,247</b>	<b>22,244</b>	<b>99,993</b>
Unrestricted Funds	143,408	(38,533)	104,875	30	114,586	17,079
<b>Total funds by Fund</b>	<b>440,845</b>	<b>(1,023)</b>	<b>439,822</b>	<b>13,277</b>	<b>136,831</b>	<b>117,072</b>

*Note: The above table consolidates General Fund and Drainage Fund. From 1 July 2026, Drainage Fund fees and charges will no longer be regulated by IPART and will become part of Council's General Fund.*

The General Fund unrestricted balance (inclusive of Council's Drainage Fund) is currently \$104.9M. The graph below highlights Council General Fund unrestricted cash position including the Drainage Fund.

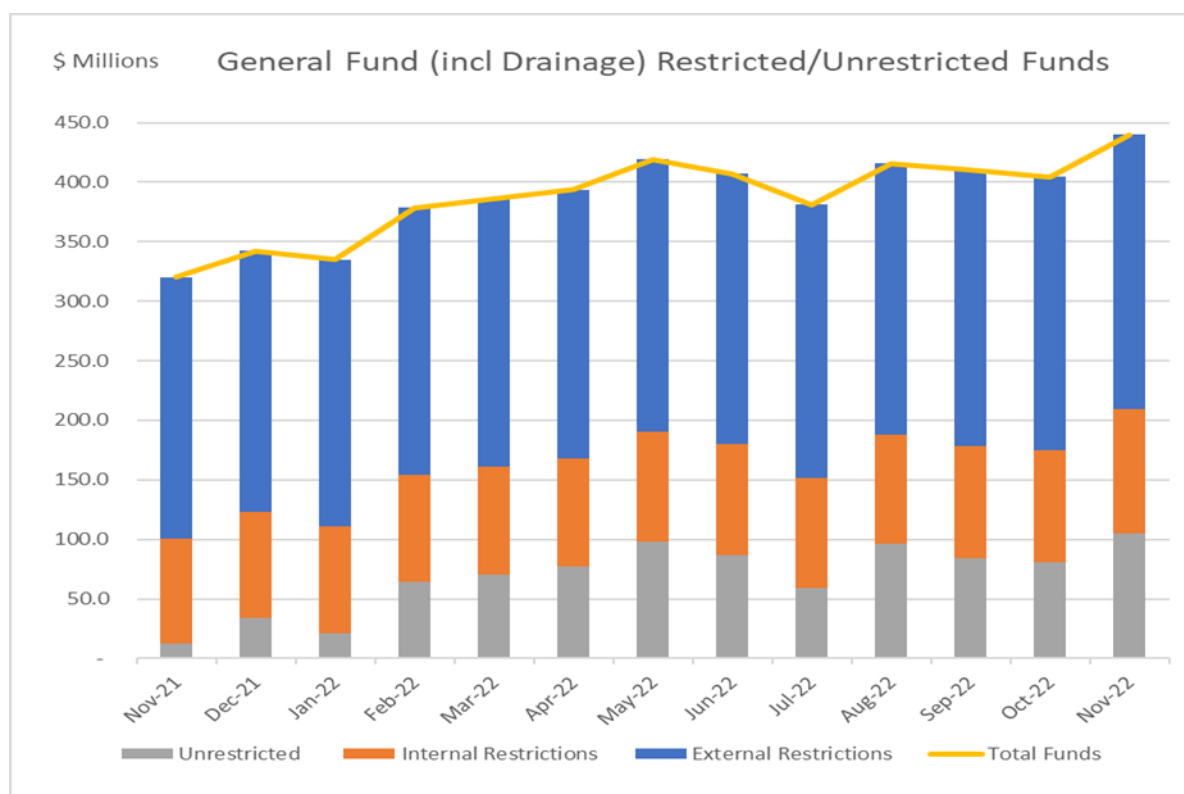
In accordance with the 'Establishment of new Internal Restrictions and Update of Restricted Funds Policy' adopted at the November Council meeting, two new Internal Restrictions were created and during November transferred the following unrestricted amounts into these restricted funds:

1. Emergency Loan Repayment - \$4.0M to be transferred each month up to \$50M by 30 November 2023,



## 2.1 Monthly Finance Report November 2022 (contd)

### 2. Future Projects Reserve - \$5.0M full allocation in November



### Capital Works

Council is reporting year-to-date capital works expenditure to 30 November 2022 of \$54.3M compared to budget of \$57.4M. Council currently has 115 active capex projects.

Summary Capital Expenditure		YTD			Annual
Department	Actuals	Current Budget	Variance	Variance	Current Budget
	'000s	'000s	'000s	%	'000s
Community and Recreation Services	3,930	4,380	(450)	(10.3%)	23,148
Infrastructure Services	25,869	24,977	892	3.6%	69,196
Water and Sewer	19,571	22,741	(3,170)	(13.9%)	62,930
Environment and Planning	1,653	2,530	(877)	(34.7%)	11,864
Corporate Services	3,274	2,724	550	20.2%	10,850
<b>Total Capital Expenditure</b>	<b>54,297</b>	<b>57,352</b>	<b>(3,055)</b>	<b>(5.3%)</b>	<b>177,988</b>

### Link to Community Strategic Plan

Theme 4: Responsible

### Choose Focus Area

R-G2: Engage and communicate openly and honestly with the community to build a relationship based on trust, transparency, respect and use community participation and feedback to inform decision making.

### Attachments

<b>1</b>	Financial Performance - Monthly Finance Report November 2022	Provided Under Separate Cover	D15505607
<b>2</b>	Consolidated and By Fund November 2022 Monthly Financial Report	Provided Under Separate Cover	D15489072
<b>3</b>	Office of the Chief Executive Officer November 2022 Monthly Financial Report	Provided Under Separate Cover	D15489074
<b>4</b>	Community and Recreation Services November 2022 Monthly Financial Report	Provided Under Separate Cover	D15489076
<b>5</b>	Infrastructure Services November 2022 Monthly Financial Report	Provided Under Separate Cover	D15489079
<b>6</b>	Water and Sewer November 2022 Monthly Financial Report	Provided Under Separate Cover	D15489080
<b>7</b>	Environment and Planning November 2022 Monthly Financial Report	Provided Under Separate Cover	D15489082
<b>8</b>	Corporate Services November 2022 Monthly Financial Report	Provided Under Separate Cover	D15489085

**Item No:** 2.2  
**Title:** Consultation on the Outcomes of the Review of the Councillor Misconduct Framework  
**Department:** Corporate Services

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24 January 2023 Ordinary Council Meeting

Reference: F2018/00259-002 - D15498071  
Author: Teresa Chadwick, Section Manager, Governance  
Manager: Marissa Racomelara, Director Corporate Services  
Executive: Marissa Racomelara, Director Corporate Services

## Recommendation

***That Council approve the draft response to the review of the Councillor Misconduct Framework for submission prior to the closing date of 3 February, 2023.***

## Report purpose

To advise Council of the Office of Local Government's (OLG) 49 recommendations following the review of the Councillor Misconduct Framework and to present a draft submission for approval prior to the closing date of 3 February 2023.

## Executive Summary

The Minister for Local Government, Wendy Tuckerman, has released an independent review into councillor misconduct in NSW for consideration by councils and other stakeholders. There exists an opportunity to provide a submission on the recommendations contained within the report. The report includes priority considerations and recommendations grouped by category.

## Background

The OLG commenced a comprehensive independent review of the framework for dealing with councillor misconduct in November 2021. Mr Gary Kellar PSM was appointed to undertake this review. Mr Kellar was a member of the expert panel which conducted a review of the local government misconduct framework in Queensland in 2017 and was general manager of Logan City Council for 26 years. Mr Kellar completed the review in December 2022.

Feedback on the local government sector is sought to inform the Government response to the review.

**Report**

The Minister for Local Government, Wendy Tuckerman, released an independent review into councillor misconduct in NSW, which proposes significant changes to local government integrity measures.

The review, undertaken by Gary Kellar PSM, contains 49 recommendations aimed at improving the integrity, transparency and accountability of the state's more than 1,200 councillors.

Recent ICAC inquiries, Public Inquiries commenced under the Local Government Act 1993 (the Act) and a number of other council interventions highlighted that changes are needed to build community trust in local government.

Recommendations include harsher penalties for councillor misconduct and ensures the framework for dealing with misconduct is more independent, effective and efficient.

Extensive consultation was undertaken with the Local Government sector amongst other stakeholders. The recommendations align with broader integrity reforms agreed to by the Government following ICAC's report on Operation Witney.

The Councillor Misconduct Review examined the framework for dealing with councillor misconduct, and the effectiveness of penalties available to councils, the Office of Local Government and the NSW Civil and Administrative Tribunal (NCAT).

A central recommendation of the review is the establishment of a new framework for dealing with councillor misconduct. Under the new framework, code of conduct complaints about councillors would be managed by newly established independent Councillor Conduct Review Panels. These panels would fall under the regulatory oversight of an independent Councillor Conduct Commissioner. Panels would have stronger prescribed disciplinary powers than those currently available to councils including the ability to impose monetary penalties. Councils would be required to meet the costs of the Commission and the panels in dealing with misconduct complaints about their councillors.

Other recommendations include:

- Amendments to the Local Government Act 1993 that sets behavioural expectations for councillors
- A separate Code of Conduct for Councillors and amended Oath of Office
- Mandatory councillor training, including pre-nomination training of candidates for election.
- Tougher penalties and sections to deal with misconduct, including the ability to impose monetary penalties on individuals.

## 2.2 Consultation on the Outcomes of the Review of the Councillor Misconduct Framework (contd)

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- Greater openness and transparency provisions for all meetings of councillors (for example workshops and briefings)
- Increased powers for mayors and meeting chairs to respond to disorderly meeting conduct
- The removal of current functions of General Managers/CEOs to process or determine any councillor conduct complaints.
- Improved case management, data collection and reporting regimes

A Consultation Guide has been developed by the Office of Local Government to help inform feedback and is available [here](#).

