



Central Coast Council  
Supplementary Business Paper  
Ordinary Council Meeting  
**22 August 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 Central Coast Council Chambers,  
2 Hely Street, Wyong  
on Tuesday 22 August 2023 at 6.30pm,  
for the transaction of the business listed below:**

**The Public Forum will commence at 6.00pm, 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)

## **2 REPORTS**

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David Farmer  
**Chief Executive Officer**

## **Supplementary Agenda Version History**

<b>Version</b>	<b>Date published</b>	<b>Details</b>
1	21/08/2023 (this version)	Amended report for item 2.7 to include a webpage link to each policy document, also available on Central Coast Council website. Inclusion of report for item 2.16 following Due Notice.

## **AMENDED REPORT**



**Item No:** 2.7  
**Title:** Revocation of Policies  
**Department:** Corporate Services

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22 August 2023 Ordinary Council Meeting

Reference: F2009/00055 - D15411022  
Author: Alysha Croussos, Senior Governance Officer, Governance  
Teresa Chadwick, Section Manager Governance  
Manager: Edward Hock, Unit Manager Governance, Risk and Legal  
Executive: Marissa Racomelara, Director Corporate Services

### **Recommendation**

***That Council revokes the following policies:***

- ***Matters in the Land and Environment Court Policy***
- ***Gosford City Nuclear Free Zone Policy***
- ***Environmental Management Policy***
- ***Green Corridors Policy***
- ***Administration Buildings Policy***
- ***Project Management Framework***
- ***Water and Sewer Developer Charges Pre-Existing Lots in Development Service Areas Policy***
- ***Water and Sewer Servicing Requirements for Community Title Developments Policy***
- ***Water Supply and Sewerage Development Charges Policy***
- ***Water Supply Catchment Area Development Policy***

***which are no longer relevant, redundant, have been superseded or the content is covered in legislation or another statutory instrument.***

### **Report purpose**

To seek Council's approval to revoke several policies of Council which are either no longer relevant, have been superseded, the content is covered in legislation or other statutory instruments, or evidence of previous revocation cannot be found in Council's corporate systems.

### **Executive Summary**

This report recommends the revocation of policies which are redundant. This ensures Council is not held to account for a policy that is outdated or conflicts with current legislation.

## Background

On 7 March 2023, Council's Executive Leadership Team adopted the Policy Documents Framework which outlines the process for managing Council's Policies, Protocols, Guidelines, Procedures and new document templates. Staff have been reviewing all policies of Council with the aim to have all policies revoked and/or consolidated as required and adopted by Council before June 2024.

## Report

This report recommends the revocation of policies that are no longer serving Council or the community. It ensures that Council is not held to a policy which is outdated or conflicts with current legislation.

A summarised list of reasons for the revocation of these policies includes:

- The policy was not revoked at the time of the amalgamation of the former Wyong and Gosford Councils in 2016;
- The policy was not revoked when the content changed to a procedure or other internal document;
- The policy contains obsolete or outdated information;
- The content of the policy is duplicated in other policies, procedures, guidelines or plans; and
- The content of the policy is already covered in legislation, regulations or codes.

The following policies are recommended for revocation, with the reasons for revocation provided by the relevant policy owner or section:

#	Policy Title	Directorate	Business Unit	Reason for Revocation
1	<a href="#">Matters in the Land and Environment Court Policy</a>	Corporate Services	Legal	This policy is no longer required because it is covered by delegations issued to staff and the need to mediate. The Land and Environment Court ( <b>LEC</b> ) publishes practice notes that are publicly available free of charge and detail the process for matters in the LEC. These practice notes are subject to change from time to time as dictated by the LEC.

