

Ordinary Council

Business Paper

date of meeting: Thursday 21 March 2024

location: Wauchope Country Club
24 King Street, Wauchope

time: 9:00am Public Forum
10:00am Ordinary Council Meeting

Community Vision	A sustainable high quality of life for all
Community Mission	Building the future together People Place Health Education Technology
Council's Corporate Values	<ul style="list-style-type: none"> ★ Sustainability ★ Excellence in Service Delivery ★ Consultation and Communication ★ Openness and Accountability ★ Community Advocacy
Community Themes	<ul style="list-style-type: none"> ★ Leadership and Governance ★ Your Community Life ★ Your Business and Industry ★ Your Natural and Built Environment

Under Clause 3.23 Statement of ethical Obligations in the Code of Meeting Practice as adopted by Council at the Extraordinary Meeting of Council held on 23 June 2022 (Item 6.04), business papers for all ordinary and extraordinary meetings of the council and committees of the council must contain a statement reminding councillors of their oath or affirmation of office made under section 233A of the Act and their obligations under the council's code of conduct to disclose and appropriately manage conflicts of interest.

Councillors are reminded of the oath or affirmation which was taken by each of them on 10 January 2022.

Oath Of Councillor

I swear that I will undertake the duties of the office of Councillor in the best interests of the people of Port Macquarie-Hastings local government area and the Port Macquarie-Hastings Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Affirmation Of Councillor

I solemnly and sincerely declare and affirm that I will undertake the duties of the office of Councillor in the best interests of the people of Port Macquarie-Hastings local government area and the Port Macquarie-Hastings Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Councillors have the opportunity to declare any interests in items on the agenda and inform the Council and public if they will be leaving the Chambers during the debate and voting on the item.

Ordinary Council Meeting

Thursday 21 March 2024

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Item: 01**Subject: ACKNOWLEDGEMENT OF COUNTRY**

"I acknowledge that we are gathered on Birpai Land. I pay respect to the Birpai Elders both past and present. I also extend that respect to all other Aboriginal and Torres Strait Islander people present."

Item: 02**Subject: REMOTE ATTENDANCE AT MEETING**

RECOMMENDATION

That Council accede to the request of Councillors to attend the meeting by remote means.

Item: 03**Subject: LOCAL GOVERNMENT PRAYER**

A Minister from the Combined Churches of Port Macquarie will be invited to deliver the Local Government Prayer.

Item: 04**Subject: APOLOGIES**

RECOMMENDATION

That the apologies received be accepted.

Item: 05**Subject: CONFIRMATION OF PREVIOUS MINUTES**

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on 15 February 2024 be confirmed.

PRESENT

Members:

Mayor Peta Pinson
Councillor Lauren Edwards
Councillor Lisa Intemann
Councillor Nik Lipovac
Councillor Danielle Maltman
Councillor Adam Roberts
Councillor Rachel Sheppard
Councillor Josh Slade

Other Attendees:

Chief Executive Officer (Dr Clare Allen)
Director Business and Performance (Keith Hentschke)
Director Community, Planning and Environment (Melissa Watkins)
Director Community Infrastructure (Robert Fish) (Remotely attended)
Director Community Utilities (Jeffery Sharp)
Group Manager Governance (Michael Ferguson)
Governance Officer (Tania Ellis)

The meeting opened at 10.00am

01 ACKNOWLEDGEMENT OF COUNTRY

The Mayor opened the Meeting with an Acknowledgement of Country and welcomed all in attendance in the Chamber and viewing on line.

02 REMOTE ATTENDANCE AT MEETING

Nil

03 LOCAL GOVERNMENT PRAYER

Pastor David Pym from the Port Macquarie Baptist Church delivered the Local Government Prayer.

04 APOLOGIES

Nil.

05 CONFIRMATION OF MINUTES

RESOLVED: Lipovac/Slade

That the Minutes of the Ordinary Council Meeting held on 14 December 2023 be confirmed.

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

06 DISCLOSURES OF INTEREST

Councillor Maltman declared a Non-Pecuniary-Less than Significant interest in Item 13.05 Lake Cathie Natural Resource Management Monthly Update Report. The reason being that Councillor Maltman is a non-financial life member and former President of the community organisation Revive Lake Cathie Incorporated. Councillor Maltman intends to remain in the meeting, participate and vote in the matter as this perceived conflict will not influence her decision making in the matter.

07 MAYORAL MINUTES

07.01 CHIEF EXECUTIVE OFFICER'S PERFORMANCE REVIEW PANEL

MOTION

MOVED: Pinson

That Council:

1. Determine that the composition of the Chief Executive Officer's Performance Review Panel for the period ending 30 June 2024 to consist of the Mayor, one (1) Councillor nominated by Council and one (1) Councillor nominated by the Chief Executive Officer.
2. Note that Councillor Josh Slade is the Chief Executive Officer's nominated

-
- Councillor on the Chief Executive Officer's Performance Review Panel for the subject period.
3. Delegate to the Chief Executive Officer's Performance Review Panel the process of performance management, including discussions about performance, reporting and performance reviews for the period ending 30 June 2024.
 4. Appoint Councillor Lauren Edwards as the Councillor representative to the Chief Executive Officer's Performance Review Panel for the subject period.

AMENDMENT:

MOVED: Sheppard/Intemann

That Council:

1. Determine that the composition of the Chief Executive Officer's Performance Review Panel for the period ending 30 June 2024 to consist of the Mayor, one (1) Councillor nominated by Council and one (1) Councillor nominated by the Chief Executive Officer.
2. Note that Councillor Josh Slade is the Chief Executive Officer's nominated Councillor on the Chief Executive Officer's Performance Review Panel for the subject period.
3. Delegate to the Chief Executive Officer's Performance Review Panel the process of performance management, including discussions about performance, reporting and performance reviews for the period ending 30 June 2024.
4. Appoint Councillor Lauren Edwards as the Councillor representative to the Chief Executive Officer's Performance Review Panel for the subject period.
5. Determine to engage Local Government NSW as an external facilitator to facilitate the Chief Executive Officer's Performance Review process.

PROCEDURAL MOTION

RESOLVED: Roberts/Slade

THAT THE AMENDMENT BE PUT.

CARRIED: 7/1
FOR: Edwards, Lipovac, Maltman, Pinson, Roberts, Sheppard, and Slade
AGAINST: Intemann

THE AMENDMENT ON BEING PUT WAS LOST

FOR: Edwards, Intemann, Lipovac and Sheppard
AGAINST: Maltman, Pinson, Roberts and Slade
EQUAL: 4/4
CASTING VOTE: Against
LOST

THE MOTION AND ON BEING PUT WAS CARRIED

RESOLVED: Pinson

That Council:

- 1. Determine that the composition of the Chief Executive Officer's Performance Review Panel for the period ending 30 June 2024 to consist of the Mayor, one (1) Councillor nominated by Council and one (1) Councillor nominated by the Chief Executive Officer.**
- 2. Note that Councillor Josh Slade is the Chief Executive Officer's nominated Councillor on the Chief Executive Officer's Performance Review Panel for the subject period.**
- 3. Delegate to the Chief Executive Officer's Performance Review Panel the process of performance management, including discussions about performance, reporting and performance reviews for the period ending 30 June 2024.**
- 4. Appoint Councillor Lauren Edwards as the Councillor representative to the Chief Executive Officer's Performance Review Panel for the subject period.**

CARRIED: 6/2
FOR: Intemann, Lipovac, Maltman, Pinson, Roberts and Slade
AGAINST: Edwards and Sheppard

07.02 COST SHIFTING ONTO LOCAL GOVERNMENT

RESOLVED: Pinson

That Council:

- 1. Receive and note the findings of Local Government NSW's Cost Shifting report for the 2021-2022 financial year.**
- 2. Request the Chief Executive Officer to place a copy of the cost shifting report on Council's website so that our community can access it.**
- 3. Request the Chief Executive Officer write to the Premier of NSW, the NSW Treasurer and the NSW Minister for Local Government seeking that they urgently seek to address these costs through a combination of regulatory reform, budgetary provision and appropriate funding.**

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

07.03 MAYORAL MINUTE - INDEPENDENT STRATEGIC REVIEW ON THE INFRASTRUCTURE INVESTMENT PROGRAM - OXLEY HIGHWAY UPGRADE PROJECT AT WRIGHTS ROAD AND LAKE ROAD

RESOLVED: Pinson

That Council:

-
1. Note that the Chief Executive Officer has written to The Hon. Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, on 22 November 2023 raising concern regarding the loss of Australian Government funding for the proposed Oxley Highway Upgrade at Wrights Road and Lake Road.
 2. Note that further correspondence from the Chief Executive Officer was provided to The Hon. Catherine King MP requesting a meeting with respect to the matter.
 3. Acknowledge receipt of a response from The Hon. Catherine King MP dated 29 January 2024, advising that the project needed to be identified in the context of regional strategic priorities of the NSW Government for consideration in future budgets of the Australian Government.
 4. Request the Chief Executive Officer write to the Minister for Regional Transport and Roads, The Hon. Jenny Aitchison MP; the Shadow Minister for Regional Transport and Roads, The Hon. Dave Layzell MP; and the Member for Port Macquarie, The Hon. Leslie Williams MP, requesting support for the identification of the Oxley Highway Upgrade Project at Wrights Road and Lake Road as a significant regional strategic priority to ensure the Australian Government is in a position to consider the project for funding as part of future budget preparation.