Feedback is invited until 3 February.

A copy of Mr Kellar's review is available [here](#).

### Consultation

Director Corporate Services  
Chief Executive Officer

### Financial Considerations

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

This report has no financial implications however there may be financial implications of changes resulting from the adoption of recommendations. Should this occur a further report will be provided to Council.

### Link to Community Strategic Plan

Theme 4: Responsible

### Goal G: Good governance and great partnerships

R-G2: Engage and communicate openly and honestly with the community to build a relationship based on trust, transparency, respect and use community participation and feedback to inform decision making.

### **Risk Management**

If Council has pertinent feedback for the consultation and it is not submitted before the closing date Councils concerns may not be taken into consideration and the outcome may affect Council when it comes to dealing with Councillor Misconduct.

### **Options**

Council can choose to:

1. Submit the draft response as provided in this report
2. Submit an amended response
3. Not submit a response to the review

### **Critical Dates or Timeframes**

3 February 2023 – Feedback on the Consultation paper is due.

### **Attachments**

<b>1</b>	Submission on Councillor Conduct	Provided Under	D15503036
	Accountability Review - OLG	Separate Cover	



**Item No:** 2.3  
**Title:** Sale of Council Land at 9 Russell Drysdale Street  
East Gosford  
**Department:** Environment and Planning

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24 January 2023 Ordinary Council Meeting

Reference: F2022/02452 - D15472372  
Author: John Lowrie, Special Projects Officer  
Manager: Chris Barrett, Commercial Property Manager, Commercial Property  
Executive: Alice Howe, Director Environment and Planning

## Recommendation

- 1** *That Council dispose of operational land and improvements at 9 Russell Drysdale Street, East Gosford (Lot E DP39240) for not less than the market value as determined by an independent valuer.*
- 2** *That the sale process be conducted through an EOI process managed via a suitably qualified real estate agency.*
- 3** *In keeping with the current use of the site, that the sale process give preference to potential purchasers that commit to making use of the site for education and training related purposes.*

## Report purpose

For Council to consider the sale of Council operational land at 9 Russell Drysdale Street, East Gosford (Lot E DP39240).

## Executive Summary

9 Russell Drysdale Street, East Gosford (Lot E DP39240) was originally included as part of the Council Assets Sales Program (Tranche 3) on 27 April 2021.

The site was temporarily removed from the sales program following an internal decision to retain it for staff training purposes on an interim basis.

Staff training at this site is now being phased out and alternative training facilities are being utilised.



**Background**

9 Russell Drysdale Street East Gosford (Lot E DP39240) is informally known as the East Gosford Training Room.

There is some at-grade car parking area on the site, which is used to service the training room. There is also a larger car parking area on the adjoining Council-owned site at 3 Albert Street, East Gosford (Lot 9 DP 819624), which is primarily utilised by St. Joseph's Catholic College.

On 27 April 2021, Council resolved to consult with the community on the proposed sale of property assets in Tranche 3. The community consultation was completed on 28 May 2021. The responses included 1,333 submissions via the online survey and 611 emails and letters.

On 27 July 2021, Council resolved not to continue with the sale process for 9 Russell Drysdale Street, East Gosford, due to its continued use at the time as a Council training facility. However, Council did resolve at that time to sell the adjoining Council-owned land at 3 Albert Street, East Gosford (Lot 9 DP 819624) to St Joseph's Catholic College.

**Current Status**

The proposed sale of 9 Russell Drysdale Street East Gosford was not identified as being contentious during the community consultation in 2021 and Council did not receive any specific adverse feedback regarding the proposed sale of this site. The site was removed from consideration on an interim basis following an internal decision to retain it for staff training purposes.

The land can now be returned to the sale process as the use of the building for staff training is being phased out and use is being made of alternative training facilities.

In keeping with the current use of the site and taking into account the education and training facilities on the adjacent site, it is considered that preference should be given as part of the sale process to a party that will undertake to use the land for education and training related purposes.

**Consultation**

Council conducted community consultation for the Tranche 3 Asset Sales from 30 April 2021 to 28 May 2021.

The feedback from this consultation informed the outcome of the follow up Council report on 27 July 2021 titled *Council's Asset Sales Program (Tranche 3) - Outcome of Community Consultation*.

Since this time further consultation has taken place with Council's People and Culture Unit, which has confirmed that training activities at the site are being wound down and that the site can be made available for sale in 2023.

### Financial Considerations

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

Council reviews its land and property portfolio on an ongoing basis to:

- ensure that land and property assets are being effectively utilized, and
- identify any opportunities to increase the utilisation of land and property, and
- identify options for disposal if and when land and property assets are identified as surplus to Council's current and future needs. The ongoing costs of maintenance and refurbishment as well as any potential offsetting opportunities for revenue generation are taken into account in any decision to recommend the sale of land and property assets.

### Link to Community Strategic Plan

Theme 4: Responsible

### Choose Focus Area

R-G3: Provide leadership that is transparent and accountable, makes decisions in the best interest of the community, ensures Council is financially sustainable and adheres to a strong audit process.

### Risk Management

Risk has been mitigated through upfront due diligence for this proposal, including a review of the land and any other impediments to the sale and/or reclassification of the land.

Further, through Council's internal Property Advisory Panel, these sites have been previously considered and recommendations provided so as to ensure the best outcome for Council and the community.


There is some potential reputation risk associated with this proposal as it does entail a reduction in land under Council control. However, based on the extensive community consultation that was undertaken in 2021, it is evident that the level of potential risk associated with sale of this site is very low.

This risk is counterbalanced by the principle of ensuring that land and property assets under Council control are optimally utilised. Disposal is an appropriate option wherever individual assets are surplus to Council's current and future needs and where they may be more effectively utilised by other parties.

### Options

1. That Council sell the operational classified land and improvements at 9 Russell Drysdale Street, East Gosford (Lot E DP39240) for not less than the market value as determined by an independent valuer. **This is the recommended option.**
2. That Council sell the operational classified land and improvements at 9 Russell Drysdale Street East Gosford (Lot E DP39240) for not less than the market value as determined by an independent valuer.
3. That Council not offer the site for sale and consider options to lease the site to a third party on a commercial basis, preferably for an education and training related purpose.

### Attachments

1	Council Property Pre-Sale Information Summary -  9 Russell Drysdale Street East Gosford	Provided Under Separate Cover	D15499810
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**Item No:** 2.4  
**Title:** Metro Cinemas - Rental Concessions  
**Department:** Environment and Planning

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24 January 2023 Ordinary Council Meeting

Reference: F2014/01791-002 - D15505589  
Author: Tiffany Spee, Property Officer  
Chris Barrett, Commercial Property Manager, Commercial Property  
Manager: Alice Howe, Director Environment and Planning  
Executive: Emma Galea, Chief Financial Officer

## Recommendation

***That Council agree to vary the rental under the Metro Cinemas Lake Haven lease over the next 12 months (that is, 1 February 2023 to 31 January 2024) to a turnover rent set at 18 per cent of monthly turnover.***

## Report purpose

To seek Council approval to vary the rental for the Metro Cinemas Lake Haven complex to a pure turnover rental for a further 12 months as requested by the lessee, so as to manage the challenges facing the broader cinema sector.

## Executive Summary

The operations of Metro Cinemas Lake Haven, a facility that was built on behalf of Council with the needs of the youth of the northern Central Coast area in mind, remain financially challenged.

This is consistent with challenges in the broader cinema sector arising both from the lingering effects of COVID-19 (which has had a significant effect on indoor public gatherings of all kinds) and long-term trends in the entertainment industry (the rise of digital entertainment services and the move from cinema-based movie distribution).

The operator of the Lake Haven cinema complex has requested an extension of existing temporary rental arrangements, which are based purely on turnover. These were initially introduced at the height of the COVID-19 restrictions to meet Council's obligations as a commercial landlord under COVID regulations. This is in order to provide the operator with more time to return the cinema complex to self-sustaining commercial viability.

To do so involves suspending the fixed base payment included in the lease which started when the cinema opened in the summer of 2014-2015. This was at a time when the cinema industry was relatively flourishing, and good returns were anticipated on a long term basis.

It is noted that movie industry worldwide continues to face challenges and that the consumer attraction of movies is only gradually recovering. This has a particularly adverse effect on traditional exhibition channels such as cinemas. Many cinemas are closing up shop or are being radically remodelled to accommodate changing viewer preferences.

In the case of the cinema complex at Lake Haven, the community implications of a potential closure need to be taken into account, as a significant part of the purpose for establishing the cinema in the first place was to improve the spread of positive opportunities for both daytime and night-time social gatherings in the local area.

For the next 12 months, maintaining the viability of the cinema's operations is considered highly desirable, provided that some level of commerciality can be maintained. Longer term, options to improve the commerciality of the arrangements under which the cinema complex is operated need to be identified, with the preferred option being to restore a reasonable rate of return on Council's investment in the cinema complex.

### **Background**

Metro Cinemas is in an unusual situation. Other Council tenants have generally been able to return some level of normality whilst the cinema industry remains heavily burdened by COVID-19 and remain one of the worst affected businesses.

From January 2019 to December 2021, 81 cinema complexes have closed in Australia representing 15% of total cinema complexes. The major Australian cinema groups are considering their options by selling assets and closing non-performing sites. Box office results continue to significantly underperform globally due to:

- a) A drought of blockbuster movies which were not made due to COVID lockdown restrictions. Consequently, there is a backlog of movies being made for both cinema and streaming which is putting pressure on film studios-particularly postproduction facilities.
- b) Film studios screening movies on their streaming services rather than cinema. This is more for non-blockbuster movies, but of course still adversely effects cinema revenue.
- c) Generation Z, the largest cinema audience pre-COVID not returning to cinema. This indicates that they are obtaining their entertainment elsewhere.

