



Central Coast Council
Business Paper
Extraordinary Council Meeting
06 September 2024





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.



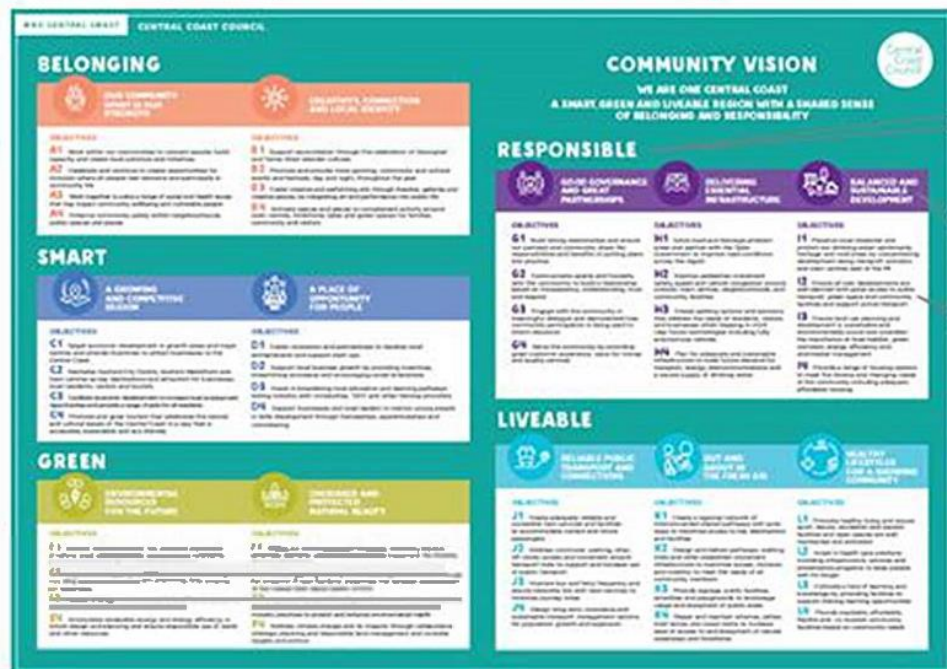
Good governance and great partnerships

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 Extraordinary Council Meeting
of Central Coast Council
will be held in the Central Coast Council Chambers,
2 Hely Street, Wyong
on Friday 6 September 2024 at 3:00pm,
for the transaction of the business listed below:**

Further information and details on registration process:

www.centralcoast.nsw.gov.au/council/meetings-and-minutes/council-meetings

1 Procedural Items

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Marissa Racomelara
Acting Chief Executive Officer

Item No: 1.1
Title: Disclosures of Interest
Department: Corporate Services

6 September 2024 Extraordinary Council Meeting

Reference: F2024/00015 - D16385706



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: 2.1
Title: Notice of Intention to Issue a Performance Improvement Order
Department: Administrator



6 September 2024 Extraordinary Council Meeting

Reference: F2024/00015 - D16384330

Author: Rik Hart, Administrator

During my tenure as Central Coast Council's Administrator, I've worked closely with the other Administrators from across NSW to drive improvement at the Central Coast Council. Recently, the Office of Local Government NSW invited the NSW local government Administrators to discuss the possibility of a provision of a mechanism to provide clear expectations for the future governance and operation of the Council.

On 2 September 2024, I received a formal letter from the Minister for Local Government, the Hon. Ron Hoenig MP, giving notice of his intention to issue a Performance Improvement Order (PIO) to the Central Coast Council, under Section 438A of the *Local Government Act 1993* (the Act). (Refer Attachment 1)

The Minister's correspondence notes that Council is now well placed to deliver services and infrastructure to the community, now and into the future. The proposed PIO sets clear expectations for the future governance and operation of the Council and identifies actions to be taken to ensure that Council's sound financial position is maintained during the transition to an elected Council. (Refer Attachment 2)

The Minister's reasons for the proposed order are summarised below:

- Council needs to keep its budget discipline and maintain its financial sustainability,
- Council needs to ensure it maintains access to appropriate staff expertise and engagement to provide secure advice to the councillors on financial, governance and regulatory matters,
- Council should only be changing strategic priorities with clear understanding of costs and have supporting strategies to ensure that Council doesn't fund initiatives through either debt or inappropriate access of restricted funds, and
- Council needs to continue to deliver and implement the changes required as part of the McCulloch Inquiry.