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

08 CONFIDENTIAL CORRESPONDENCE TO ORDINARY COUNCIL MEETING

RESOLVED: Intemann/Slade

That Council determine that the attachments to Item Numbers 10.06 and 10.12 be considered as confidential, in accordance with section 11(3) of the Local Government Act.

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

09 ITEMS TO BE DEALT WITH BY EXCEPTION

RESOLVED: Lipovac/Intemann

That Items 10.01, 10.02, 10.06, 10.09, 10.10, 10.11, 10.12, 10.14, 10.15, 10.18, 10.19, 10.21, 10.22, 11.01, 11.02, 11.03, 11.04, 12.01, 13.03, and 13.09 be considered as a block resolution.

CARRIED: 8/0

FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

RESOLVED: Roberts/Sheppard

That all recommendations listed in the block resolution be adopted by Council.

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

10.01 MAYORAL DISCRETIONARY FUND ALLOCATIONS - 30 NOVEMBER 2023 TO 31 JANUARY 2024

BLOCK RESOLVED: Roberts/Sheppard

That Council note the Mayoral Discretionary Fund allocations for the period 30 November 2023 to 31 January 2024.

10.02 STATUS OF REPORTS FROM COUNCIL RESOLUTIONS

BLOCK RESOLVED: Roberts/Sheppard

That Council note the information contained in the Status of Reports from Council Resolutions report.

10.06 LEGAL FEES

BLOCK RESOLVED: Roberts/Sheppard

That Council note the information in the Legal Fees report.

10.09 INVESTMENTS AND LOANS - DECEMBER 2023

BLOCK RESOLVED: Roberts/Sheppard

That Council note the Investment and Loans Report for December 2023.

10.10 INVESTMENTS AND LOANS - JANUARY 2024

BLOCK RESOLVED: Roberts/Sheppard

That Council note the Investment and Loans Report for January 2024.

10.11 MONTHLY BUDGET REVIEW - JANUARY 2024

BLOCK RESOLVED: Roberts/Sheppard

That Council:

- 1. Adopt the adjustments in the “January 2024 Adjustments” section of the Monthly Budget Review – January 2024 report and associated attachment.**
 - 2. Amend the 2023-2024 Operational Plan to include all budget adjustments approved in this report.**
-

10.12 QUARTERLY BUDGET REVIEW STATEMENT - DECEMBER 2023

BLOCK RESOLVED: Roberts/Sheppard

That Council note the Quarterly Budget Review Statement for the December 2023 Quarter.

10.14 2023-2024 OPERATIONAL PLAN SECOND QUARTER STATUS REPORT AS AT 31 DECEMBER 2023

BLOCK RESOLVED: Roberts/Sheppard

That Council:

- 1. Note the 2023-2024 Operational Plan Second Quarter Status Report as at 31 December 2023.**
 - 2. Authorise the deferral of the following Actions/Projects, with the status of ‘Council approved Action Deferred / Not Progressing’:**
 - SR 22 Laurieton - Apex Park Playground
 - SR 23 Lake Cathie - Endeavour Park Playground Upgrade
 - SR 26 Ellenborough Reserve - Amenities Renewals
 - SR 33 Westport Park Boating Amenities
 - SR 45 Port Macquarie Breakwall - Accessible Fishing Platforms
-

10.15 2022-2026 DELIVERY PROGRAM (YEAR 2) - SIX MONTH PROGRESS REPORT AS AT 31 DECEMBER 2023

BLOCK RESOLVED: Roberts/Sheppard

That Council note the progress against the 2022-2026 Delivery Program (Year 2) for the period 1 July 2023 to 31 December 2023.

10.18 MID NORTH COAST JOINT ORGANISATION ANNUAL REQUEST FOR FUNDING

BLOCK RESOLVED: Roberts/Sheppard

That Council endorse and approve the annual request for funding of \$25,000 to continue its membership with the Mid North Coast Joint Organisation.

10.19 GRANT APPLICATIONS BIENNIAL REPORT

BLOCK RESOLVED: Roberts/Sheppard

That Council note the Grant Applications Biennial Report, providing an update on grants that Council has applied for and/or obtained, for the six-months of the 2023-2024 financial year.

10.21 DEVELOPMENT ACTIVITY AND ASSESSMENT SYSTEM PERFORMANCE

BLOCK RESOLVED: Roberts/Sheppard

That Council note the Development Activity and Assessment System Performance report for the second quarter of 2023-2024.

10.22 CONTRACTS AWARDED UNDER DELEGATION BY THE CHIEF EXECUTIVE OFFICER

BLOCK RESOLVED: Roberts/Sheppard

That Council note the information provided in the Contracts Register.

11.01 PETITION - UNSAFE CONDITION OF CAR PARK, GREENBOURNE NURSERY, HIGH STREET, WAUCHOPE

BLOCK RESOLVED: Roberts/Sheppard

That Council:

- 1. Note the petition received by residents in Wauchope regarding the carpark in front of Greenbourne Nursery High Street Wauchope.**
 - 2. Respond to the organiser of the petition with the outcome of Council's consideration in the matter.**
-

11.02 PORT MACQUARIE-HANDA SISTER CITY WORKING GROUP

BLOCK RESOLVED: Roberts/Sheppard

That Council:

- 1. Adopt the proposed operating arrangements for the Port Macquarie-Handa Sister City Working Group Charter, as outlined in the report.**
 - 2. Endorse the membership of the Port Macquarie-Hastings Sister City Working Group, as outlined in the report.**
 - 3. Note the valuable contribution to the Working Group by retiring Working Group member, Chantelle Perkins.**
-

11.03 RECOMMENDED ITEMS FROM THE DECEMBER 2023 MEETING OF THE PORT MACQUARIE-HASTINGS SPORTING FUND

BLOCK RESOLVED: Roberts/Sheppard

That Council note the application to Port Macquarie-Hastings Sporting Fund considered at the December 2023 Sub-Committee meeting and endorse payment from the Fund of \$250 to Samuel Young for representation at the Pasifika Youth Rugby Cup.

11.04 DRAFT PLACES TO PLAY PLAN

BLOCK RESOLVED: Roberts/Sheppard

That Council:

- 1. Place the draft Places to Play Plan on public exhibition for a period of not less than 28 days.**
 - 2. Note that a further report will be tabled at a future meeting of Council, detailing the submissions received from the public during the exhibition period.**
-

12.01 PROGRESS REPORT- SALE OF COUNCIL-OWNED LAND, LOT 1 LAKE INNES DRIVE, LAKE INNES

BLOCK RESOLVED: Roberts/Sheppard

That Council note the information contained within the body of this report.

13.03 SETTLEMENT POINT FERRY OUT OF WATER INSPECTION AND MAINTENANCE (SLIPPING)

BLOCK RESOLVED: Roberts/Sheppard

That Council note the information in the Settlement Point Ferry Out of Water Inspection and Maintenance (Slipping) report.

13.09 SUPPLY OF ELECTRICITY - REGIONAL COUNCILS NSW POWER PURCHASE AGREEMENT

BLOCK RESOLVED: Roberts/Sheppard

That Council:

1. Under the extenuating circumstances provision of s.55(3)(i) of the Local Government Act 1993, not invite open tenders and participate in the Hunter Joint Organisation procurement process to pursue a Power Purchase Agreement for Council's electricity contract for large sites and streetlights.
 2. Give support to pursue a Power Purchase Agreement for Council's electricity contract for large sites and streetlights through the Hunter Joint Organisation tender process with the upfront cost of participation being \$22,385.
 3. Subject to a successful tendering process by the Hunter Joint Organisation, the Chief Executive Officer shall negotiate and enter into a contract for the supply of electricity to Council's large sites and streetlights under existing delegation and present a further report to a future meeting of Council on completion of the process for Council's information.
 4. Note that the contract under a Power Purchase Agreement may be a longer six-year term to attract better pricing and gain long term price certainty compared to the current two-year or previous three-year electricity contract.
 5. Note that a Power Purchase Agreement may also provide a feasible pathway to achieve Council's Long Term Energy Strategy aim to source 100% of its electricity from renewable sources by 2027.
-

10.01 Mayoral Discretionary Fund Allocations - 30 November 2023 to 31 January 2024 has been addressed previously within the meeting

10.02 Status of Reports from Council Resolutions, has been addressed previously within the meeting

10.03 AUDIT OF THE RETURNS OF INTERESTS OF COUNCILLORS AND DESIGNATED PERSONS

MOTION

MOVED: Edwards/Intemann

That Council note the information provided within this report.

That Council:

1. Note the information provided within this report.
2. Not accept future returns of interest of Councillors or designated persons that do not address all criteria required in the returns of interest.
3. Determine that where Councillor's returns were found not to have addressed all criteria required, the relevant Councillors be advised of this information by 29 February 2024, and be formally requested to lodge a compliant return by 31 May 2024.
4. That Council receive a report to the June 2024 Ordinary Meeting of Council, which lists those returns identified in clause 3 that remain outstanding as of 31 May 2024.
5. By 31 March 2024, display on the Port Macquarie Hastings Council Register of Returns, a separate PDF file for each Councillor, where each Councillor file contains all returns of interest lodged by that Councillor during this council term.