### **Current Status**

Council has previously resolved to offer a purely turnover based rental to Metro Cinemas Lake Haven in place of the fixed base rent on a temporary basis. This has been by successive Council resolutions on 30 November 2021, 27 April 2021 and 28 June 2022. The percentage of turnover that applies to the rent has varied over time between 15 per cent and 20 per cent,

taking into account the relatively level of industry challenge (for example, at some periods of time, the cinema complex has been obliged to close altogether due to COVID restrictions while at other times there has been restrictions on seating capacity.) The most recent Council resolution to support rent relief is for the period to 31 January 2023.

Council staff have had a series of meetings and correspondence with the operator of Metro Cinemas Lake Haven about both the immediate and medium-term prospects of the cinema complex. It is evident from those meeting that, for the cinema to remain financially viable in the short term at least, a turnover based rental is essential and that (in the absence of incentives such as NSW government entertainment vouchers) the maximum level of turnover rent that can be sustained is 18 per cent.

### **Report**

The level of the percentage that should be applied has been extensively discussed. The operator has been clear that any figure above 18 per cent of turnover may drive the cinema operation into immediate non-profitability.

Council staff have accordingly agreed to recommend that the turnover rate be set at 18 per cent and to monitor gross turnover over the next 12 months to see if viability improves.

Unlike a private owner, Council is unable to write depreciation costs off against tax and these depreciation costs impact on the total level of Council depreciation. Potential costs and revenue will be documented over the coming 12 months, with a view to making a longer-term recommendation.

### **Future Outlook**

Overall, the outlook for cinema-based movie distribution remains difficult to predict, however the next 12 months will provide a better indication of film studios' intentions for releasing movies verses releasing them direct to streaming services.

### **Consultation**

As noted above, Council staff have had an ongoing series of consultations with the operator of the Metro Cinemas Lake Haven cinema complex regarding their financial viability and the ongoing ability to meet scheduled rental payments. Further discussions will be held with the operator in relation to its proposed strategy to improve financial viability.

### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

The reduction in rent from the Metro Cinema will reduce the revenue to Council's Commercial Property budget. As the Commercial Property portfolio is actively seeking other opportunities for increased rental return and new business, the potential reduction is expected to be offset from new revenue to some extent. The extension of the rental waiver is likely to result in an adverse impact of \$50,000 to \$75,000 in the overall revenue from Commercial Property in each of FY 2022-23 and FY 2023-24.

In discussions with Metro Cinemas, Council officers understand that the proposed rent waiver would ensure the short-term viability of the Cinema while a longer-term business plan is developed.

### **Link to Community Strategic Plan**

Theme 4: Responsible

### **Goal C: A growing and competitive region**

R-G3: Provide leadership that is transparent and accountable, makes decisions in the best interest of the community, ensures Council is financially sustainable and adheres to a strong audit process.

### **Risk Management**

Metro Cinemas Lake Haven has indicated that it is unlikely they will be able to sustain the level of rent provided for in the lease agreement and there is a risk that the operator of the cinema complex may go into liquidation if the variation in rental is not supported.

Given the extensive challenges facing the cinema sector more generally, it is unlikely that an alternative arrangement to operate the cinema complex would produce a commercially satisfactory outcome to Council in the short term.

The cinema development provides opportunities for local jobs and provides young people with positive social options in the Lake Haven town centre.

There is reputational and commercial risk to Council associated with not demonstrating adequate understanding for the commercial challenges facing the cinema operator in the short term.



**Options**

1. That Council agree to vary the rental under the Metro Cinemas Lake Haven lease over the next 12 months to a turnover rent set at 18 per cent of monthly turnover. This will provide the operator time to identify and implement options that may be available to manage the future operations of the cinema complex. **This is the recommended option.**
2. That Council agree to vary the rental under the Metro Cinemas Lake Haven lease over the next 12 months to a turnover rent set at higher monthly turnover. This is not recommended as (based on advice received) it would adversely affect the financial viability of the business.
3. That Council resolve to not vary the rental under the Metro Cinemas Lake Haven lease for a further period. This is not recommended as (based on advice received) it would adversely affect the financial viability of the business.

**Attachments**

*Nil.*

**Item No:** 2.5  
**Title:** Update to Councillor Expenses and Facilities Policy  
**Department:** Corporate Services

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24 January 2023 Ordinary Council Meeting

Reference: F2004/06497 - D15500389  
Author: Teressa Chadwick, Section Manager, Governance  
Manager: Marissa Racomelara, Director Corporate Services  
Executive: Marissa Racomelara, Director Corporate Services

## Recommendation

- 1** *That Council place the draft Councillor Expenses and Facilities Policy on public exhibition for a period of 28 days.*
- 2** *That a further report to be presented to Council following the public exhibition period for consideration of any submissions received prior to the Policy being adopted and the current version of the Policy being revoked.*

## Report purpose

This report presents a revised draft Councillor Expenses and Facilities Policy (the **Policy**), which aligns to the Office of Local Government's (OLG) Model Policy and Guidelines. This Policy has been updated to include payment of expenses to the Administrator. The Policy is required to be publicly exhibited prior to Council adopting any revision.

## Executive Summary

This report details the proposed changes made to the reviewed draft Policy for the consideration of Council. The draft Policy is provided at **Enclosure 1**.

The current Policy has been reviewed and compared to examples from other Councils, the Model Policy and OLG Guidelines with the draft Policy wording being based on the Model Policy. The changes proposed are in line with section 252 and 253 of the Local Government Act 1993 and clauses 217 and 403 of the regulation. The changes are annotated in red within the draft Policy (**Enclosure 1**) and are summarised in this report.

## Background

Council's current Policy was adopted on 23 November 2020 and broadly aligns to the June 2017 OLG released [Model Policy](#) and the [OLG Guidelines](#) which allows for amendment to suit local needs and circumstances however it is silent regarding reimbursement of expenses for the administrator including accommodation expenses.

## Report

A review has been undertaken of Council's Councillor Expenses and Facilities Policy as outlined above. Throughout the policy some existing clauses may have been renumbered or reordered to accommodate the changes outlined below as well as required formatting improvements.

The proposed changes are summarised in the table below. New wording is in red and removed wording is ~~red-strikethrough~~.

New Clause	Proposed change	Previous Clause	Previous wording
	<b>Policy Summary</b>		
2	<b>New Clause:</b> In this policy, Councillors and the Mayor should be read as the Administrator whilst Council is under Administration. The Administrator is singular and shall not be able to claim multiple payments, services, provision of equipment or benefits.	New	Not specified
5	<b>Amended clause:</b> The policy sets out the maximum amounts Council will pay for specific expenses and facilities. <del>Expenses not explicitly addressed in this policy will not be paid or reimbursed. The main</del> Expenses and facilities are summarised in the table below. All monetary amounts are exclusive of GST.	4	Removed wording: <del>Expenses not explicitly addressed in this policy will not be paid or reimbursed. The main</del>
Table	<b>Additions to the table:</b> <b><i>Administrator contract</i></b> <u>Maximum amount:</u> The administrator is an appointment by the NSW Government under a term basis. This expense is only payable whilst Council is under administration. <u>Frequency:</u> Contractual payment as directed by the Minister for Local Government.  <b><i>General travel expenses</i></b> <u>Maximum amount:</u> \$10,000 for the Mayor. <u>Frequency:</u> Per year.  <b><i>Accommodation and meals</i></b> <u>Maximum Amount:</u> As per the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, adjusted annually. <u>Frequency:</u> Per meal/night.  <b><i>Professional Development</i></b> <u>Maximum Amount:</u> \$2,500 per Councillor <u>Frequency:</u> Per year	New	Not specified  Not specified  As per the NSW Crown Employees Reviewed Award clause 6.21  To align with the Model Policy

	<p><b>Council vehicle and fuel card</b>  <u>Maximum Amount:</u> Provided to the Mayor.  <u>Frequency:</u> Not relevant.</p> <p><b>Reserved parking space at Council offices</b>  <u>Maximum Amount:</u> Provided to the Mayor.  <u>Frequency:</u> Not relevant.</p> <p><b>Furnished office</b>  <u>Maximum Amount:</u> Provided to the Mayor.  <u>Frequency:</u> Not relevant.</p> <p><b>Number of exclusive staff supporting Mayor and Councillors</b>  <u>Maximum Amount:</u> Provided to the Mayor.  <u>Frequency:</u> Not relevant.</p>		<p>To align with the Model Policy</p> <p>To align with the Model Policy</p> <p>To align with the Model Policy</p> <p>To align with the Model Policy</p>
5-8	<p><b>Remove clause:</b>            5. Additional costs incurred by a Councillor in excess of these limits are considered a personal expense that is the responsibility of the Councillor.            6. Councillors must provide claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved.            7. Detailed reports on the provision of expenses and facilities to Councillors will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by individual Councillor and as a total for all Councillors.            8. This policy will commence on the declaration of the first election of Councillors to the Central Coast Council.</p>	N/A	Covered elsewhere in this policy.
	<b>Introduction</b>		
10	<p><b>Remove clause:</b>            The community is entitled to know the extent of expenses paid to Councillors, as well as the facilities provided.</p>	N/A	Covered elsewhere in this policy.
13	<p><b>Remove clause:</b>            Council staff are empowered to question or refuse a request for payment from a Councillor when it does not accord with this policy</p>		Covered in Code of Conduct and in staff delegations.
16	<p><b>Amended wording:</b>            Facilities provided and expenses reimbursed by Council should benefit the community and the civic role of Councillors who <del>Councillors</del> must not obtain private or political benefit from <del>any expense or facility provided</del> provision under this policy.</p>	11	Worded to clarify intent.
	<b>General Expenses</b>		