#	Policy Title	Directorate	Business Unit	Reason for Revocation
2	<a href="#">Gosford City Nuclear Free Zone Policy</a>	Environment and Planning	Environmental Compliance Services	Council has reviewed the applicability/usefulness of maintaining a Nuclear Free Zone Policy. Given that Council has no role in the regulation of radiopharmaceuticals, radionucleotides, or radioisotopes, this Policy is not required as it is more aspirational/advocacy based in nature and therefore falls outside of Council's new Policy Framework. Council can advocate in regards to this matter in other ways.
3	<a href="#">Environmental Management Policy</a>	Environment and Planning	Environmental Compliance Systems	The content of the policy is already captured and therefore duplicated within Council's Environmental Policy which will be reviewed in 2024.
4	<a href="#">Green Corridors Policy</a>	Environment and Planning	Strategic Planning	The provisions within the Policy have been replaced by Councils Biodiversity Strategy, Greener Places Strategy and the Green Grid Plan. These Strategies and plans cover the entirety of the LGA whereas the policy proposed to be revoked only covers the area of former Wyong Shire Council.
5	<a href="#">Administration Buildings Policy</a>	Infrastructure Services	Facilities and Asset Management	The policy, as written, is purely operational in nature and therefore does not set a policy direction.
6	<a href="#">Project Management Framework</a>	Infrastructure Services	Procurement and Project Management	Former Gosford City Council policy, content is now covered by Council's Internal Protocols and Procedures.



#	Policy Title	Directorate	Business Unit	Reason for Revocation
7	<a href="#">Water and Sewer - Developer Charges Pre-Existing Lots in Development Service Areas Policy</a>	Water and Sewer	Planning and Delivery	Former Gosford City Council policy, content is now included in the Central Coast Council Water Supply and Sewerage Development Servicing Plan 2019.
8	<a href="#">Water and Sewer Servicing Requirements for Community Title Developments Policy</a>	Water and Sewer	Planning and Delivery	Former Gosford City Council policy, content is now incorporated in the Central Coast Council WSAA Water Supply Code Supplement for Water Mains and Sewerage Mains.
9	<a href="#">Water Supply and Sewerage Development Charges Policy</a>	Water and Sewer	Planning and Delivery	Former Gosford City Council policy, content is now covered in the Central Coast Council Water Supply and Sewerage Development Servicing Plan 2019.
10	<a href="#">Water Supply Catchment Area Development Policy</a>	Water and Sewer	Planning and Delivery	Former Gosford City Council policy, content now covered by the Central Coast Council Development Control Plan 2022.

### Consultation

Consultation has been undertaken with the staff responsible for each of these policies and the relevant Unit Managers and Directors for endorsement to revoke their respective policy.

### 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.

### **Risk Management**

As per section 163 of the *Local Government Act 1993* (NSW), a local policy which is inconsistent with the Act or the regulations, is void.

By not revoking the policies, it could create a risk whereby the information in the policies is not current, correct or applicable, and should they be relied upon by Council or third parties, it could potentially expose Council.

### **Options**

- 1 Council endorses the recommendation to revoke the policies in the list above.  
**(This is the recommended option)**
- 2 Council does not revoke the policies.

### **Attachments**

*Nil.*



**Item No:** 2.16  
**Title:** Metro Cinemas Lake Haven - Amendment to lease  
**Department:** Environment and Planning

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Reference: F2014/01791-003 - D15814875  
Author: Chris Barrett, Commercial Property Manager Commercial Property  
Manager: Jamie Barclay, Unit Manager Economic Development and Property  
Executive: Alice Howe, Director Environment and Planning

## Recommendation

- 1 That Council authorise the Chief Executive Officer to amend the lease for the Lake Haven cinema complex so that the lessee (Metro Cinemas Lakehaven P/L) can purchase and install recliner seating on terms that, in the opinion of the Chief Executive Officer, are commercially prudent and reasonable.**
- 2 That Council resolve, pursuant to Section 11(3) of the Local Government Act 1993, that Confidential Attachment 1 remain confidential under Section 10A (2) (d) of the Local Government Act 1993 because it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of a person who supplied it, or (ii) confer a commercial advantage on a competitor of the Council.**

## Report purpose

To seek Council approval to amend the lease for the Lake Haven cinema complex to facilitate an agreement between Council (as lessor) and Metro Cinemas Lakehaven Pty Ltd (as lessee) to provide for upgraded seating in the cinema complex in response to changing consumer preferences.

## Executive Summary

The cinema complex at Lake Haven was built by Council to serve the needs of the northern Central Coast and opened in early 2014. However, its operations have been significantly impacted by changing viewing preferences in the cinema sector, including increasing competition from digital entertainment services and changes in consumer tastes.