AMENDMENT

MOVED: Pinson/Roberts

That Council:

1. Note the information provided within this report.
2. Determine that where Councillor's returns were found not to have addressed all criteria required, the relevant councillors be advised of this information by 29 February 2024, and be formally requested to lodge a compliant return by 31 May 2024.

EQUAL: 4/4
FOR: Maltman, Pinson, Roberts and Slade
AGAINST: Edwards, Intemann, Lipovac and Sheppard

CASTING VOTE: For
CARRIED

THE AMENDMENT BECOMES THE MOTION

AMENDMENT

MOVED: Sheppard/Lipovac

That Council:

1. Note the information provided within this report.
2. Not accept future returns of interest of Councillors or designated persons that do not address all criteria required in the returns of interest.
3. Determine that where Councillor's returns were found not to have addressed all criteria required, the relevant councillors be advised of this information by 29 February 2024, and be formally requested to lodge a compliant return by 31 May 2024.

EQUAL: 4/4
FOR: Edwards, Intemann, Lipovac and Sheppard
AGAINST: Maltman, Pinson, Roberts and Slade
CASTING VOTE: Against
LOST

THE AMENDMENT ON BEING PUT WAS LOST

THE MOTION ON BEING PUT WAS CARRIED

RESOLVED: Pinson/Roberts

That Council:

1. Note the information provided within this report.
2. Determine that where Councillor's returns were found not to have addressed all criteria required, the relevant councillors be advised of this information by 29 February 2024, and be formally requested to lodge a compliant return by 31 May 2024.

FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil
CARRIED: 8/0

10.04 CONSTITUTIONAL REFERENDUM - REDUCTION IN COUNCILLOR NUMBERS

MOTION

MOVED: Roberts/Maltman

That Council approve the wording for the constitutional referendum to consider the reduction in Councillor numbers to be:

'Do you favour a reduction in the number of Port Macquarie-Hastings Councillors from nine to seven, comprising the Mayor and 6 Councillors?'

AMENDMENT:

MOVED: Sheppard/Intemann

That Council:

1. Approve the wording for the constitutional referendum to consider the reduction in Councillor numbers to be:
'Do you favour a reduction in the number of Port Macquarie-Hastings Councillors from nine to seven, comprising the Mayor and 6 Councillors?'
2. Develop and provide an information page on Council's website from 1 August 2024 including supporting information for both the "yes" response and "no" response consisting of comments provided by Councillors supporting each option.

EQUAL: 4/4
FOR: Edwards, Intemann, Lipovac and Sheppard
AGAINST: Maltman, Pinson, Roberts and Slade
CASTING VOTE: Against
LOST

THE AMENDMENT ON BEING PUT WAS LOST

THE MOTION ON BEING PUT WAS CARRIED

RESOLVED: Roberts/Maltman

That Council approve the wording for the constitutional referendum to consider the reduction in Councillor numbers to be:

'Do you favour a reduction in the number of Port Macquarie-Hastings Councillors from nine to seven, comprising the Mayor and 6 Councillors?'

CARRIED: 7/1
FOR: Edwards, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Intemann

10.05 NOTICE OF MOTION - CONSTITUTIONAL REFERENDUM - METHOD OF ELECTING THE MAYOR

MOTION

LOST: Lipovac/Sheppard

That Council:

1. In accordance with Section 229 of the Local Government Act engage the Electoral Commissioner to conduct a constitutional referendum at the 2024 Local Government election in September 2024 regarding discontinuing the election of the Mayor by the electors in favour of conducting the election of the Mayor by Councillors from among their number, following the 2028 Local Government election.
2. Note that the estimated costs of conducting this additional constitutional referendum is approximately \$35,000 where funding will be determined during the preparation of the 2024-2025 budget.
3. Receive a further report to the March 2024 Ordinary Council meeting to determine the wording that will be used in the referendum.
4. Develop and provide an information page on Council's website from 1 August 2024 including supporting information for both the "yes" response and "no" response consisting of comments provided by Councillors supporting each option.

EQUAL: 4/4

FOR: Edwards, Intemann, Lipovac and Sheppard

AGAINST: Maltman, Pinson, Roberts and Slade

CASTING VOTE: Against

LOST

Item 10.06 Legal Fees, has been addressed previously within the meeting.

10.07 DISCLOSURE OF INTEREST RETURN

RESOLVED: Roberts/Maltman

That Council note the Disclosure of Interest returns for the following positions:

- 1. Business and Performance - Legal Counsel**
- 2. Business and Performance - Executive Lead Finance and Commercial Services**
- 3. Community Infrastructure Planning and Design - Senior Transport Engineer (Strategic)**
- 4. Community Utilities - Sewerage Pump Station Technical Officer**

CARRIED: 8/0

FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade

AGAINST: Nil

The Chairperson tabled the disclosures of initial returns of those Designated Persons listed above.

10.08 NOTICE OF MOTION - ORGANISATIONAL COST SHIFTING

RESOLVED: Roberts/Pinson

That Council:

- 1. Note the importance of the impact of cost shifting on Council's long term financial sustainability.**
- 2. Request the Chief Executive Officer include in the General Fund Improvement Plan a review of all forms of cost shifting and the estimated cost to Council.**
- 3. Report back to Council the progress of the review as part of the General Fund Improvement Plan - Biannual Reporting in June and December.**
- 4. Note the funding contribution from the State and Federal Government to Council through various grant programs that have provided new and upgraded assets for the benefit of the community.**

CARRIED: 7/1

FOR: Edwards, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade

AGAINST: Intemann

Item 10.09 Investments and Loans - December 2023, has been addressed previously within the meeting.

Item 10.10 Investments and Loans - January 2024, has been addressed previously within the meeting.

Item 10.11 Monthly Budget Review - January 2024, has been addressed previously within the meeting.

Item 10.12 Quarterly Budget Review Statement - December 2023, has been addressed previously within the meeting.

10.13 PAYMENT OF WATER FUND AND SEWER FUND DIVIDEND FOR THE YEAR 2022-2023

MOTION

MOVED: Roberts/Maltman

That Council:

1. Note Council has complied with sections 4.2 and 4.3 of the Guidelines (Regulatory and Assurance Framework for Local Water Utilities) for council dividend payments for water supply or sewerage services and any direction under s.409(6)(b) of the Local Government Act.
2. Authorise the payment of a dividend of \$961,254 to the General Fund from the surplus in Water Supply operations for 2022-2023.
3. Authorise the payment of \$106,806 for tax equivalents to the General Fund from the Water Supply operations for 2022-2023.
4. Authorise the payment of a dividend of \$930,015 to the General Fund from the surplus in the Sewerage Fund for 2022-2023.
5. Authorise the payment of \$103,335 for tax equivalents to the General Fund from the Sewerage Fund for 2022-2023.
6. Note that once the information provision requirements in section 4.4 of the Guidelines is finalised, apply the dividends as noted in Points 2,3,4 and 5, to first hold in reserve the amount required to pay out the loan associated with the Town Centre Master Plan, with any residual amount being the subject of a future report to Council before further allocation.

AMENDMENT

MOVED: Sheppard/Intemann

That Council:

1. Note Council has complied with sections 4.2 and 4.3 of the Guidelines (Regulatory and Assurance Framework for Local Water Utilities) for council dividend payments for water supply or sewerage services and any direction under s.409(6)(b) of the Local Government Act.
 2. Authorise the payment of a dividend of \$961,254 to the General Fund from the surplus in Water Supply operations for 2022-2023.
 3. Authorise the payment of \$106,806 for tax equivalents to the General Fund from the Water Supply operations for 2022-2023.
 4. Authorise the payment of a dividend of \$930,015 to the General Fund from the surplus in the Sewerage Fund for 2022-2023.
 5. Authorise the payment of \$103,335 for tax equivalents to the General Fund from the Sewerage Fund for 2022-2023.
-

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6. Note that once the information provision requirement in section 4.4 of the Guidelines is finalised, a separate report will be provided to Council outlining proposed expenditure of the dividend.

EQUAL: 4/4
FOR: Edwards, Intemann, Lipovac and Sheppard
AGAINST: Maltman, Pinson, Roberts and Slade
CASTING VOTE: Against
LOST

THE AMENDMENT ON BEING PUT WAS LOST

AMENDMENT

MOVED: Sheppard/Intemann

That Council:

1. Note Council has complied with sections 4.2 and 4.3 of the Guidelines (Regulatory and Assurance Framework for Local Water Utilities) for council dividend payments for water supply or sewerage services and any direction under s.409(6)(b) of the Local Government Act.
2. Authorise the payment of a dividend of \$961,254 to the General Fund from the surplus in Water Supply operations for 2022-2023.
3. Authorise the payment of \$106,806 for tax equivalents to the General Fund from the Water Supply operations for 2022-2023.
4. Authorise the payment of a dividend of \$930,015 to the General Fund from the surplus in the Sewerage Fund for 2022-2023.
5. Authorise the payment of \$103,335 for tax equivalents to the General Fund from the Sewerage Fund for 2022-2023.
6. Note that once the information provision requirement in section 4.4 of the Guidelines is finalised, a separate report will be provided to Council outlining proposed expenditure of the dividend including comments in relation to the potential to allocate dividends to payout the loan associated with the Town Centre Master Plan.