22	<b>Remove clause:</b> Council will cover expenses and/or provide facilities deemed appropriate and necessary by the Chief Executive Officer to assist Councillors in the performance of their civic duties. This includes but is not limited to ad hoc events for which there is an associated cost such as corporate events, Council events and events at Council facilities.	N/A	Not in the Model Policy and covered elsewhere in the Policy.
23	<b>Remove clause:</b> Expenses not explicitly addressed in this policy will not be paid or reimbursed	N/A	Covered elsewhere in this policy.
	<b>Interstate, overseas and long-distance intrastate travel expenses</b>		
30	<b>Remove clause:</b> In accordance with Clause 4, Council will scrutinise the value and need for Councillors to undertake overseas travel. Councils should avoid interstate, overseas and long-distance intrastate trips unless direct and tangible benefits can be established for the Council and the local community. This includes travel to sister and friendship cities.	N/A	Covered elsewhere in this policy.
37	<b>Remove clause:</b> For international travel, the class of air travel is to be premium economy if available. Otherwise, the class of travel is to be economy.	N/A	Covered elsewhere in this policy.
	<b>Accommodation and Meals</b>		
42	<b>Added wording to clause:</b> The daily limits for accommodation and meal expenses within Australia <del>are to be consistent with those set out in Part B Monetary Rates of the is as per the</del> NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, <del>as adjusted annually. clause 6.21 per Councillor per night.</del>	40	Update to refer to the Part of the Public Service Conditions of Employment) Reviewed Award 2009 not the clause itself to cater for future changes.
43	<b>Added wording to clause:</b> The daily limits for accommodation and meal expenses outside Australia are to be determined in advance by the Chief Executive Officer, <del>being mindful of Clause 42 in accordance with this policy.</del>	41	Reworded for clarity.
	<b>Professional Development</b>		
47	Council will set aside <del>\$2,500-30,0000</del> <b>\$2,500-30,000 per Councillor</b> annually in its budget to facilitate professional development of all Councillors through programs, training, education courses, conferences, seminars and membership of professional bodies. <del>This is in addition to professional development opportunities identified by the Chief Executive Officer that may be determined appropriate for all Councillors.</del>		Aligned to Model policy that allocates budget per councillor annually.

52A	<b>Remove clause:</b> Council will provide Councillors with access to the Employee Assistance Program as provided to Council employees.	52A	Not in Model Policy and covered elsewhere.
	<b>Conference and Seminars</b>		
43	<b>Additional Wording to clause:</b> Council is committed to ensuring its Councillors are up to date with contemporary issues facing Council and the community, and local government in NSW. Council will set aside a total of \$30,000 annually in its budget to facilitate Councillor attendance at conferences and seminars. This allocation is for all Councillors. The Chief Executive Officer will ensure that access to expenses relating to conferences and seminars is distributed equitably.	52	Clause from Model Policy
N/A	<b>Remove clause:</b> Provision for attendance at conferences and seminars is provided as part of Professional Development.	53	Clause not required.
45	<b>Amended wording:</b> <del>Council will meet the reasonable cost of registration fees, transportation and accommodation associated with attendance at conferences approved by the Chief Executive Officer. Council will also meet the reasonable cost of meals when they are not included in the conference fees.</del> Reimbursement for accommodation and meals not included in the conference fees will be subject to Clauses 42 to 45.	55	Covered elsewhere in this policy.
	<b>Local Government NSW Annual Conference</b>		
46	<b>Amended wording:</b> <del>The number of Councillors will be</del> permitted to attend the Local Government NSW Annual Conference <del>should align with the number of voters allocated to vote on motions as determined by LGNSW.</del> Council will reimburse the cost of registration fees and where the conference is outside the local government area, the cost of travel, accommodation and meals not covered by the conference registration, <del>subject to the provisions in clause 42 to 45</del> in accordance with this policy.	56	Reworded for clarity
	<b>Information and communications technology (ICT) expenses</b>		
49	<b>Amended wording:</b> Council may provide appropriate ICT equipment <del>for use during their term as Councillor</del> up to a limit of \$3,500 per Councillor upon the commencement of their term of office. The determination as to what equipment will be provided will be made by the	59	Reworded for clarity

	Chief Executive Officer based upon Council's general ICT program and identified business needs.		
N/A	<b>Remove clause:</b> Councillors may seek reimbursement for applications on their mobile electronic communication device that are directly related to their duties as a Councillor, within the maximum limit.	61	Covered elsewhere in this policy.
<b>Special requirements and carer expenses</b>			
52	<b>Reworded clause:</b> Council encourages wide participation and interest in civic office. It will seek to ensure Council premises and associated facilities are accessible <b>for all.</b> <del>including provision for sight or hearing-impaired Councillors and those with other disabilities.</del>	63	Reworded for clarity and inclusion.
N/A	<b>Remove clause:</b> Transportation provisions as outlined in this policy, such as access to Cabcharges, will also assist Councillors who may be unable or unwilling to drive a vehicle.	64	Covered elsewhere in this policy.
53	Reworded clause: <del>In addition to the provisions above,</del> The Chief Executive Officer may authorise the provision of reasonable additional facilities and expenses in order to allow a Councillor with a disability to perform their civic duties.	65	Reworded for clarity.
<b>ASIC or Relevant Searches</b>			
79	<b>Remove clause:</b> Council will meet the costs of any ASIC or relevant searches undertaken by Councillors to assist in providing appropriate responses in relation to declarations as Key Management Personnel under the Related Party Disclosures requirements of Council's Financial Statements.	79	Clause not in the Model Policy and Clause not required.
<b>Administrative support</b>			
N/A	Council staff are expected to assist Councillors with civic duties only, and not assist with matters of personal or political interest, including campaigning.	86	Covered elsewhere in this policy.
<b>Additional facilities for the Mayor</b>			
75	<b>Removed wording from clause:</b> Council will provide the Mayor with a furnished office incorporating a computer configured to Council's standard operating environment, telephone and meeting space. <del>On the rare occasions where the Mayor is unable to attend the office and use the equipment provided due to an emergency situation, Council will meet the reasonable costs of reimbursement for office</del>	89	Unnecessary clause



	<del>equipment up to \$500 per occasion as agreed with the Chief Executive Officer.</del>		
N/A	<p><b>Remove Clauses:</b></p> <p>93. The Mayor will be entitled to travel business class up to an additional annual limit of \$15,000 on any travel undertaken.</p> <p>94. Council will meet the reasonable costs as determined by the Chief Executive Officer, and up to a \$1,000 annual expenditure limit associated with the attendance of the Mayor's spouse or partner whilst the Mayor is undertaking official business at Conferences, functions, award nights and events.</p> <p>95. Council will also meet the reasonable cost as determined by the Chief Executive Officer and up to a \$2,000 annual expenditure limit, of travel expenses and additional accommodation expenses (in addition to the expenses incurred by the Mayor) for the Mayor's spouse or partner whilst the Mayor is undertaking official business at Conferences, functions and events.</p> <p>96. The Mayor will also have access to an additional annual limit of up to \$2,000 for the Mayor and the Mayor's spouse or partner attending dinners, non-council functions, charity and fundraising events, community and corporate or industry events which are relevant to Council's interest and where Council's representation would be expected.</p> <p>97. The Mayor is entitled to digital subscriptions to two daily newspapers and/or delivery of those same newspapers to the Council office.</p>	93-97	Clauses covered elsewhere in this policy.
	<b>Approval Payment and reimbursement arrangements</b>		
N/A	<p><b>Remove Clause:</b></p> <p>All requests for reimbursement will be reviewed by two staff members and payment will be authorised by a staff member with the appropriate financial delegation</p>	102	Procedural matter
86	<p><b>Wording added to clause:</b></p> <p>Council may pay a cash advance for Councillors attending approved conferences, seminars or professional development. Requests should be submitted and assessed as per conference and travel request systems with sufficient information and time to allow for the claim to be assessed and processed.</p>	106	Wording added for clarity
N/A	<p><b>Remove Clause:</b></p> <p>The maximum value of a cash advance is \$200 per day of the conference, seminar or professional development to a maximum of \$600</p>	107	Covered elsewhere in this policy

N/A	<b>Remove Clause:</b> Requests for advance payment must be submitted to the Chief Executive Officer for assessment against this policy with sufficient information and time to allow for the claim to be assessed and processed	108	Covered elsewhere in this policy
	<b>Return or retention of facilities</b>		
95	<b>Wording added to clause:</b> All unexpended facilities or equipment supplied under this policy are to be relinquished immediately upon a Councillor or Mayor ceasing to hold office or at the cessation of their civic duties.	117	Wording added for clarity
96	<b>New Clause</b> Should a Councillor desire to keep any equipment allocated by Council, then this policy enables the Councillor to make an application to Chief Executive Officer to purchase any such equipment. The Chief Executive Officer will determine an agreed fair market price or written down value for the item of equipment.	New clause	Added for clarity
97	<b>New Clause</b> The prices for all equipment purchased by Councillors under Clause 96 will be recorded in Council's annual report.	New clause	Added to notify of inclusion in annual report.
	<b>Publication</b>		
N/A	<b>Remove Clause:</b> This policy will be published on Council's website.	118	Not required
	<b>Breaches</b>		
N/A	<b>Remove Clause:</b> Staff must maintain all records relevant to administering this policy in a recognised Council recordkeeping system.	125	Covered in other policies of Council
	<b>Definitions</b>		
N/A	<b>Definition added:</b>  <b>Administrator</b> Means a person appointed under the Act as either an Administrator or Interim Administrator.	New definition	Added for clarity

### Consultation

Unit Manager Governance, risk and Legal  
 Director Corporate and Community Services  
 General Manager

### Financial Considerations

At its meeting held 19 October 2020, Council resolved the following:

1108/20 *That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

There are no additional financial implications as a result of this Policy update beyond the current budget estimates.

### **Link to Community Strategic Plan**

Choose Themes

### **Goal G: Good governance and great partnerships**

R-G3: Provide leadership that is transparent and accountable, makes decisions in the best interest of the community, ensures Council is financially sustainable and adheres to a strong audit process.