I have considered the proposed PIO details and concur with the Minister's reasons for his decision to propose a Performance Improvement Order. From my experience as interim CEO and Administrator of Central Coast Council, I believe that the community should have the confidence that its governing body is operating within a framework that is compliant with regulation and supports prudent and responsible financial management and decision making. It is my firm opinion that the proposed PIO will support the incoming councillors in

providing responsible leadership within parameters that facilitate good governance and financial sustainability of Council.




The Minister has invited Council to make a submission in respect of the proposed PIO which must be provided no later than seven days from the date the notice was officially served, that being on 3 September 2024. The Minister will then consider the submission from Council before deciding whether to issue the order.

The Council's submission to the Minister for Local Government, The Hon. Ron Hoenig MP outlines the reasons for agreeing to the Performance Improvement Order (PIO) proposed to be issued to Central Coast Council. (Refer Attachment 3)

I formally move that Council:

- 1 Notes the correspondence from the Minister for Local Government, The Hon. Ron Hoenig MP, dated 2 September 2024.***
- 2 Considers and tables the proposed Performance Improvement Order to the Central Coast Council, under Section 438A of the Local Government Act 1993 from the Minister for Local Government, The Hon. Ron Hoenig MP, dated 2 September 2024.***
- 3 Provides the attached submission to the Minister for Local Government, The Hon. Ron Hoenig MP by Monday 9 September.***

Attachments

- | | | |
|--|---|-----------|
| 1  | Correspondence from the Minister for Local Government | D16386865 |
| 2  | Minister Proposed PIO - Central Coast Council | D16386866 |
| 3  | Council Submission to Minister for Local Government | D16386863 |

The Hon. Ron Hoenig MP

Leader of the House in the Legislative Assembly
Vice-President of the Executive Council
Minister for Local Government



Our Ref: A908733

Mr Rik Hart
Administrator
Central Coast Council
PO Box 20
Wyang NSW 2259

Via email: ask@centralcoast.nsw.gov.au and Rik.Hart@centralcoast.nsw.gov.au

**NOTICE OF INTENTION TO ISSUE A PERFORMANCE IMPROVEMENT ORDER TO THE
CENTRAL COAST COUNCIL UNDER SECTION 438A OF THE LOCAL GOVERNMENT ACT
1993**

Dear Mr Hart,

On behalf of the NSW Government, I am writing to thank you for your work over the last nearly 4 years as Administrator of Central Coast Council (Council).

Your leadership and commitment have been instrumental in achieving significant progress in establishing the new council. Your work leaves a positive legacy which will ensure that Council is now well placed to deliver the services and infrastructure that local communities need and deserve, both now and into the future.

I want to ensure this legacy is not lost during the transition to an elected Council for Central Coast. It is for this reason that I am proposing to use my power as Minister for Local Government to create clear expectations for the future governance and operation of the Council.

In accordance with section 438C of the *Local Government Act 1993* (the Act) this letter provides notice of my intention to issue a Performance Improvement Order (PIO) under section 438A of the Act, for actions to be taken, as identified in the attached proposed Performance Improvement Order, to improve the performance of Council.

I have considered the mandatory criteria under the Act and its accompanying regulations and I have formed the preliminary view that action must be taken to ensure there is no loss to the improvement of Council's performance. The reasons for my decision to propose a PIO are:

1. Council needs to keep its budget discipline to maintain its financial sustainability, particularly given its program of asset renewal in its water and sewer business, key environmental management projects and the ongoing management of operational costs,

2. Council needs to ensure it maintains access to appropriate staff expertise and engagement to provide secure advice to the councillors on financial, governance and regulatory matters,
3. Council should only be changing strategic priorities with clear understanding of costs and have supporting strategies to ensure Council doesn't fund initiatives through either debt or inappropriate access of restricted funds, and
4. Council needs to continue to deliver and implement the changes required as part of the recommendations of the McCulloch Inquiry.

The attached proposed Performance Improvement Order is intended to form part of this notice. As required by section 438C(2)(a) of the Act, the terms of the proposed PIO and period for compliance are specified in the proposed order. As required by section 438A(3)(b) of the Act, the actions required to be taken to ensure the continued improvement of the performance of Council are specified in the proposed PIO.

I invite Council to make submissions to me in respect of the proposed PIO. Should Council choose to make submissions, they must be provided to me no later than 7 days from the date upon which this notice is served on it.

I will consider all submissions made to me by Council during this period before deciding whether to issue a PIO.

It is suggested that Council tables this notice at an open council meeting and provides its submissions by way of resolution.