The lessor of the cinema complex has approached Council to replace the existing theatre-style seating with recliner seats in order to increase the level of patronage and, as a consequence, to increase the level of revenue for the cinema operator.

After protracted negotiations, an arrangement has been arrived at between Council and Metro Cinemas. This will allow for the installation of recliner seats at Metro Cinema's

expense. The first tranche of installation is planned to occur in the next four months, so that cinema patrons can enjoy the upgraded seating over the next summer holidays.

## Background

Council has previously made adjustments to lease arrangements for the cinema complex at Lake Haven, primarily because of the protracted impacts of COVID on the hospitality and entertainment sector but also because of special challenges facing the cinema industry.

From January 2019 to December 2021, 81 cinema complexes closed in Australia representing 15% of total cinema complexes. Major Australian cinema groups are rationalising their operations including sale of some assets and closure of non-performing sites. Until very recently, box office results continued to significantly underperform:

- 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.

More recently, there has been some evidence of a return to cinema-based movie viewing, particular because of the release of highly successful blockbusters like "Barbie" and "Oppenheimer", but also because of an increasing number of suppliers in the streaming sector, leading to progressive reductions in streaming fees (to stay competitive) which has led to reductions in new offering aimed directly at the streaming sector.

At least in part, the return to traditional cinema-based viewing has been encouraged by upgrades to cinema experiences, particular the introduction of higher-value recliner seating and associated hospitality upgrades. The two major cinema complexes operated by major national operators on the Central Coast (at Tuggerah and Erina) are amongst the venues that have introduced a proportion of recliner seating.

## Current Status

Council staff have had a series of meetings and correspondence with the operator of Metro Cinemas Lake Haven about both the prospects of the cinema complex over the short and medium term.

At the beginning of this calendar year, it was agreed that a purely turnover based rental should continue to be made available for the lease of the cinema complex as an interim measure. Accordingly, at its meeting held 24 January 2023, Council resolved the following:

7/23      *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 15 per cent of monthly turnover.*

## Report

At the same time as Metro Cinemas approached Council to seek an interim continuation of rental concessions, Metro Cinemas also requested that Council replace the existing theatre-style seating with recliner seating.

This was because, in the view of Metro Cinemas, the existing cinema-style seating is obsolete. According to Metro Cinemas, moviegoer seating preferences have changed, and moviegoers now have a preference for recliner seating. In the view of Metro Cinemas, without a change in customer seating, a decline in patronage will continue.

Under the terms of most commercial leases, decisions about replacement of fixtures such as customer seating are a matter for the lessee, as part of the general responsibility for fit-out. In the case of the Lake Haven cinema complex, however, responsibility for fit-out is shared between the lessor (Council) and the lessee (Metro Cinemas).

This is a consequence of the specific circumstances in which the cinema complex was developed and leased out a decade ago. Council is responsible for replacement of elements such as seating and carpets, whereas Metro Cinemas is responsible for elements such as movie projection equipment.

The specific obligations of each party are dictated by the lease terms, and the lease terms may be open to a range of interpretations. There are commercial and logistical implications of how and when the existing seating is replaced, including responsibility for supply and installation, and adjustments to ongoing cinema rental charges.

Resolution of the requested from Metro Cinemas has involved significant negotiations to find an equitable commercial and logistical solution. The prospective benefits for the Central Coast community, and especially for residents of the northern part of our area, have also had to be considered.

Earlier this month, agreement was reached, subject to the approval of Council.

Under the terms of the agreement to be ratified by Council:

- Existing conventional seating in the three largest cinemas will be replaced with high-grade recliner seating by Metro Cinemas

- Subject to the availability of recliner seats and of suitable installation expertise, the recliner seats will be installed prior to Christmas 2023 (i.e. within the next four months)
- There will be a downward adjustment to the rental paid by Metro Cinemas for the three years from the date of first installation
- The maximum cost of seat replacement that is recoverable from Council by way of rent adjustments has been determined in advance
- At its discretion, Metro Cinemas may replace the existing seating in the other five cinemas with recliner seating in a like manner, starting in late 2026.
- The lifespan for the recliner seats will be agreed by the parties in advance.
- A similar approach may be applied to replace the recliner seats, as and when that becomes necessary.