### **Risk Management**

Once adopted, the revised policy will be reported to the OLG, and whilst variations due to local conditions are allowed, significant variations to the model policy may expose Council to review by the OLG. There are no significant variations to the model proposed with the exception of including the reimbursement of expenses to an Administrator which is consistent with the model policy and legislation.

### **Options**

Option 1: Endorse draft policy (**Enclosure 1**) and place draft policy on public exhibition for community feedback. (Recommended option).

Option 2: Do not endorse draft policy and do not place on public exhibition for feedback.

### **Critical Dates or Timeframes**

The draft Policy will be placed on public exhibition for a period of 28 days. A further report covering any community feedback will be provided to Council prior to adopting the Policy.

### **Attachments**

**1**

Draft Councillor Expenses and Facilities Provided Under Separate Cover D15501344



**Item No:** 2.6  
**Title:** Pecuniary Interest Disclosure Returns - Recently Appointed Designated Persons  
**Department:** Corporate Services

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24 January 2023 Ordinary Council Meeting

Reference: F2022/01293 - D15473154  
Author: Alysha Croussos, Senior Governance Officer, Governance  
Manager: Teresa Chadwick, Section Manager, Governance  
Executive: Marissa Racomelara, Director Corporate Services

## **Recommendation**

***That Council receive the report on Pecuniary Interest Disclosure Returns – Recently Appointed Designated Persons.***

## **Report purpose**

To meet Council's Code of Conduct requirements for Pecuniary Interest Disclosure Returns for Council Officers who have commenced with Council and who are deemed to be Designated Persons.

## **Executive Summary**

Council's Code of Conduct, at clauses 4.8 to 4.27, requires each Designated Person to lodge a Pecuniary Interest Disclosure Return (as specified in Schedule 2 of Council's Code of Conduct) with the Chief Executive Officer:

- 1 Annually;
- 2 Within three months of joining Council; or
- 3 When becoming aware of a change in circumstances of "a designated person's interest as specified in Schedule 1 of Council's Code of Conduct."

Three new people have joined Council in a Designated Role and these Returns are tabled at this meeting.

## 2.6 Pecuniary Interest Disclosure Returns - Recently Appointed Designated Persons (contd)

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### Background

Three new Council Officials have commenced with Council in roles that are deemed to be a Designated Person. These positions are:

- 1 Audit and Risk Committee Member,
- 2 Director Corporate Services, and
- 3 Chief Financial Officer.

### Current Status

Council's Code of Conduct requires each Designated Person to lodge a Pecuniary Interest Disclosure Return with the Chief Executive Officer (**CEO**) within three months of joining Council.

The [Government Information \(Public Access\) Act 2009](#) (**GIPA Act**) defines Pecuniary Interest Disclosure Returns as open access information. Section 6 of the GIPA Act provides for the mandatory proactive release of open access information. The GIPA Act further provides that open access information must be made publicly available free of charge on Council's website.

The NSW Information and Privacy Commission's *Guideline 1: For local councils on the disclosure of information contained in the returns disclosing the interests of Councillors and designated persons* states at 3.10:

- 3.10      *Section 6(4) of the GIPA Act requires agencies 'must facilitate public access to open access information contained in a record by deleting matter from a copy of the record if disclosure of the matter would otherwise be prevented due to an overriding public interest against disclosure and it is practicable to delete the matter.'*

As such, the residential address and signature (information which is classified as personal information) has been redacted from each published Return on Council's website. Any requests for further redactions to a Return have been assessed under the [Local Government Act 1993](#) and the GIPA Act.

Council's Code of Conduct requires that Returns lodged with the CEO need to be tabled at the first Council meeting after the last day the Return is required to be lodged.

The Returns are tabled at this Council meeting.

The unredacted Returns will subsequently be available for view only inspection by application as per Council's current practice. The redacted published Returns will be available to view at this [link](#) on Council's website.

### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

There are no financial implications associated with this report.

### **Link to Community Strategic Plan**

Theme 4: Responsible

### **Goal G: Good governance and great partnerships**

R-G2: Engage and communicate openly and honestly with the community to build a relationship based on trust, transparency, respect and use community participation and feedback to inform decision making.

### **Attachments**

Nil



**Item No:** 2.7  
**Title:** Reappointment of Audit, Risk and Improvement Committee Chairperson  
**Department:** Corporate Services

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24 January 2023 Ordinary Council Meeting

Reference: F2022/00019 - D15487241  
Author: Rachel Gibson, Team Leader, Civic Support  
Manager: Teresa Chadwick, Section Manager, Governance  
Executive: Marissa Racomelara, Director Corporate Services

## Recommendation

***That Council reappoint Carl Millington as the Chairperson of the Central Coast Council Audit, Risk and Improvement Committee for a period of two years to April 2025.***

## Report purpose

The purpose of this report is for Council to reappoint the current Chairperson of the Audit, Risk, and Improvement Committee (ARIC) for another 2 years.

## Executive Summary

The term for the current Chairperson of the ARIC is due to expire in April 2023. A resolution of Council is required to reappoint the current Chairperson or commence the recruitment process for a new Chair.

The term for the current Chairperson for the Audit, Risk and Improvement Committee is due to expire on 27 April 2023. The current Chairperson has been the chair of the Audit, Risk and Improvement Committee since April 2021, and was previously an independent member since 27 April 2017. The Chairperson has expressed willingness to continue as the Chair, as such, they are able to do so for a further 2 years to April 2025 (that is a total of 8 years of independent membership in accordance with clause 15 of the *Audit, Risk and Improvement Committee Charter June 2021* (the **Charter**)).

Pursuant to clause 21 of the Charter the Chair can be appointed for up to a maximum period of five years. The term of appointment for the Chair can be extended but any extension must not cause the total term to exceed five years as a Chair of the Committee. The current Chair was appointed to the position in April 2021 and therefore reappointment to April 2025 is within the 5 year requirement.

## Consultation

ARIC Chairperson



## **2.7 Reappointment of Audit, Risk and Improvement Committee Chairperson (contd)**

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Administrator  
Chief Executive Officer  
Director Corporate Services

### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

The recommendations contained in this report will not impose any additional spending by Council in the current or next financial year over and above what is already planned.

### **Link to Community Strategic Plan**

Theme 4: Responsible

### **Goal G: Good governance and great partnerships**

R-G2: Engage and communicate openly and honestly with the community to build a relationship based on trust, transparency, respect and use community participation and feedback to inform decision making.

### **Critical Dates or Timeframes**

1 April 2023 - current Chairperson term expiration.

### **Attachments**

*Nil.*



**Item No:** 2.8  
**Title:** Minutes of Advisory Group and Committee meetings held in September, November, and December 2022  
**Department:** Corporate Services

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24 January 2023 Ordinary Council Meeting

Reference: F2023/00021 - D15497590  
Author: Rachel Gibson, Team Leader, Civic Support  
Manager: Teresa Chadwick, Section Manager, Governance  
Executive: Marissa Racomelara, Director Corporate Services

**Recommendation**

***That Council note the minutes of Council's Advisory Group and Committee meetings held in September, November, and December 2022.***

**Report purpose**

To note the unconfirmed minutes of the Advisory Group and Committee meetings held in November and December 2022, which include no recommendations for Council and are reported for information only.

**Executive Summary**

Five Advisory Group and Committee meetings were held in September, November, and December 2022, as listed below. The associated minutes were approved by the respective Coordinators and Chairs and were circulated to members via email. It is noted that minutes from previous meetings are confirmed by Advisory Groups and Committees at their next meeting, so are uploaded to Council's website as 'unconfirmed minutes' until that time.

**Report**

Minutes from Council's Advisory Group and Committee meetings that contain no recommendations to Council are reported to Council as a combined report for information only.

Links to the unconfirmed minutes on Council's website are included below for the information of Council.

- [Water Management Advisory Committee - meeting held 28 September 2022](#)
- [Audit, Risk and Improvement Committee - meeting held 07 December 2022](#)
- [Protection of the Environment Trust Management Committee – meeting held 12 December 2022](#)
- [Coastal Open Space System \(COSS\) Advisory Committee meeting held 6 December 2022](#)

## **2.8 Minutes of Advisory Group and Committee meetings held in September, November, and December 2022 (contd)**

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It is noted that the following meetings were scheduled but did not occur:

- Heritage and Culture Advisory Group meeting scheduled for 23 November 2022. Unable to achieve a quorum due to insufficient voting members available to attend.
- Pedestrian Access and Mobility Committee scheduled for 13 September 2022. Unable to achieve a quorum due to insufficient voting members available to attend
- Social Inclusion Advisory Committee meeting scheduled for 8 December 2022. Unable to achieve a quorum due to insufficient voting members available to attend
- Water Management Advisory Committee scheduled for 6 December 2022. Rescheduled to early February due to only two standing reports and no other agenda items.
- Catchments to Coast Advisory Committee minutes for the 6 December meeting will be included in the 28 February 2023 Council meeting.

### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

This report has no financial implications.

### **Link to Community Strategic Plan**

Theme 4: Responsible

### **Goal G: Good governance and great partnerships**

R-G2: Engage and communicate openly and honestly with the community to build a relationship based on trust, transparency, respect and use community participation and feedback to inform decision making.

### **Attachments**

*Nil.*



**Item No:** 2.9  
**Title:** Recommendation from the 6 December 2022 Coastal Open Space System (COSS) Advisory Committee meeting  
**Department:** Corporate Services

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24 January 2023 Ordinary Council Meeting

Reference: F2023/00021 - D15501389  
Author: Rachel Gibson, Team Leader, Civic Support  
Manager: Teresa Chadwick, Section Manager, Governance  
Executive: Marissa Racomelara, Director Corporate Services

## Recommendation

- 1** *That Council note the Meeting Record of the Coastal Open Space Systems Advisory Committee (COSS) meeting held 13 September 2022.*
- 2** *That Council note recommendation of the Coastal Open Space Systems Advisory Committee with regard to the dedication of land at 39 Dell Road, West Gosford.*

## Report purpose

To note the minutes of the COSS Advisory Committee meeting held on 6 December 2022 and consider the recommendation made by the Committee and staff comments on this recommendation.