I take this action not as a critique of your work being Council's Administrator, but to ensure the process of improvement you have created is continued and that the newly established Council does not lose ground.

I trust you have valued the opportunity as Administrator and that it has brought you a level of personal and professional satisfaction. The NSW Government is committed to working with new councils as they move to an elected governing body.

Once again, I would like to thank you for your work on behalf of the NSW Government and the broader NSW community.

Signed on this 2nd day of September 2024



The Hon. Ron Hoenig MP
Leader of the House in the Legislative Assembly
Vice-President of the Executive Council
Minister for Local Government

CC: General Manager, Central Coast Council

Local Government Act 1993

Section 438A

Proposed Performance Improvement Order

I, the Honourable Ron Hoenig MP, Minister for Local Government, do, by this order under section 438A of the *Local Government Act 1993* (the Act), require the Central Coast Council (Council) for the reasons specified in Schedule 1 below, to undertake the actions described in Schedule 2 below within the period specified.

This Order takes effect upon service on Council.

Dated this 2nd day of September 2024



The Hon. Ron Hoenig, MP.
Minister for Local Government

Schedule 1

1.1 Reasons for Order – section 438A(3)(a) of the Act

1. Council needs to keep its budget discipline to maintain its financial sustainability, particularly given its program of asset renewal in its water and sewer business, key environmental management projects, and the ongoing management of operational costs,
2. Council needs to ensure it maintains access to appropriate staff expertise and engagement to provide secure advice to the councillors on financial, governance and regulatory matters,
3. Council should only be changing strategic priorities with clear understanding of costs and have supporting strategies to ensure Council doesn't fund initiatives through either debt or inappropriate access of restricted funds, and
4. Council needs to continue to deliver and implement the changes required as part of the recommendations of the McCulloch Inquiry.

Schedule 2

2.1 Action required to improve performance – section 438A(3)(b) of the Act

In accordance with section 438A of the *Local Government Act 1993*, this order requires that:

2.1.1 Staffing

1. Council can only terminate its general manager's contract of employment with the concurrence of the Deputy Secretary of the Office of Local Government (OLG),
2. Council can only change its delegations with the concurrence of the Deputy Secretary OLG,
3. Council can only restructure the organisation with the concurrence of the Deputy Secretary OLG,

2.1.2 Financial oversight and discipline

4. Council must implement any ongoing recommendations from the Public Inquiry. The recommendations made in the report on the review of Council's governance practices under the oversight of the Audit, Risk and Improvement Committee (ARIC),
5. Council must engage its ARIC on "any significant changes" to council's priorities direction and take into account any recommendations,
6. Council must implement the adopted budget and operations plan for 2024/25. Any significant changes must be agreed by the Deputy Secretary OLG,
7. Council must publicly document the impact of all Council's resolutions on Council's Long Term Financial Plan (LTFP),
8. Council must not make financial decisions that impact adversely on Council's financial metrics as measured through the Office of Local Government financial indicators,
9. Council is to maintain an appropriate level of unrestricted cash and expend externally restricted funds only for the purpose for which they are set aside,
10. Council must take necessary steps to ensure timely and accurate financial monitoring and reporting including at a minimum the Quarterly Business Report, which is to be submitted to OLG for review and made clearly available to the community on Council's website,

2.1.3 Governance

11. Council is to ensure that best practice governance standards are implemented and maintained. This is to be achieved by Council providing resources to the General Manager to ensure that:
 - a. governance standards are maintained,
 - b. the operational plan can be delivered,

- c. infrastructure maintenance meets the operational plan and LTFP requirements, and
 - d. there is consistent improvement in financial ratios.
- 12. Council can only amend its councillor/staff interaction policy with the concurrence of the Deputy Secretary OLG, noting the general manager may update the staff list that can be contacted by councillors,
- 13. Council must ensure that the general manager develops a councillor request system to manage email requests from councillors. The system should ensure that communications are respectful, the number of requests are reasonable and include provisions permitting the general manager to impose limitations where disrespectful or excessive use of the system occurs,

2.1.4 Council meeting practices

- 14. Council must ensure its code of meeting practice complies with the *Model Code of Meeting Practice for Local Councils in NSW* (the Model Meeting Code),
- 15. Council must ensure councillor briefings are open to the public unless the general manager is satisfied that grounds exist under the Act to exclude members of the public from a briefing to consider information that should not be made public, and
- 16. Council must conduct its meetings in accordance with its code of meeting practice and must not make decisions at councillor briefings and workshops.

2.2 Period for compliance with Order

- 1. The Council is to comply with this order for 12 months from the date of issue.