LOST: 3/5
FOR: Edwards, Lipovac and Sheppard
AGAINST: Intemann, Maltman, Pinson, Roberts and Slade

THE AMENDMENT ON BEING PUT WAS LOST

ADJOURNMENT

RESOLVED: Pinson/Roberts

That the meeting adjourn for 10 minutes.

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

The Ordinary Council Meeting adjourned at 11.42am

The Ordinary Council Meeting recommenced at 11:59am

THE MOTION ON BEING PUT WAS CARRIED

RESOLVED: Roberts/Maltman

That Council:

1. Note Council has complied with sections 4.2 and 4.3 of the Guidelines (Regulatory and Assurance Framework for Local Water Utilities) for council dividend payments for water supply or sewerage services and any direction under s.409(6)(b) of the Local Government Act.
2. Authorise the payment of a dividend of \$961,254 to the General Fund from the surplus in Water Supply operations for 2022-2023.
3. Authorise the payment of \$106,806 for tax equivalents to the General Fund from the Water Supply operations for 2022-2023.
4. Authorise the payment of a dividend of \$930,015 to the General Fund from the surplus in the Sewerage Fund for 2022-2023.
5. Authorise the payment of \$103,335 for tax equivalents to the General Fund from the Sewerage Fund for 2022-2023.
6. Note that once the information provision requirements in section 4.4 of the Guidelines is finalised, apply the dividends as noted in Points 2,3,4 and 5, to first hold in reserve the amount required to pay out the loan associated with the Town Centre Master Plan, with any residual amount being the subject of a future report to Council before further allocation.

EQUAL: 4/4
FOR: Maltman, Pinson, Roberts and Slade
AGAINST: Edwards, Intemann, Lipovac and Sheppard
CASTING VOTE: For
CARRIED

Item 10.14 2023-2024 Operational Plan Second Quarter Status Report as at 31 December 2023, has been addressed previously within the meeting.

Item 10.15 2022-2026 Delivery Program (Year 2) - Six Month Progress Report as at 31 December 2023, has been addressed previously within the meeting.

10.16 IMPACTS AND OPTIONS IN RELATION TO A PROPOSED RATE FREEZE FOR 2024-2025

MOTION

MOVED: Roberts/Pinson

That Council:

1. Request the Chief Executive Officer prepare the Draft 2024-2025 Operational Plan with a 0.0% Rate Peg applied to Ordinary and Special Rates, excluding the Town Centre Master Plan component of the Port Macquarie CBD ordinary business rate.
2. Include in the Draft 2024-2025 Operational Plan and resultant communication with ratepayers, a clear understanding of the measures to mitigate all the financial impacts that a 0.0% Rate Peg in the Ordinary and

-
- Special Rates that may apply.
3. Ensure that mitigation measures in dealing with the 0.0% Rate peg in the Draft 2024-2025 minimises the impact on reducing services and projects.

AMENDMENT

MOVED: Sheppard/Lipovac

That Council:

1. Note the information provided in the report below;
2. Note that the draft 2024-2025 Operational Plan is being developed with a 4.6% Rate Peg included; and
3. Note the risk assessment and recommendation of the Director Business and Performance that the Rate Peg be included in the 2024-2025 Draft Operational Plan at the full amount of 4.6% determined by the Independent Pricing and Regulatory Tribunal.

EQUAL: 4/4
FOR: Edwards, Intemann, Lipovac and Sheppard
AGAINST: Maltman, Pinson, Roberts and Slade
CASTING VOTE: Against
LOST

THE AMENDMENT ON BEING PUT WAS LOST

Councillor Edwards left the meeting, the time being 1.08pm.

ADJOURNMENT

RESOLVED: Pinson/Roberts

That the meeting adjourn for 10 minutes.

CARRIED: 5/2
FOR: Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Intemann and Lipovac

The Ordinary Council Meeting adjourned at 1.09pm

The Ordinary Council Meeting recommenced at 1:23pm

Councillor Edwards returned to the meeting, the time being 1.23pm

RESOLVED: Roberts/Pinson

That Council:

1. Request the Chief Executive Officer prepare the Draft 2024-2025 Operational Plan with a 0.0% Rate Peg applied to Ordinary and Special Rates, excluding the Town Centre Master Plan component of the Port Macquarie CBD ordinary business rate.
2. Include in the Draft 2024-2025 Operational Plan and resultant communication with ratepayers, a clear understanding of the measures

to mitigate all the financial impacts that a 0.0% Rate Peg in the Ordinary and Special Rates that may apply.

3. Ensure that mitigation measures in dealing with the 0.0% Rate peg in the Draft 2024-2025 minimises the impact on reducing services and projects.

EQUAL: 4/4
FOR: Maltman, Pinson, Roberts and Slade
AGAINST: Edwards, Intemann, Lipovac and Sheppard
CASTING VOTE: For
CARRIED

10.17 IMPACTS AND OPTIONS IN RELATION TO THE ABOLITION OF THE TOWN CENTRE MASTER PLAN COMPONENT OF THE PORT MACQUARIE CBD ORDINARY BUSINESS RATE

MOTION

MOVED: Roberts/Pinson

That Council:

1. Prepare as part of the Draft 2024-2025 Operational Plan, the abolition of the Town Centre Master Plan (TCMP) component of the Port Macquarie CBD Ordinary Business Rate.
2. Include in the Draft 2024-2025 Operational plan details of a potential redistribution of the shortfall in rates from the abolition of the Town Centre Master Plan (TCMP) component of the Port Macquarie CBD Ordinary Business Rate across all ordinary rate sub-categories.
3. Ensure that any mitigation measures in dealing with the abolition of the TCMP component of the Port Macquarie CBD Ordinary Business Rate minimises the impact on reducing services and projects.
4. Report back to Council in August 2024 a plan on how Council will maintain the Port Macquarie, Wauchope and Laurieton CBD's into the future, including any potential options for a fair and equitable resourcing.

AMENDMENT

MOVED: Sheppard/Edwards

That Council:

1. Note the information provided in the report below;
2. Note the resolution of Council at the 8 December 2022 Ordinary Meeting that Council endorse a 32% reduction in the Town Centre Master Plan (TCMP) component of the Port Macquarie CBD ordinary business rate through to 2027 and a 45% reduction thereafter; and
3. Note that the Draft 2024-2025 Operational Plan is being developed in accordance with the decision of Council noted in 2 above.

EQUAL: 4/4

FOR: Edwards, Intemann, Lipovac and Sheppard
AGAINST: Maltman, Pinson, Roberts and Slade
CASTING VOTE: Against
LOST

THE AMENDMENT ON BEING PUT WAS LOST

THE MOTION ON BEING PUT WAS CARRIED

RESOLVED: Roberts/Pinson

That Council:

- 1. Prepare as part of the Draft 2024-2025 Operational Plan, the abolition of the Town Centre Master Plan (TCMP) component of the Port Macquarie CBD Ordinary Business Rate.**
- 2. Include in the Draft 2024-2025 Operational plan details of a potential redistribution of the shortfall in rates from the abolition of the Town Centre Master Plan (TCMP) component of the Port Macquarie CBD Ordinary Business Rate across all ordinary rate sub-categories.**
- 3. Ensure that any mitigation measures in dealing with the abolition of the TCMP component of the Port Macquarie CBD Ordinary Business Rate minimises the impact on reducing services and projects.**
- 4. Report back to Council in August 2024 a plan on how Council will maintain the Port Macquarie, Wauchope and Laurieton CBD's into the future, including any potential options for a fair and equitable resourcing.**

EQUAL: 4/4
FOR: Maltman, Pinson, Roberts and Slade
AGAINST: Edwards, Intemann, Lipovac and Sheppard
CASTING VOTE: For
CARRIED

Item 10.18 Mid North Coast Joint Organisation Annual Request for Funding, has been addressed previously within the meeting.

Item 10.19 Grant Applications Biannual Report, has been addressed previously within the meeting.

10.20 GLASSHOUSE BIENNIAL REPORT AND UPDATE ON GLASSHOUSE PLAN 2020 - 2022 ACTIONS

RESOLVED: Roberts/Slade

That Council:

- 1. Note the information provided in the Glasshouse Biannual Report and Update on Glasshouse Plan 2020-2022 Actions report.**
- 2. Include in the Draft 2024-2025 Operational Plan an action to commence a Strategic Review of the Glasshouse.**
- 3. Provide an ongoing update of the Strategic Review through the Glasshouse Bi-Annual Report to Council.**

CARRIED: 6/2

FOR: Edwards, Maltman, Pinson, Roberts, Sheppard and Slade

AGAINST: Intemann and Lipovac

Item 10.21 Development Activity and Assessment System Performance, has been addressed previously within the meeting.

Item 10.22 Contracts Awarded under Delegation by the Chief Executive Officer, has been addressed previously within the meeting.

Item 11.01 Petition - Unsafe Condition of Car Park, Greenbourne Nursery, High Street, Wauchope, has been addressed previously within the meeting.

Item 11.02 Port Macquarie-Handa Sister City Working Group, has been addressed previously within the meeting.

Item 11.03 Recommended Items from the December 2023 Meeting of the Port Macquarie-Hastings Sporting Fund, has been addressed previously within the meeting.

Item 11.04 Draft Places to Play Plan, has been addressed previously within the meeting.