## Executive Summary

The [Coastal Open Space System Advisory Committee meeting 13 September 2022](#). The minutes from that meeting are on Council's website and are hyperlinked above for the information of Council. It is noted the minutes will be confirmed by the group at their next meeting.

## Background

At the meeting the group discussed the dedication of land at 39 Dell Road, West Gosford.

The following recommendation was consequently made to Council:

*That Council note the COSS Advisory Committee's unanimous support for the dedication for the proposed C2- Environmental Conservation Zoned land at 39 Dell Road, West Gosford pending the determination of the planning proposal for the site.*

## **2.9 Recommendation from the 6 December 2022 Coastal Open Space System (COSS) Advisory Committee meeting (contd)**

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The following statement is provided in response to the recommendation.

Council staff acknowledged and appreciated the support and recognition from the Committee.

### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

There are no financial implications associated with any recommendation within this report

### **Link to Community Strategic Plan**

### **Goal G: Good governance and great partnerships**

R-G2: Engage and communicate openly and honestly with the community to build a relationship based on trust, transparency, respect and use community participation and feedback to inform decision making.

### **Attachments**

Nil



**Item No:** 2.10  
**Title:** Advisory Committees - Appointment of New Members and Committee Status Changes  
**Department:** Corporate Services

---

24 January 2023 Ordinary Council Meeting

Reference: F2018/00220 - D15447909  
Author: Rachel Gibson, Team Leader, Civic Support  
Manager: Teresa Chadwick, Section Manager, Governance  
Executive: Marissa Racomelara, Director Corporate Services

### **Recommendation**

- 1 *That council appoint the new advisory committee members for the Pedestrian Access and Mobility Advisory Committee (PAMP).*
- 2 *That council appoint the new advisory committee members for the Mangrove Mountain Advisory Committee.*
- 3 *That Council endorses to dissolve the Heritage and Culture Advisory Committee, as it currently exists, and approve for the formation of the Heritage Reference Group.*
- 4 *That Council approves to dissolve the Social Inclusion Advisory Committee effective immediately.*

### **Report purpose**

To recommend the appointment of new members to the PAMP and Mangrove Mountain advisory committees. To recommend dissolving the Heritage and Culture Advisory Committee and the Social Inclusion Advisory Committee and formation of the Heritage Reference Group.

### **Executive Summary**

The appointment of new members to two advisory committees to ensure a quorum is achieved at quarterly meetings. The dissolution of two advisory committees one of which is to function subsequently as a reference group.

## **Background**

Advisory Committees make recommendations to Council however do not make decisions. Members are appointed by Council following an Expression of Interest process and retain their position for the duration of the Council term. A quorum is required for meetings and a formal record of each meeting is subsequently reported to Council including any recommendations made by the committee.

Council's advisory committee membership numbers have diminished over the last 2 years. To keep the advisory committees viable community membership needs to be replenished.

The Heritage and Culture Advisory Committee have not met since 23 February 2022 citing inability to establish a quorum. The Coordinator of the Heritage and Culture Advisory committee therefore determined, during the expression of interest process, that this committee should be changed from an advisory committee to a reference group.

The Social Inclusion Advisory Committee has one (1) voting community member remaining and the expression of interest did not yield enough interest to be able to consider this a viable committee. They have not met since 9 June 2022. It was recommended by the Coordinator of the Social Inclusion Advisory Committee that this Committee be dissolved.

## **Report**

An Expression of Interest took place from 31 October until 13 November 2022 to increase membership in the following Advisory Committees:

- Mangrove Mountain and Spencer Advisory Committee
- Heritage and Culture Advisory Committee
- Pedestrian Access and Mobility Advisory Committee (PAMP)
- Social Inclusion Advisory Committee

It was determined by the coordinators how many new members were required in their advisory committees. Applications were reviewed by the coordinators and community members were selected.

It is recommended that Council appoint the proposed new community members outlined below:

### PAMP Committee

- Nigel Tebb

### Mangrove Mountain and Spencer Advisory Committee

## **2.10            Advisory Committees - Appointment of New Members and Committee Status Changes (contd)**

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- Ross Howard
- Ryan Howard
- Robyn Downham

It is recommended that the following Advisory Committee be changed as follows:

- *Heritage and Culture Advisory Committee*

It is recommended that the Heritage and Culture Advisory Committee be dissolved, and the function be performed under a newly formed Heritage Reference Group.

This would allow the Group to be more responsive to heritage issues as they arise and to operate as a professional reference group for projects such as the Heritage Strategy. It will allow the Group to provide independent professional advice to support recommendations to list or delist heritage places to the Local Planning Panel, who must consider such proposals under the regulations and provide advice to Council.

This change has the support of the current members of the Committee and those nominees who would have been selected to join the committee will be invited to join the reference group.

- *Social Inclusion Advisory Committee*

The Social Inclusion Advisory Committee has one (1) voting community member remaining and the expression of interest did not yield enough interest to be able to consider this a viable committee. The Committee have not met since 9 June 2022 and the Committee Coordinator determined that the Committee should be dissolved. It is therefore recommended that the Social Inclusion Advisory Committee be dissolved.

### **Consultation**

- Coordinators of each Advisory committee - to determine suitability of new members.
- Existing members of the Advisory committees and executives - where change is proposed.

### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20    That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*



## **2.10            Advisory Committees - Appointment of New Members and Committee Status Changes (contd)**

---

The following statement is provided in response to this resolution of Council.

The recommendations contained in this report will not impose any additional spending by Council in the current or next financial year over and above what is already planned.

### **Link to Community Strategic Plan**

Theme 4: Responsible

### **Goal G: Good governance and great partnerships**

R-G2: Engage and communicate openly and honestly with the community to build a relationship based on trust, transparency, respect and use community participation and feedback to inform decision making.

### **Attachments**

*Nil.*



**Item No:** 2.11  
**Title:** Meeting Record of the Protection of the Environment Trust Management Committee Meeting Held 12 December 2022  
**Department:** Corporate Services

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24 January 2023 Ordinary Council Meeting

Reference: F2019/00883 - D15502624  
Author: Michel Duval, Personal Assistant to Unit Manager Governance Risk and Legal  
Manager: Teresa Chadwick, Section Manager, Governance  
Executive: Marissa Racomelara, Director Corporate Services

### Recommendation

- 1** *That Council as Trustee approve release from funds listed in the report (The Scenic Road Bushland Reserve Offset Area Year 1) held in the Trust for Scenic Road Bushland Reserve Offset Area to Central Coast Council project number 26186 POET – Conservation Agreement COSS The Scenic Road Bushland Reserve Offset Area as per the adopted 15-year plan.*
- 2** *That Council as Trustee approve release of \$82,000 in February 2023 of the 2022/23 financial year from funds held in the Trust for 'Umina Coastal Sandplain Woodland' to Central Coast Council project number 26187 'POET – Umina Coastal Sandplain Woodland Management and Rehabilitation' for management actions as per the confirmed budget.*
- 3** *That Council as Trustee approve release of \$51,000 in July 2023 of the 2023/24 financial year from funds held in the Trust for 'Umina Coastal Sandplain Woodland' to Central Coast Council project number 26187 'POET – Umina Coastal Sandplain Woodland Management and Rehabilitation' for management actions as per the confirmed budget.*

### Report purpose

To note the Meeting Record of the Protection of the Environment Trust Management Committee held on 12 December 2022 and consider the recommendation to Council from the Committee.

### Executive Summary

The Protection of the Environment Trust Management Committee held a meeting on 12 December 2022. The Meeting Record was approved by the Coordinator and Chairperson, then circulated to members via email. A copy of the [Meeting Record is available on Council's website.](#)

## **2.11 Meeting Record of the Protection of the Environment Trust Management Committee Meeting Held 12 December 2022 (contd)**

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It is recommended that Council approve the release of funds held in the Trust as detailed below, given they align with the stated purpose of the Trust.

- 1 That Council as Trustee approve release from funds listed in the report (The Scenic Road Bushland Reserve Offset Area Year 1) held in the Trust for Scenic Road Bushland Reserve Offset Area to Central Coast Council project number 26186 POET – Conservation Agreement COSS The Scenic Road Bushland Reserve Offset Area as per the adopted 15-year plan.
- 2 That Council as Trustee approve release of \$82,000 in February 2023 of the 2022/23 financial year from funds held in the Trust for 'Umina Coastal Sandplain Woodland' to Central Coast Council project number 26187 'POET – Umina Coastal Sandplain Woodland Management and Rehabilitation' for management actions as per the confirmed budget.
- 3 That Council as Trustee approve release of \$51,000 in July 2023 of the 2023/24 financial year from funds held in the Trust for 'Umina Coastal Sandplain Woodland' to Central Coast Council project number 26187 'POET – Umina Coastal Sandplain Woodland Management and Rehabilitation' for management actions as per the confirmed budget.

### **Background**

The Protection of the Environment Trust is a Trust of which Council is the Trustee. A Management Committee is established in accordance with the Trust Deed.

The [Protection of the Environment Trust Management Committee held a meeting on 12 December 2022](#). At that meeting, the Committee considered the agenda items and have made the below recommendations to Council:

*That Council as Trustee approve release from funds listed in the report (The Scenic Road Bushland Reserve Offset Area Year 1) held in the Trust for Scenic Road Bushland Reserve Offset Area to Central Coast Council project number 26186 POET – Conservation Agreement COSS The Scenic Road Bushland Reserve Offset Area as per the adopted 15-year plan.*

Staff support this recommendation as it releases funds for the delivery of priority actions to address management issues of the Perpetuity Management Plan for The Scenic Road Bushland Reserve at Kincumber.