2.3 Reporting obligations

- 1. The Council is to provide a quarterly compliance report to the Deputy Secretary OLG. As part of the first report Council is to provide to the Deputy Secretary OLG:
 - a) the Operational Plan and updated LTFP,
 - b) the adopted code of meeting practice, and
 - c) the councillor/staff interaction policy
- 2. Each quarterly report is also to include:
 - a) the quarterly business reporting statement,
 - b) use of the councillor request system, and
 - c) any determinations of 'acts of disorder' made at a council meeting

Friday 6 September 2024



The Hon. Ron Hoenig MP
Leaders of the House in the legislative Assembly
Vice-President of the Executive Council
52 Martin Place
Sydney NSW 2000

RE: Notice of Intention to issue a Performance Improvement Order

Dear Minister Hoenig

Central Coast Council refers to your correspondence dated 2 September 2024, regarding your notice of intention to issue a Performance Improvement Order (PIO) to Central Coast Council, under Section 438A of the *Local Government Act 1993*.

As you noted, Central Coast Council is now in a sound and stable position to continue delivering services and infrastructure to the community over the long term. While financial sustainability is a challenge for many councils, to be in this position after experiencing the worst financial crisis in Australian local government history is a remarkable achievement for this Council and our community.

Restoring Council's financial settings whilst maintaining service levels to our community has required the implementation of a Financial Recovery Plan which included rate increases, asset sales, significant reduction in resourcing and operating budgets, and a cap on capital projects.

Following restoration of Council's financial position, further work has continued to rectify root causes leading to the crisis. This included realignment of services and resourcing, implementation of financial discipline through a governed budget process and ongoing monthly financial reporting, and a capital works program focused on renewing existing infrastructure and considering the availability of cash.

Council's success in turning its financial position around is evidenced by an operating surplus being achieved for three consecutive years, whilst holding an adequate level of unrestricted cash, reducing debt and renewing assets. In November 2023, Council also adopted a Financial Sustainability Strategy to support its Long-Term Financial Plan, which is being updated annually as part of the annual Operational Plan process.

At the same time Council has also continued to strengthen its governance framework and has been successful in securing legislative changes to manage its Water and Sewer Business and the associated restricted funds more effectively.

Considering this background, Council welcomes your intention to issue a PIO, setting clear expectations for the incoming Council. We concur with your view that the PIO will serve the purpose of ensuring that the good work undertaken over the last 4 years is not lost in the transition to an elected Council. It will be very important that incoming councillors are able to represent their



constituents effectively and can do so without adversely impacting the position of the Council now, or into the future.

Actions required under 2.1.1 of the PIO regarding staffing will ensure that Council's effective operation is not unnecessarily disturbed through changes at the executive level and delegations. The requirement for concurrence of the Office of Local Government will ensure that changes are only made if they contribute positively to the operation of the organisation. This will maintain stability at the executive level and will foster constructive working relationships to be developed between councillors and Council's leadership team.

Actions required under 2.1.2 of the PIO regarding financial oversight and discipline are very pertinent for Central Coast Council. The requirement to implement ongoing recommendations from the Public Inquiry, and the involvement of Council's Audit, Risk and Improvement Committee (ARIC) in governance oversight and changes to Council's priorities is necessary. This approach will ensure that the incoming Council remains focused on delivering commitments reflected in the Community Strategic Plan.

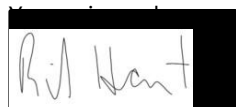
The actions regarding ongoing consideration of the relevant financial benchmarks, and the requirement to consider the impact of decisions on Council's long term financial sustainability, will mitigate the risk of the incoming Council making short term financial decisions that impact on councils' ability to continue to deliver services and infrastructure to future generations. This is a particular challenge for most councillors as the focus tends to be on responding to the demands of their constituents during their term.

The requirement for regular and transparent financial reporting will ensure that Council remains accountable to the community regarding its financial position and any associated risks.

Governance requirements under 2.1.3 will further support delivery of the of actions in the adopted Operational Plan and the maintenance of a sound financial position. The discipline regarding staff interaction and councillor requests will ensure that resources can remain focused on delivering adopted plans and not be unduly influenced by unreasonable councillor demands.

Requirements regarding Council meetings and briefings under 2.1.4 will promote orderly and transparent decision making.

Once again, thank you for your ongoing support in ensuring that Central Coast Council remains financially sound, now and for future generations.



Rik Hart
Central Coast Council Administrator

Internal Reference: [CM #D16384369]