11.05 NOTICE OF MOTION - AUSTRALIA DAY

MOTION

MOVED: Roberts/Maltman

That Council request the Chief Executive Officer consider the inclusion of resources in the draft 2024-2025 Operational Plan and budget for the establishment and operation of an Australia Day Committee to plan and deliver activities and events associated with Australia Day.

AMENDMENT

MOVED: Sheppard/Lipovac

That Council:

1. Note the proposal to request that the Chief Executive Officer consider the inclusion of resources in the draft 2024-2025 Operational Plan and budget for the establishment and operation of an Australia Day Committee to plan and deliver activities and events associated with Australia Day.
2. Note that Council currently undertakes organisation and facilitation of the Australia Day Citizenship Awards and associated ceremony.
3. Note that the community grants system can be accessed to facilitate additional Australia Day activities and events.

EQUAL: 4/4

FOR: Edwards, Intemann, Lipovac and Sheppard

AGAINST: Maltman, Pinson, Roberts and Slade

CASTING VOTE: Against

LOST

THE AMENDMENT ON BEING PUT WAS LOST

THE MOTION ON BEING PUT WAS CARRIED

RESOLVED: Roberts/Maltman

That Council request the Chief Executive Officer consider the inclusion of resources in the draft 2024-2025 Operational Plan and budget for the establishment and operation of an Australia Day Committee to plan and deliver activities and events associated with Australia Day.

CARRIED: 5/3

FOR: Intemann, Maltman, Pinson, Roberts and Slade

AGAINST: Edwards, Lipovac and Sheppard

Item 12.01 Progress Report - Sale of Council-Owned Land, Lot 1 Lake Innes, has been addressed previously within the meeting.

13.01 ANNUAL DRINKING WATER AND RECYCLED WATER REPORTS 2022-2023

RESOLVED: Pinson/Roberts

That Council:

- 1. Note the information contained within this report regarding the quality performance of drinking and recycled water supplied to the community for the reporting period 1 July 2022 to 30 June 2023.**
- 2. Request the CEO provide a report to the April 2024 Ordinary Council meeting which provides more detail on the current taste and odour issues being experienced in the Water Supply.**

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

13.02 POLICY REVIEW - WASTE SERVICES POLICY

RESOLVED: Pinson/Sheppard

That Council:

- 1. Place on public exhibition the draft Waste Services Policy 2024, commencing Monday 26 February 2024 for a minimum of 28 days.**
- 2. Note that a further report will be tabled at the May 2024 Ordinary Council meeting, detailing the submissions received from the public during the exhibition period.**

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

Item 13.03 Settlement Point Ferry Out of Water Inspection and Maintenance (Slipping), has been addressed previously within the meeting.

13.04 PORT MACQUARIE HASTINGS COUNCIL KOALA ACTION PLAN 2023

RESOLVED: Edwards/Sheppard

That Council:

- 1. Note the information contained in the report and submissions received.**
- 2. Adopt the Port Macquarie Hastings Koala Action Plan 2023 which replaces the Recovery Actions listed in Table 1 of the Koala Recovery Strategy 2018 with the addition of a reference to the NSW Department**

of Climate Change, Energy, the Environment and Water's Koala Habitat Information Base Technical Guide in the References section of the Action Plan.

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

13.05 LAKE CATHIE NATURAL RESOURCE MANAGEMENT MONTHLY UPDATE REPORT

Councillor Maltman declared a Non-Pecuniary - Less than Significant interest in this item. The reason being that Councillor Maltman is a non-financial life member and former President of the community organisation Revive Lake Cathie Incorporated. Councillor Maltman remained in the meeting, participated and voted in the matter as this perceived conflict will not influence her decision making in the matter.

RESOLVED: Maltman/Pinson

That Council note the progress of natural resource management projects/initiatives within the Lake Cathie, Lake Innes and Cathie Creek waterways and progress on the Coastal Management Program.

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

13.06 SANCROX EMPLOYMENT LAND ENVIRONMENTAL LANDS AND SERVICES PLANNING AGREEMENT ASSESSMENT REPORT
APPLICANT: KING AND CAMPBELL
LANDOWNER: EXPRESSWAY SPARES PTY LIMITED AND JAMES JOHN DUNN AND CATHERINE BRIGETTE DUNN

RESOLVED: Intemann/Pinson

That Council:

- 1. Publicly exhibit the draft amended Second Deed of Variation to Sancrox Employment Land Environmental Lands and Services Planning Agreement for a period of not less than 28 days.**
- 2. Receive a further report following the public exhibition period on any submissions received.**

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade

AGAINST: Nil

**13.07 POST EXHIBITION REPORT - RAINBOW BEACH CENTRAL CORRIDOR
PLANNING AGREEMENT
APPLICANT: KING AND CAMPBELL
LANDOWNER: ST VINCENT'S FOUNDATION PTY LTD**

RESOLVED: Intemann/Roberts

That Council:

- 1. Revoke the previous Rainbow Beach Central Corridor Voluntary Planning Agreement 2017 entered into between Council and St Vincent's Foundation Pty Ltd on 5 March 2018**
- 2. Enter into and execute the amended Rainbow Beach Central Corridor Planning Agreement (Attachment 2).**
- 3. Note the post exhibition Engagement Summary Report which provides details of the number of persons who accessed the public exhibition material on Council's Have Your Say page.**

CARRIED: 8/0

FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade

AGAINST: Nil

**13.08 POST EXHIBITION REPORT - 2023 HOUSEKEEPING & AGRITOURISM
AMENDMENT - PORT MACQUARIE-HASTINGS DEVELOPMENT
CONTROL PLAN 2013**

RESOLVED: Pinson/Roberts

That Council:

- 1. Approve the draft Development Control Plan 2013 (Agritourism and Housekeeping Amendment No. 16) with the alterations described in the report and contained in Attachments 1 and 2.**
 - 2. Within 28 days of adoption:**
 - a. Publish a public notice of Council's decision to approve the Development Control Plan 2013 (Agritourism and Housekeeping Amendment No. 16) on its website, in accordance with Clause 14(2) of the Environmental Planning and Assessment Regulation 2021.**
 - b. Upload a copy of the Plan on the NSW Planning Portal for the attention of the NSW Planning Secretary.**
 - 3. The draft Development Control Plan 2013 (Agritourism and Housekeeping Amendment No. 16) will commence on 1 April 2024.**
 - 4. Delegate authority to the Director Community, Planning and Environment to make any inconsequential amendments, if required, in preparation for the commencement of Development Control Plan 2013 (Agritourism and Housekeeping Amendment No. 16).**
-

5. Notify all persons who lodged a submission of Council's decision.

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

Item 13.09 Supply of Electricity - Regional Councils NSW Power Purchase Agreement, has been addressed previously within the meeting.

CONFIDENTIAL SESSION

RESOLVED: Lipovac/Sheppard

1. That pursuant to section 10A subsections 2 & 3 and 10B of the Local Government Act 1993 (as amended), the press and public be excluded from the proceedings of the Confidential Session of Council on the basis that items to be considered are of a confidential nature.
2. That Council move into Closed Session to receive and consider the following items

Item 14.01 Budget and Reporting Application

This item is considered confidential under Section 10A(2)(c) of the Local Government Act 1993, 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.:

3. That the resolutions made by Council in Confidential Session be made public as soon as practicable after the conclusion of the Confidential Session and such resolutions be recorded in the Minutes of the Council Meeting.

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

RESOLVED: Lipovac/Sheppard

That the Council meeting be closed to the public for the consideration of confidential items for the reason as listed in the reports.

CARRIED: 8/0
FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade
AGAINST: Nil

14.01 BUDGET AND REPORTING APPLICATION

RESOLVED: Roberts/Pinson

That Council:

- 1. Note that the requirements for the budget and reporting application will be considered as part of the Long Term Financial Planning review.**
- 2. In accordance with section 55(3)(i) of the Local Government Act 1993, not invite tenders for Council's budget and reporting application due to extenuating circumstances, for the reasons that Council seeks to extend the contract with Jedox Pty Ltd for the budget and reporting application for a further renewal period(s) to align with the Long Term Financial Planning review.**
- 3. Maintain the confidentiality of the consideration in respect of the budget and reporting application procurement matter outlined in this report.**

CARRIED: 8/0

FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade

AGAINST: Nil

RESOLVED: Roberts/Sheppard

That the Council Meeting be re-opened to the public

CARRIED: 8/0

FOR: Edwards, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade

AGAINST: Nil

The outcomes of the Confidential Session of the Ordinary Council meeting were read to the meeting by the Group Manager Governance

The meeting closed at 2.22pm

.....
Peta Pinson
Mayor

Item: 06
Subject: DISCLOSURES OF INTEREST

RECOMMENDATION

That Disclosures of Interest be presented

DISCLOSURE OF INTEREST DECLARATION

Name of Meeting:	
Meeting Date:	
Item Number:	
Subject:	
I, the undersigned, hereby declare the following interest:	
<input type="checkbox"/>	Pecuniary: Take no part in the consideration and voting and be out of sight of the meeting.
<input type="checkbox"/>	Non-Pecuniary – Significant Interest: Take no part in the consideration and voting and be out of sight of the meeting.
<input type="checkbox"/>	Non-Pecuniary – Less than Significant Interest: May participate in consideration and voting.
For the reason that:	
Name:	Date:
Signed:	
Please submit to the Governance Support Officer at the Council Meeting.	