*That Council as Trustee approve release of \$82,000 in February 2023 of the 2022/23 financial year from funds held in the Trust for 'Umina Coastal Sandplain Woodland' to Central Coast Council project number 26187 'POET – Umina Coastal Sandplain Woodland Management and Rehabilitation' for management actions as per the confirmed budget.*

*That Council as Trustee approve release of \$51,000 in July 2023 of the 2023/24 financial year from funds held in the Trust for 'Umina Coastal Sandplain Woodland' to Central Coast Council project number 26187 'POET – Umina Coastal Sandplain Woodland Management and Rehabilitation' for management actions as per the confirmed budget.*

Staff support these recommendations as they release funds for the delivery of priority actions of the NSW Government's Restoration and Rehabilitation Management Plan for the Umina Coastal Sandplain Woodland Endangered Ecological Community.

### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

There are no financial implications associated with the recommendations in this report as the funds associated with undertaking the audit are available in the Trust Fund and will be at no expense to Council. The funds being allocated to the Umina Coastal Sandplain Woodland and the Scenic Road projects are part of the funds held by the Trust for those projects.

### **Link to Community Strategic Plan**

Theme 4: Responsible

### **Goal G: Good governance and great partnerships**

R-G2: Engage and communicate openly and honestly with the community to build a relationship based on trust, transparency, respect and use community participation and feedback to inform decision making.

### **Attachments**

<b>1</b>	Scenic Road Bushland Reserve Offset Area	Provided Under Separate Cover	d15437908
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**Item No:** 2.12  
**Title:** Unit Manager positions - Strategic Planning & Plant and Fleet  
**Department:** Corporate Services

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24 January 2023 Ordinary Council Meeting

Reference: F2006/01686 - D15503493  
Author: Krystie Bryant, Unit Manager People and Culture  
Manager: Krystie Bryant, Unit Manager People and Culture  
Executive: Alice Howe, Director Environment and Planning

## Recommendation

***That Council determine the described Unit Manager positions as set out in this report as a Senior Staff position for the purpose of Section 332 of the Local Government Act 1993.***

## Report purpose

To determine that current vacant Unit Manager roles are designated as 'Senior Staff' positions in accordance with Section 332 of the *Local Government Act 1993*.

## Executive Summary

Two Unit Manager roles are currently vacant and scheduled to be filled. In reviewing these roles and considering the size and scope of these roles it is appropriate that these positions are designated as 'Senior Staff' positions for the purposes of Section.332 of the *Local Government Act 1993*. The positions are outlined below:

- 1 Unit Manager, Strategic Planning (Organisational Chart - Attachment 1); and
- 2 Unit Manager, Plant and Fleet (Organisational Chart – Attachment 2).

## Background

Unit Manager roles within the structure of Central Coast Council are currently not identified as Senior Staff positions.

It should be noted that there is currently industry conversation regarding the use of senior staff contracts. It is unclear as to where this conversation may lead however should legislative change occur, these contracts will transition to the appropriate arrangements in line with that change.

**Current Status**

There is one Unit Manager position currently vacant within Environment and Planning and one Unit Manager position currently vacant within Corporate Services scheduled to be filled.

**Report**

In reviewing the current vacant Unit Manager roles and giving consideration to size and scope of the roles, it is more appropriate that these positions are designated as "Senior Staff" positions for the purposes of Section 332 of the *Local Government Act 1993*. In reviewing the descriptors outlined in the *Local Government (State) Award 2020* which act as a guide in determining Senior Staff positions, it is considered that these positions appropriately align to these descriptors which are outlined below. The positions also meet the required remuneration threshold.

**Authority and accountability:**

Accountable for the direction and control of the employer or a department or the like. Influence and commit the employer or a department or the like to long-term strategic directions. Lead policy development and implementation.

**Judgement and problem solving:**

Positions solve problems through analytic reasoning and integration of wide-ranging and complex information and have a high level of independence in determining direction and approach to issues.

**Specialist knowledge and skills:**

The position requires the application of a range of specialist knowledge and skills, including relevant legislation and policies and other areas of precedent. Ability to provide authoritative advice to the employer.

**Management skills:**

Application of corporate management skills in a diverse organisation to establish goals and objectives. Manage and control staff, budgets and work programs or major projects of the employer or a department or the like utilising leadership, evaluation and monitoring skills to facilitate achievement of objectives. Ability to generate innovative approaches to more effectively deploy resources, meet changing circumstances and improve service to the employer's clients.

**Interpersonal skills:**

Positions use persuasive skills with external parties on major items of critical importance to the employer. They motivate managers and staff at all levels by leading and influencing others to achieve complex objectives. They influence the development of the employer.

**Qualifications and experience:**

Positions will have a relevant degree or equivalent and management experience, combined with accredited management qualifications. The roles also meet the remuneration threshold.

**Consultation**

As the positions are currently vacant, no consultation is required with any current incumbent.

**Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

This change does not financially impact Council, as the roles are within budget, and do not impact overall staff numbers.

**Link to Community Strategic Plan**

Theme 4: Responsible

**Goal G: Good governance and great partnerships**

R-G4: Serve the community by providing great customer experience, value for money and quality services.

**Risk Management**


The establishment of Senior Staff contracts aids in providing greater alignment between the most appropriate legislation to support the employment conditions associated with these types of roles. It also allows a mechanism to refresh the organisational leadership in line with naturally occurring end dates to ensure that the best outcome for the organisation is always prioritised.

As identified above, there is a risk that legislative change regarding Senior Staff contracts may occur. This risk is easily mitigated by transitioning incumbents to the appropriate legislation should that change occur, as part of an industry approach.

**Options**

- 1 Council could resolve that vacant Unit Manager roles be added to Council's Senior Staff Structure as set out in this report. **This is the recommended option.**
- 2 Council could decline to include the vacant Unit Manager roles in the Senior Staff Structure. Not recommended.

**Attachments**

- |   |                                    |                         |           |
|---|------------------------------------|-------------------------|-----------|
| <b>1</b>  | Unit Manager, Strategic Planning - | Provided Under Separate | D15507973 |
|  | Organisational Chart               | Cover                   |           |
| <b>2</b>  | Unit Manager, Plant and Fleet -    | Provided Under Separate | D15507972 |
|  | Organisational Chart               | Cover                   |           |



**Item No:** 2.13  
**Title:** Mardi Water Treatment Plant Upgrade  
**Department:** Water and Sewer

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24 January 2023 Ordinary Council Meeting

Reference: CPA/2843 - D15504664  
Author: Amanda Cashion, Water and Sewer Project Manager  
Emma Galea, Chief Financial Officer  
Manager: Luke Drury, Unit Manager. Assets and Projects  
Executive: Jamie Loader, Director Water and Sewer

### **Recommendation**

- 1. *That Council approve borrowings to finance the project above current secured funds and improve the cash position of the Water Fund, as detailed in the Confidential Report D15488753, either via:***
  - a. *a loan from a commercial bank; and/or***
  - b. *an interfund loan from the sewer fund if approved by the Office of Local Government;***

***whichever provides the best value for Council.***
- 2. *That Council, pursuant to s.377(1) of the Local Government Act 1993, delegate to the Chief Executive Officer, the authority to enter into a future Design Develop and Construct contract to deliver the Mardi Water Treatment Plant Upgrade, upon the successful implementation of the Negotiation Plan.***

### **Report purpose**

To seek approval to secure a loan arrangement that will allow negotiations to proceed effectively with a view to entering into a contract for CPA/2843 Mardi Water Treatment Plant Upgrade Design Develop & Construct. The loan would also improve the unrestricted cash position of the Water Fund. The report also requests Council to delegate the power to enter into this future contract at the conclusion of the negotiation phase to the Chief Executive Officer.

Details regarding the value of the project and the associated borrowings required are included in the Confidential Report D15488753 as the public availability of this information could adversely affect Council's ability to obtain value for money services as part of a negotiation process.

**Executive Summary**

Council proposes to award a Design Develop and Construct (DD&C) contract to upgrade the Mardi Water Treatment Plant (MWTP). The scope includes a new flocculation and Dissolved Air Flotation (DAF) clarifier, new and upgraded chemical dosing and utility water systems, baffling of the Clearwater Tank, a new sludge lagoon outlet structure, electrical switchrooms and transformers, associated mechanical, electrical, SCADA control and instrumentation works, and civil works consisting of pipework, parking, and roadworks.

The upgrades to MWTP are required to mitigate existing unacceptable risks to the provision of clean, and safe drinking water to the community. The upgrades will also ensure proper operation of the Central Coast Water Supply Headworks scheme, which is required to manage the long-term water supply/demand balance for a growing region.

A two-stage procurement process was implemented in 2020 and 2021 which resulted in Council resolving to reject tenders and enter into negotiations due to tender prices being 27-52% higher than estimated due to market volatility, supply chain constraints, increased demands, price escalation and resource pressures. This then afforded Council time to secure the additional funding required to award a contract.

With the 2022/2026 IPART determination concurring with the prudence of the project, a 3-phase Negotiation Plan was developed and approved by the Chief Executive Officer (CEO). Implementation of Phase 1 was carried out in late 2022 to ascertain the current forecast budget to deliver the project and allow the necessary finance to be secured. Further cost increases have occurred since the 2021 tender phase as a result of exchange rate fluctuation, price escalation, high level of market activity and uncertainty in project timeframes.

Following receipt of the updated tender pricing and further cost and schedule risk analysis, Council satisfied itself of the efficiency of proceeding to Phase 2 of the Negotiation Plan with the preferred tenderer which involves an Early Contractor Involvement (ECI) phase to mitigate risks and drive delivery efficiency.

The forecast project budget has been revised in accordance with the amount required based on the updated tender pricing. Loan funds are proposed to finance the increase in the estimated cost and the associated gap in funding availability, as detailed in the Confidential Report D15488753. Securing finance for the full project value is required before proceeding to Phase 3 of the Negotiation Plan which will involve formal negotiations with a view to entering into a contract for the Mardi Water Treatment Plant Upgrade Design Develop and Construct.