This arrangement has a number of benefits for all parties:

- Resident of the northern Central Coast gain early access to upgraded cinema seating.
- Based on advice from Metro Cinemas, the level of patronage and the level of revenue will substantially increase compared to the absence of recliner seating.
- Responsibility for the logistical arrangements involved in procuring and installing recliner seating will be taken by the lessee, relieving Council of the obligation to directly managed the seating project on a day-to-day basis.
- The net financial return to Council will be better over the no-recliner-seating scenario over the next three years, with Council relieved of the substantial direct cost of replacing seats in three cinemas with either new conventional seats or with recliner seats.
- Council will not need to meet the cost of replacing like for like seating in the other five cinemas for at least three years, with Metro Cinemas specifying late 2026 as the date by which replacement with recliners should occur.

### **Consultation**

This is primarily a commercial matter and consultations have been primarily between the parties and their respective commercial and legal advisers.

Council staff have had an ongoing series of consultations with the operator regarding the overall financial viability of the cinema complex and the specific issues with the prospective replacement of the existing cinema seating, whether this is with conventional seating or with recliner seating. Further discussions will be held with the operator in relation to its proposed strategy to improve financial viability.

Council has consulted with external experts in property strategic advice, namely Colliers Strategic Advisor. They have conducted commercially sensitive consultations with a number of other cinema operators and with large-format entertainment operators both about the cinema industry and about retail and hospitality prospects for the Lake Haven area.

### **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 proposed reduction in rent from Metro Cinemas (to take account of the amortisation of the cost of the seating installation over three years) will reduce the prospective revenue to Council for the final five months of the current financial year.

Offsetting this, the level of revenue receivable by Metro Cinemas is likely to be substantially higher, meaning that the capacity to pay will be improved and also that the prospects of additional rent above the turnover threshold are likely to be improved.

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 achieved in other properties to some extent.

On the other hand, the cost impact of replacement seating if directly met by Council would be much more significant and much more immediate in its adverse impact, and is currently unbudgeted.

Over the next three years, there is likely to be a significant net positive financial impact on Council, compared to costs that would otherwise be incurred.

### **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

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 resolve to vary the lease for the Lake Haven cinema complex to provide for upgraded seating in the cinema complex on the basis that has been agreed in principle with Metro Cinemas (the lessee/operator). The expected result will be an increase in cinema patronage, increased viability of the cinema operation and a significantly improved financial outcome for Council in the next two financial years and also over the next 10 years. **This is the recommended option.**
- 2 That Council resolve to offer a rental concession to Metro Cinemas Lake Haven lease for a further period beyond January 2024 (for example, via a turnover rent on a comparable basis to that which applies until January 2024). This is not recommended. The lessor/operator has indicated that it is not inclined to keep operating on the basis of year-to-year rental concessions. Also, the operator has indicated that (in the absence of a seating upgrade) an ongoing decline in patronage will occur. Also, this option is likely to achieve a significantly inferior financial outcome for Council in the next two financial years and also over the next 10 years. Not recommended.
- 3 That Council resolve to not vary the lease arrangements for the Lake Haven cinema complex for a further period or to install upgraded seating in place of the current seating. This is not recommended as (based on advice received) it will adversely affect the financial viability of the operator business and it is also likely to lead to immediate and costly legal action. Not recommended.

## Critical Dates or Timeframes

The first tranche replacement is proposed to occur before the next summer holiday season (i.e. by December this year).

For this to eventuate, early agreement must be reached with the operator/lessor.

Accordingly, authority for the CEO to finalise and execute the necessary lease amendments on a timely basis is considered essential.

**Attachments**

- |          |  |                               |           |
|----------|--|-------------------------------|-----------|
| <b>1</b> | CONFIDENTIAL ATTACHMENT - Lake Haven Cinema Complex - Proposed seating upgrade - | Provided Under Separate Cover | D15817477 |
|----------|--|-------------------------------|-----------|