(Refer to next page and the Code of Conduct)

Pecuniary Interest

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- your interest, or
 - the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- Your "relative" is any of the following:
 - your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - the spouse or de facto partner of a person referred to in paragraphs (i) and (ii)
 - "de facto partner" has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c)
- if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
 - just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
 - just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

Non-Pecuniary

- 5.1 Non-pecuniary interests are private or personal interests a council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 5.3 The personal or political views of a council official do not constitute a private interest for the purposes of clause 5.2.
- 5.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this code.
- 5.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the Chief Executive Officer, such a disclosure is to be made to the staff member's manager. In the case of the Chief Executive Officer, such a disclosure is to be made to the mayor.
- 5.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
- a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household
 - other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
 - an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
 - membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
 - a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
 - the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.
- 5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:
- by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.
- 5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.
- 5.12 If you are a member of staff of council other than the Chief Executive Officer, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the Chief Executive Officer, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the mayor.
- 5.13 Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.
- 5.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

*This form must be completed using block letters or typed.
If there is insufficient space for all the information you are required to disclose,
you must attach an appendix which is to be properly identified and signed by you.*

By <i>[insert full name of councillor]</i>	
In the matter of <i>[insert name of environmental planning instrument]</i>	
Which is to be considered at a meeting of the <i>[insert name of meeting]</i>	
Held on <i>[insert date of meeting]</i>	
PECUNIARY INTEREST	
Address of the affected principal place of residence of the councillor or an associated person, company or body <i>(the identified land)</i>	
Relationship of identified land to councillor <i>[Tick or cross one box.]</i>	<input type="checkbox"/> The councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has interest in the land.
MATTER GIVING RISE TO PECUNIARY INTEREST¹	
Nature of land that is subject to a change in zone/planning control by proposed LEP <i>(the subject land²)</i> <i>[Tick or cross one box]</i>	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control <i>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>	
Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on councillor or associated person <i>[Tick or cross one box]</i>	<input type="checkbox"/> Appreciable financial gain. <input type="checkbox"/> Appreciable financial loss.

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest]

Councillor's Signature: **Date:**

This form is to be retained by the council's Chief Executive Officer and included in full in the minutes of the meeting

Last Updated: 3 June 2019

Important Information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Model Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Model Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

¹ Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.

² A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest

Item: 08

**Subject: CONFIDENTIAL CORRESPONDENCE TO ORDINARY COUNCIL
MEETING**

Presented by: Chief Executive Officer, Dr Clare Allen

Alignment with Delivery Program

1.3.2 Build trust and improve Council's public reputation through transparency, good decision making and living Council's Values.

Discussion

There are no confidential attachments to the reports for the Ordinary Council Meeting.

1 Leadership and Governance

What we are trying to achieve

A community that works together in decision making that is defined as ethically, socially and environmentally responsible.

What the result will be

We will have:

- A community that has the opportunity to be involved in decision making
- Open, easy, meaningful, regular and diverse communication between the community and decision makers
- Partnerships and collaborative projects, that meet the community's expectations, needs and challenges
- Knowledgeable, skilled and connected community leaders
- Strong corporate management that is transparent

How we will get there

- 1.1 Inform and engage with the community about what Council does using varied communication channels
- 1.2 Maintain strong partnerships between all stakeholders - local, state and federal — so that they are affective advocates for the community
- 1.3 Demonstrate leadership
- 1.4 Use innovative, efficient and sustainable practices
- 1.5 Ensure strong corporate and financial management that is transparent and accountable

Item: 10.01

Subject: MAYORAL DISCRETIONARY FUND ALLOCATIONS - 1 FEBRUARY TO 6 MARCH 2024

Presented by: Chief Executive Officer, Dr Clare Allen

Alignment with Delivery Program

1.5.1 Manage Council’s financial assets and provide accurate, timely and reliable information.

RECOMMENDATION

That Council note the Mayoral Discretionary Fund allocations for the period 1 February to 6 March 2024.

Executive Summary

To advise of the Mayoral Discretionary Fund allocations for the period 1 February to 6 March 2024 inclusive.

Discussion

The following allocations were made by the Mayor from the Mayoral Discretionary Fund during this reporting period:

Donation to Cheerleading Team competing in International World Championships in Orlando, Ohio	\$500.00
Donation to Leukaemia Foundation’s “World’s Greatest Shave” 2024 Fundraiser	\$500.00
Total allocation	\$1,000.00

Options

This report is for noting only.

Community Engagement and Internal Consultation

There has been no community engagement or internal consultation in relation to this report.

Planning and Policy Implications

There are no planning and policy implications in relation to this report. This report is provided to Council as per the requirements of the Mayoral Discretionary Fund Policy.

Financial and Economic Implications

There are no economic implications in relation to this report.

The allocations made during this reporting period were funded from the Mayoral Discretionary Fund as included in the 2023-2024 Operational budget.

Attachments

Nil

Item: 10.02

Subject: STATUS OF REPORTS FROM COUNCIL RESOLUTIONS

Presented by: Business and Performance, Keith Hentschke

Alignment with Delivery Program

1.3.2 Build trust and improve Council's reputation through transparency, good decision making and living Council's Values.

RECOMMENDATION

That Council note the information contained in the Status of Reports from Council Resolutions report.

Discussion

MARCH 2024 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Opportunity for Local Firms to do Business with Port Macquarie-Hastings Council.	16/03/2023 Item 10.05	Workshop completed November 2023. A further report is to be presented to the March 2024 Ordinary Council Meeting.	DBP	Mar-24	April-24
Policy Review Smoke Free Environment Policy.	16/11/2023 Item 11.02	A further report to Council meeting following public exhibition	DCPE	Feb-24	Mar-24
Policy Review Strategic Property Investment Policy.	14/12/2023 Item 10.12	A further report is to be presented to the March 2024 Ordinary Council Meeting	DBP		Mar-24
APRIL 2024 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Classification as "Operational Land". 52 John Oxley Drive, Port Macquarie Post Exhibition.	20/06/2018 Item 14.05	Reclassify the property to operational land, a statutory process involving a planning proposal which includes Council	DCPE	Mar-24	Apr-24



		fees, public exhibition, submissions, public hearing, council resolutions and Depot Planning approval. Estimated timeline at least 6-9 months.			
APRIL 2024 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Material Public Benefit Developer Delivered Sewer Works Kendall. Completion of Works.	17/03/2022 Item 14.07	Future Report upon completion of the project. Developer still has not received the final approvals that they need.	DCU	Mar-24	Apr-24
Cairncross Waste Management Facility Leachate Pre-Treatment.	18/05/2023 Item 14.03	Following successful negotiations with Oleology Pty Ltd for the supply of a containerized leachate pre-treatment solution and present a further report to a future meeting of Council on completion of the works for Council's information.	DCU	Feb-24 Mar-24	Apr-24 Delayed due to issues with the contract
Wastewater Treatment Plant Capacities.	18/08/2022 Item 14.04	Report to Council impacts on Planning Proposals Port Macquarie/Thrumster Sewerage Scheme catchment once the outcomes identified Briefing scheduled - June 2023 Report to Council September 2023.	DCU DCPE	Sep-23 Feb-24	Apr-24 Delayed due to the outcomes of the Process Capacity Review and Optimisation Study for the Port Macquarie Wastewater Treatment Plant are known.
Review of Current and Recent Community Engagement Systems, Structures and Functions.	16/11/2023 Item 11.01	Report to Ordinary Council meeting April 2024, detailing outcomes of the review.	DBP		Apr-24
Draft Local Housing Strategy Update.	16/11/2023 Item 13.08	Report to Ordinary Council meeting April 2024, with revised Housing Strategy	DCPE		Apr-24

		and outcomes of community engagement.			
APRIL 2024 Reports					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Policy Review: Sustainability Policy.	21/09/2023 Item 10.10	Council deferred this Policy until workshop has been held, for further consideration to the Policy in relation to the proposed draft Environmental Sustainability Strategy.	DCPE		Apr-24
Draft Environmental Sustainability Strategy	21/09/2023 Item 13.09	Council deferred consideration to this item until workshop has been held for further consideration to the Sustainability Policy review.	DCPE		Apr-24
Annual Drinking Water and Recycled Water Report 2022-2023.	15/02/2024 Item 13.01	Future report to Council providing additional detail on the current taste and odour issues being experienced in the water supply.	DCU		Apr-24
MAY 2024 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Sale of Surplus Land: 178 Nancy Bird Walton Drive, Kew.	16/02/2022 Item 09.23	Planning and consultancy work progressing as scheduled. Options for sale of land will be prepared for Council consideration as part of the broader property review due in May 2024.	DBP	Nov-23 Feb-24 Mar-24	May-24
Lots 101 and 102 DP 1244390 Pacific Drive, Port Macquarie: Options for operational land.	07/03/2022 Item 10.01	For inclusion in Operational Plan: Quarterly Progress.	DBP	Mar-24	May-24