## Background

Water quality risks related to MWTP were initially identified in 2013. An 'Investigation and Options Analysis' completed in 2015 recommended the addition of a clarification stage to the direct filtration plant. Initially, an inclined plates settlement process was adopted for clarification however an emerging blue-green algae risk was identified in 2019, leading to a change of scope to a Dissolved Air Flotation (DAF) process. This change, along with updated cost and schedule analysis, led to a 38% increase in the cost estimate which was approved by the CEO in the Gate 2 business case in February 2021.

The implementation of the upgrade works will allow MWTP to provide clean, safe drinking water for current and emerging drinking water quality targets, in consideration of a contemporary raw water quality envelope. Ongoing delay of implementing the upgrades results in higher than acceptable risks of not meeting Australian Drinking Water Guideline (ADWG) requirements. The inability of MWTP not being able to treat algae laden water has also resulted in significant water supply yield loss in previous years due to the inability to properly operate the Central Coast Water Supply Scheme's headworks assets.

The procurement strategy adopted a two-stage approach with Stage 1 – Expressions of Interest undertaken in 2020 and resulting in the selection of a shortlist of three capable and suitably experienced head contractors and two reserves. Stage 2 – Request for Tender was carried out in 2021 with the shortlisted tenderers invited to submit a tender. This resulted in two tenders being received. Following an extensive process of clarification, the adjusted tender pricing for evaluation of the base and alternate offers was 27-52% higher than estimated. The preferred tenderer had the lowest price and was considered to offer the best value for money solution for Council.

In an attempt to source the shortfall funding at the time of tender evaluation, Council approached Department of Planning and Environment and Infrastructure NSW seeking additional funds under the NSW Safe and Secure Water Program but the program fund was expended. Debt funding was considered, however given Council were awaiting the outcome of the IPART Expenditure Review, this process needed to be resolved before further enquiries could be made.

With the unexpected increase in tender prices and uncertainty around funding source, at its meeting held 25 January 2022, Council resolved the following:

10/22

1. *That Council decline to accept any of the tenders, in accordance with cl. 178(1)(b) of the Local Government (General) Regulation 2005.*
2. *That Council decline to invite fresh tenders or applications as referred to in Section 178 subclause (3)(b) -(d) of the Local Government (General) Regulation 2005.*

3. *That Council in accordance with Section 178(3)(e) enter into negotiations with any or all of the tenderers or any other entity with a view to entering into a contract in relation to the subject matter of the tender.*
4. *That Council, in accordance with Section 178(4) of the Local Government (General) Regulation 2005, notes that the reasons for entering into negotiations and not calling fresh tenders are:*
  - a *Given the tender process has been protracted and exhaustive with an Expression of Interest (EOI) stage in the open market followed by a tender period incorporating an early tenderer involvement process with shortlisted tenderers and preparation of advanced tender designs, repetition of this process presents additional risks to Council.*
  - b *If negotiations are entered into with informed tenderers that have demonstrated the capability to address the technical and other constraints of this complex project, this would achieve both the Contract's technical and performance requirements, achieve project completion milestones and provide a value for money outcome for Council.*
  - c *The risks identified by Council in respect of the tenders received, have some prospect of being resolved by direct negotiations which, if so resolved, would result in a suitable contract for Council.*
  - d *Inviting fresh tenders at this stage for the same or similar scope of works is not expected to result in any benefits considering time delays and additional costs associated with a fresh 12 month 2-stage tender process and potential escalation of tender pricing.*
5. *That Council resolve, pursuant to s.11(3) of the Local Government Act 1993, that this report remain confidential in accordance with Section 10A(2)d(i) of the Local Government Act as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and because consideration of the matter in open Council would on balance be contrary to the public interest as it would affect Council's ability to obtain value for money services for the Central Coast community.*

With the IPART Final Determination accepting the prudence of the project, a Negotiation Plan consisting of a three-phase, 14-step process incorporating three hold points was approved by the CEO.

### **Current Status**

Implementation of the Negotiation Plan is underway with the preferred tenderer from the Stage 2 – Request for Tender process. The preferred tenderer has re-priced the tender that was received in September 2021 as at November 2022 and has collaborated with Council to

execute an Early Contractor Involvement (ECI) agreement to optimise delivery efficiency in accordance with challenges posed in Council's 2022/2026 IPART determination.

Based on the current revised tender pricing and assessment of escalation and risk modelling, the total forecast project budget has substantially increased since the Gate 2 business case forecast budget in February 2021 approved by the CEO, as detailed in the Confidential Report D15488753.

**Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20    That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council, noting that details associated with the project budgeted costs are included in Confidential Report D15488753 as the public availability of this information could adversely affect Council's ability to obtain value for money services as part of a negotiation process.

The project budget was approved in the Gate 2 business case by Council's CEO in February 2021.

Following tender evaluation, the project estimate was revised in line with an adjusted contract value and a reassessment of the quantitative contingency risk analysis. The estimate excluded any costs associated with delays to award.

At the time, the raised tender prices were believed to be a result of a combination of market pressures at the time of tender, including:

- COVID-19 impacts leading to uncertainty and market volatility;
- Supply chain constraints including shipping capacity and storage constraints, demands above production capacity and underinvestment leading to supply shortages;
- Increased construction demands leading to resource pressures and increased costs; and
- Commodity price fluctuations due to increased costs of raw materials, supply, and demand issues.

Following project delays associated with the funding shortfall, the preferred tenderer submitted a reprice of the tender in November 2022, fourteen months after the initial tender submission. The tender reprice is 25% above the original tender price. The increase is understood to be a result of:

- Exchange rate fluctuation
- Escalation in materials, equipment, delivery, and labour costs
- High level of activity in the market at time of repricing leading to non-competitive pricing
- Uncertainty in contract award and construction timeframe

The current total project budget has increased and includes future escalation and contingencies. Approval for the increased project budget will be sought from the CEO following the ECI phase in early 2023. The ECI is part of the Negotiation Plan and is intended to address the efficiency challenges posed in the 2022/2026 IPART determination and provide an opportunity to mitigate risks, optimise delivery and identify project savings.

In parallel with the ECI phase, Council will need to secure a pre-approval for a loan for additional funding for the project which will assure our suppliers that a contract will be able to be awarded, enabling confidence and the ability to negotiate more cost-effective prices from the market.

Project financing also includes \$6.854 million under the Safe and Secure Water Program. This is capped regardless of the value of the project and is on pause until funding is secured.

### **Link to Community Strategic Plan**

Theme 4: Responsible

### **Choose Focus Area**

R-H4: Plan for adequate and sustainable infrastructure to meet future demand for transport, energy, telecommunications and a secure supply of drinking water.

### **Risk Management**

Ahead of contract award, Council has a financial risk associated with the negotiation process. To mitigate these risks, a specialist Quantity Surveyor/Risk Advisor has been engaged to review the pricing submissions and assess against the expectation from market intelligence associated with other projects.

The proposed contract is assessed as 'high risk' with mitigation measures identified and incorporated into the contract conditions and delivery plan. The ECI phase includes further site investigations and other tasks aimed at mitigating delivery risks and reducing contingency allowances.

The key delivery risks relate to the operational impacts and interruptions to shutdowns, price escalation and availability of resources, design approval delays and technical performance of the solution. The contingency is based on a quantitative cost and schedule risk analysis of the

top 20 contract risks. A project team of capable resources with the ongoing support of expert consultants has been assembled to mitigate these risks during the delivery phase.

Risk of delaying the project is also assessed as 'high risk' primarily due to continued loss of yield during algal events and cost to replace lost yield, inadequate organisational performance should there be a failure of Somersby WTP to achieve production during an algae event in Mardi Dam, resource needs and WHS risks of managing disinfection in the network and water quality risks to customers.

### **Options**

1. That Council secure sufficient funding to allow the project to proceed and delegate authority to the CEO to enter a future DD&C contract to deliver the Mardi Water Treatment Plant Upgrade after successful implementation of the Negotiation Plan.  
**This is the recommended option.**
2. That Council significantly reduce the scope of the project (beyond previous value engineering already undertaken) to meet the current approved budget and available funds. Not Recommended as the project objectives will not be met and organisational performance risk will remain above the acceptable risk appetite of medium. The proposed infrastructure cannot be scaled down effectively without compromising the future performance of the plant.
3. That Council postpone or cancel the project due to the shortfall in funding. Not Recommended as the need for the project to proceed is critical to Central Coast's water quality and supply and is included in Council's 2022/2026 IPART determination. Escalation is forecast to continue and therefore further delays are only expected to further increase the cost of the project.

### **Critical Dates or Timeframes**

A number of delays to the project have been experienced including emerging risks in 2019 impacting the design criteria and process solution in 2019/20, Council's financial crisis in 2020/21 and funding shortfall due to tender price escalation in 2021/22.

With inclusion of the project in the 2022/26 IPART Determination and further risk assessment, the project remains critical to manage the risk to Central Coast's water supply to customers in accordance with Council's Enterprise Risk Management Framework.

Engagement with the preferred tenderer from the 2021 Stage 2 - Request for Tender stage commenced in October 2022, with a reprice of the tender submitted in November 2022. In order to continue with this Negotiation Plan, the contractor requires assurances that Council has the funding required to enter into a contract for this project. A Hold Point within the Negotiation Plan is scheduled for early March 2023 at which time funding will need to be secure in order to proceed to formal negotiations if appropriate.

## **2.13      Mardi Water Treatment Plant Upgrade (contd)**

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Any delays are expected to result in additional escalation over and above the current forecast budget which incorporates the November 2022 repricing.

Further, Infrastructure NSW, administrators of the Safe and Secure Water Program funding which the project attracts, have advised that grant payments will cease until full project funding is secured.

### **Attachments**

<b>1</b>	Confidential Attachment - Mardi Water Treatment Plant Upgrade -	Provided Under Separate Cover	D15505312
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