Council owned lots at North Shore: Progress of Sale.	19/09/2018 Item 09.24 14/12/2023 Item 13.09	Due diligence ongoing. Options for sale of land will be prepared for Council and consideration as part of the broader property review due in May 2024.	DBP	Nov-23 Mar-24	May-24
MAY 2024 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Places to Play and Stay.	15/02/2024 Item 11.04	A further report detailing submissions received following public exhibition	DCPE		May-24
Policy Review: Waste Services Policy.	15/02/2024 Item 13.02	A further report detailing submissions received following public exhibition.	DCU		May-24
JUNE 2024 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Supply of Electricity: Regional Councils NSW Power Purchase Agreement.	15/02/2024 Item 13.09	A further report to be tabled on completion of the process for councils' information.	DCPE		Jun-24
JULY 2024 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Post Exhibition Report: Planning Proposal PP-2022-4099 New LEP Clause 5.5 Secondary Dwellings in Rural Zones.	20/07/2023 Item 13.02	Future report to the July 2024 Ordinary Council Meeting regarding the uptake of secondary dwelling provisions in rural areas.	DCPE		Jul-24
Extension of the Fly Neighbourly Agreement for	15/06/2023 Item 12.02	A further report to Council Meeting July 2024.	DBP		Jul-24

a further 12 months.					
AUGUST 2024 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Draft MR538 and MR600 Corridor Strategy - Following public exhibition.	19/05/2022 Item 14.04	Alignment of the Corridor Strategy with the Integrated Transport Plan is required. The Draft Corridor Strategy shall be reviewed on completion of the Integrated Transport Plan.	DCI	Feb-24	Aug-24
Request Council to Continue Acceptance of Kempsey Shire Council Waste at Cairncross Landfill	14/12/2023 Item 13.12"	A future report be tabled at the completion of the arrangement.	DBP		Jul-24
Impacts and Options in Relation to the Abolition of the Town Centre Master Plan Component of the Port Macquarie CBD Ordinary Business Rate.	15/02/2024 Item 10.17	A Report to Council on how Council will maintain the Port Macquarie, Wauchope and Laurieton CBDs in the future.	DBP		Aug-24
SEPTEMBER 2024 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
OCTOBER 2024 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Countback Election	Na	Councils must, by resolution, declare that casual vacancies	GMG		Oct-24



		occurring in the office of a councillor within 18 months of the election are to be filled by a countback of votes cast at the election if councils want to fill vacancies by these means. Councils that do not resolve to fill vacancies using a countback at their first meeting after the election will be required to fill vacancies using a by-election			
Election of Deputy Mayor	Na	Na	GMG		Oct-24
Attendees at Local Government Election	Na	Determine attendees at the annual Local Government election	GMG		Oct-24
NOVEMBER 2024 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
DECEMBER 2024 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
January 2026 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Statement of Business Ethics	16/11/2023 Item 10.20	NA	GMP		2026
DECEMBER 2026 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Administering 2028 Local Government Election	NA	NA	GMG	NA	Dec-26

JULY 2027 REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Councillor numbers for 2028 Local Government Election	NA	NA	GMG	NA	July-27
FUTURE REPORTS					
Report	Date and Item of Resolution	Status	Reporting Officer	Previous Anticipated Date/s for Report	Current Anticipated Date for Report
Biodiversity and Land Acquisition for offsets update.	20/04/2023 Item 14.02	A further report to Council for further consideration.	DBP		Estimated 2024
Environmental Land Rezoning - Council owned land.	08/12/2022 Item 13.10	A further report to Council following public exhibition.	DCPE		Future report
Draft s9.11 Airport Business Park Roads Contribution Plan.	20/05/2020 Item 13.05	Item to be considered as part of wider development contribution framework review and proposed development yet to be assessed.	DCPE	Dec-20 Jun-21 Oct-21 Jun-22 Dec-22	Future report
T-22-10 Inlet Odour Management Works.	21/09/2023 Item 14.02	Present a future report to Ordinary Council Meeting after contract awarded for Council's information.	DCU		Future report
Draft Landrigan and Andrews Parks Master Plan.	14/12/2023 Item 11.01	Council to receive a future report following public exhibition.	DBP		Future report
Payment of Water Fund and Sewer Fund Dividend for the Year 2022 - 2023.	15/02/2024 Item 10.13	Residual amount being the subject of a future report to Council before allocation.	DBP		Future report

Sancrox Employment Land Environmental Lands and Services Planning Agreement Assessment Report.	15/02/2024 Item 13.06	A further report to council following public exhibition on submissions received.	DCPE		Future report
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Cyclic Reports	Reporting Officer	Reporting Cycle	Month	Altered Report Date	Reason for Altered Date
Mayoral Discretionary Fund Allocations	CEO	Monthly	Every		
Monthly Budget Update	DBP	Monthly	Every (except July)		
Investments	DBP	Monthly	Every		
Recommendations by the Port Macquarie-Hastings Sporting Fund Sub-Committee	DCPE	Monthly	Every (Except February)		
Lake Cathie Natural Resource Management update (13/01/2022 Item 05.01)	DCPE	Monthly	Every		
Recreation Action Plan – Status The cycle of Recreation plan has changed due to Recreation Action Plan being adopted in February 2023	DCPE	Annually	February		
Annual Drinking Water and Recycled Water Reports	DCI	Annually	February		
Contracts Awarded under Delegation by the Chief Executive Officer (Including Tender T-22-61 Aviation Security Screening Services)	DBP	Quarterly	April, July, October, February		
Legal Fees - Update Report (19/09/18 - Item 09.16)	CEO	Quarterly	February, May, August, November		
Development Activity and Assessment System Performance	DCPE	Quarterly	February, May, August, November		

Cyclic Reports	Reporting Officer	Reporting Cycle	Month	Altered Report Date	Reason for Altered Date
Community Inclusion Plan. Update of Tasks, Measures and Actions	DCPE	Biannual	February, August		
Glasshouse Strategic Plan Update	DBP	Biannual	February, August		
2022-2026 Delivery Program – Six Monthly Progress	DBP	Biannual	February, August		
Grant Application Biannual Report (16/02/23 - Item 11.05 (21/08/19 - Item 11.02)	DCPE	Biannual	February, August		
Major Events Round One Round Two	DCPE	Biannual	April, Sept		
Chief Executive Officer's Performance Review	CEO	Annually	April		
Operational Plan – Quarterly Progress	DBP	Quarterly	May, November (other 2 quarters reported with DP 6 monthly progress report)		
Quarterly Budget Review Statement	DBP	Quarterly	February, May, November		
Mayoral and Councillor Fees (Setting of)	CEO	Annually	May		
General Fund Operating Performance	CEO	Biannual	June and December		
Update on Site Specific Planning Proposal Requests	DCPE	Biannual	June, December		
Port Macquarie-Hastings Destination Management Plan 2020-2024 (20/05/2020 - Item 12.01)	DCPE	Annually	June		
Kooloonbung Creek Flying Fox Camp Management Plan - Annual Update (16/06/2021 - Item 12.03)	DCPE	Annually	June		
UGMS - Annual Progress Report on Implementation and Status of Actions (20/06/18 - Item 12.07)	DCPE	Annually	July		

Cyclic Reports	Reporting Officer	Reporting Cycle	Month	Altered Report Date	Reason for Altered Date
Local Preference Policy Outcomes	DBP	Annually	August		
Cultural Plan 2021 - 2025: Implementation and evaluation of actions undertaken (04/08/2021 - Item 10.01)	DCPE	Annually	August		
Audit, Risk, and Improvement Committee Annual Report	CEO	Annually	September		
Annual Disclosure of Interest Returns	CEO	Annually	October		
Professional Development of Councillors (15/09/2021 - Item 09.07)	CEO	Annually	October		
Legislative Compliance Register	CEO	Annually	November		
Council Meeting Dates	CEO	Annually	November		
Council's Annual Report	DBP	Annually	November		
Performance of Property Investment Portfolio (20/11/19 - Item 10.17)	DBP	Annually	November		
Local Strategic Planning Statement - Implementation of Actions (03/11/2021 - Item 12.05)	DCPE	Annually	November		
Koala Recovery Strategy Annual Report	DCPE	Annually	November		
Annual Financial Statements for the Year Ended 30 June	DBP	Annually	November		
Code of Conduct Complaints Annual Report	CEO	Annually	December		

Attachments

Nil

Item: 10.03

Subject: NOTICE OF MOTION - CASTING VOTE

Mayor Peta Pinson has given notice of her intention to move the following motion:

RECOMMENDATION

That the Chief Executive Officer be requested to provide a report to the April 2024 Ordinary Council Meeting that details the purpose of a casting vote, use of the casting vote, as included in the Local Government Act and the Office of Local Government Model Code of Meeting Practice and other levels of government that use a casting vote in the event of the equality of votes in a matter.

Comments by Mayor

Nil.

Attachments

Nil

Item: 10.04

Subject: NOTICE OF MOTION - AUDIT, RISK AND IMPROVEMENT COMMITTEE.

Councillor Lisa Intemann has given notice of her intention to move the following motion:

RECOMMENDATION

That Council:

- 1. Replace Councillor Adam Roberts with Councillor Lisa Intemann to be the non-voting Councillor member to the Audit, Risk and Improvement Committee.**
- 2. Re-appoint Councillor Danielle Maltman as an alternate non-voting Councillor representative to attend the Audit, Risk and Improvement Committee meeting as the Councillor representative whenever the primary non-voting Councillor representative is unable to attend.**

Comments by Councillor

The Audit Risk and Improvement Committee performs a critical function for Council, including independent advice on aspects of Council's operations including financial management, fraud control, governance and risk management.

In July 2023, Councillor Adam Roberts was appointed as the Councillor representative to the Audit Risk and Improvement Committee, with that role intended to facilitate flow of information between ARIC and the governing body, among other functions.

It is now my view that a different Councillor should be appointed to the position.

Attachments

Nil

Item: 10.05

Subject: NOTICE OF MOTION - RETURNS OF INTEREST

Councillor Lauren Edwards has given notice of her intention to move the following motion:

RECOMMENDATION

That Council amend the Code of Conduct by including an additional supplementary provision as detailed below:

4.23A The Chief Executive Officer, or delegate, is authorised to refuse to accept a return from a Councillor or Designated Person that, in the opinion of the Chief Executive Officer or delegate, is visibly incomplete, contains unclear responses, is illegible or otherwise non-compliant with the requirements of completing the return. It is noted that the analysis with respect to the measure of completeness is based on examination of whether individuals have completed all parts of the returns of interest form. This does not examine whether the information provided in the forms is in fact accurate. It is further noted that the responsibility of completing the return correctly lies with the Councillor or Designated Person and not the Chief Executive Officer, or delegate.

Comments by Councillor Lauren Edwards

Through the Community Strategic Plan, our Community have clearly demanded their local government operates with authenticity and transparency. Key aspects of this demand are recorded in our CSP as including the desire for:

- Greater trust between Council and the community; and
- Information to be shared so that we are all empowered

Most Councillors here also campaigned on a commitment to improve transparency at Council. There is no better or more important opportunity to demonstrate this to our community than with our own Returns of Interest and as their elected and most influential decision makers. Further information can be found in the Office of Local Government Guide as attached to this Notice of Motion (Attachment 1).

According to the Office of Local Government (OLG) Guide, Disclosure of Return of Interests “operate as a key transparency mechanism for promoting community confidence in council decision making, whether by councillors or by staff or others under delegation.”

In November 2023, Council resolved to undertake an audit of the Disclosure of Returns by Councillors and Designated Persons.

At the February 2024 Ordinary Council meeting, Council received the report detailing the results of this audit. The report indicated generally sound compliance, however, there were more than 200 instances of non-compliance due to Returns being either incomplete or unclear.

During debate of this matter, it was indicated that staff could not decline to accept Disclosures that were visibly incomplete or otherwise noncompliant. This is problematic: As indicated by the OLG Guide, disclosures are a fundamental mechanism to support public trust in local government.

As such, since the February Council meeting, the OLG were contacted and have clarified that Council can include a supplementary provision in the Code of Conduct in order to permit staff to decline to accept Disclosures that are visibly incomplete.

This motion provides an opportunity for Councillors to demonstrate Council's commitment to core demands of our community: transparency and authenticity.

Attachments

1.  Office of Local Government - A Guide to Completing Model Code of Conduct Returns of Interests

Item: 10.06

Subject: DISCLOSURE OF INTEREST RETURN

Presented by: Business and Performance, Keith Hentschke

Alignment with Delivery Program

1.3.2 Build trust and improve Council's reputation through transparency, good decision making and living Council's Values.

RECOMMENDATION

That Council note the Disclosure of Interest returns for the following Councillors:

- 1. Mayor Peta Pinson**
- 2. Councillor Adam Roberts**
- 3. Councillor Danielle Maltman**
- 4. Councillor Rachel Sheppard**

Executive Summary

This report informs Council of the updated lodgement of returns disclosing the interests of certain Councillors in accordance with Council's resolution at the February 2024 Ordinary Council to item 10.03 Audit of the Returns of Interests of Councillors and Designated Persons that states:

That Council:

- 1. Note the information provided within this report.*
- 2. Determine that where Councillor's returns were found not to have addressed all criteria required, the relevant councillors be advised of this information by 29 February 2024, and be formally requested to lodge a compliant return by 31 May 2024.*

As a result, Mayor Pinson and Councillors Roberts, Maltman and Sheppard, at this stage, have lodged updated returns of interest.

The returns for the abovementioned Councillors will be tabled at this meeting.

Discussion

At the Ordinary Council meeting held 15 February 2024, with regard to Item 10.03 Audit of the Returns of Interests of Councillors and Designated Persons, Council resolved:

That Council:

- 1. Note the information provided within this report.*
- 2. Determine that where Councillor's returns were found not to have addressed all criteria required, the relevant councillors be advised of this information by 29 February 2024, and be formally requested to lodge a compliant return by 31 May 2024.*

All Councillor returns of interest were reviewed and several were found to have been completed incorrectly or were missing required information. Councillors were provided with comments relating to their returns of interest on 19 February 2024 and requested to consider lodging an updated return that addressed areas of their return that may have been incomplete or completed incorrectly.

As a result, Mayor Pinson and Councillors Roberts, Maltman and Sheppard, at this stage, have lodged updated returns of interest.

The updated returns for the abovementioned Councillors will be tabled at this meeting and provided on Council's website.

Options

Lodgement of a Return by a Councillor or Designated Person is required to be tabled at the next available Ordinary Council meeting following lodgement of that return.

Community Engagement and Internal Consultation

Internal Consultation

- Group Manager Governance.
- Chief Executive Officer.

Planning and Policy Implications

There are no planning or policy implications.

Financial and Economic Implications

There are no financial or economic implications.

Attachments

Nil

Item: 10.07

Subject: DISCLOSURE OF INTEREST RETURN - DESIGNATED PERSONS

Presented by: Business and Performance, Keith Hentschke

Alignment with Delivery Program

1.3.2 Build trust and improve Council's reputation through transparency, good decision making and living Council's Values.

RECOMMENDATION

That Council note the Disclosure of Interest returns for the following positions:

- 1. Business and Performance - Procurement Manager**
- 2. Community Planning and Environment - Development Assessment Planner**
- 3. Community Infrastructure Planning and Design - Civil Designer**
- 4. Community Utilities - Network Construction and Integration Manager**

Executive Summary

This report informs Council of the lodgement of a return disclosing the interests of a designated person which are required under Clause 4.21 of Council's Code of Conduct.

The returns for the abovementioned positions will be tabled at this meeting.

Discussion

Clause 4.21 of Council's Code of Conduct, requires Councillors and Designated Persons to prepare and submit written returns of interests. The following positions are designated person under the Local Government Act:

1. Procurement Manager
2. Development Assessment Planner
3. Civil Designer
4. Network Construction and Integration Manager

Clause 4.24 requires the General Manager (or Chief Executive Officer) to keep a Register of the Returns and Clause 4.25 requires the returns must be tabled at the first meeting of the Council after the last day the return is required to be lodged.

The disclosure returns will be held in the Disclosure Register in the Governance Section of Council and, as required by Section 6 of the *Government Information (Public Access) Act 2009*, they are available for public inspection by appointment or they are available on Council's website noting residential addresses of staff may be redacted in accordance with the Local Government Act.

Options

Lodgement of a Return by a Designated Person is a requirement under Clause 4.21 of Council's Code of Conduct.

Community Engagement and Internal Consultation

Internal Consultation

- Group Manager Governance.
- Chief Executive Officer.

Planning and Policy Implications

There are no planning or policy implications.

Financial and Economic Implications

There are no financial or economic implications.

Attachments

Nil

Item: 10.08

Subject: QUESTION WITH NOTICE - CODE OF MEETING PRACTICE OR CODE OF CONDUCT.

Presented by: Business and Performance, Keith Hentschke

RECOMMENDATION

That Council note the Question With Notice from Councillor Intemann regarding the Code of Meeting Practice or Code of Conduct.

Question from Councillor Lisa Intemann

What provision is available, or could be made available, under the Code of Meeting Practice or the Code of Conduct or other instrument to generally prevent resolutions involving significant financial commitment from being made without relevant staff advice?

Comments by Councillor

At the February meeting decisions involving significant financial and strategic impact were made by amendment from the floor without benefit of relevant advice from staff. There are provisions in the Code of Meeting Practice which prevent such decisions when they affect the adopted budget but I cannot find any mechanism covering other circumstances, e.g. allocation of the Water/Sewer dividend.

It seems notable that such decisions would contradict the headline Principles of the Code of Meeting Practice, but there is no actual clause I can find that is relevant to this particular issue.

2. MEETING PRINCIPLES

Council and committee meetings should be:

- Transparent:* Decisions are made in a way that is open and accountable.
- Informed:* Decisions are made based on relevant, quality information.
- Inclusive:* Decisions respect the diverse needs and interests of the local community.
- Principled:* Decisions are informed by the principles prescribed under Chapter 3 of the Act.
- Trusted:* The community has confidence that Councillors and staff act ethically and make decisions in the interests of the whole community.
- Respectful:* Councillors, staff and meeting attendees treat each other with respect.
- Effective:* Meetings are well organised, effectively run and skilfully chaired.

AGENDA

ORDINARY COUNCIL
21/03/2024

Orderly: Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

Attachments

Nil

Item: 10.09

Subject: INVESTMENTS AND LOANS - FEBRUARY 2024

Presented by: Business and Performance, Keith Hentschke

Alignment with Delivery Program

1.5.1 Manage Council's financial assets and provide accurate, timely and reliable information.

RECOMMENDATION

That Council note the Investment and Loans Report for February 2024.

Executive Summary

- Council's investment portfolio has met compliance requirements and investment income is exceeding the budget.
- Total investment portfolio performance for the financial year to date was marginally below benchmarks due to the unexpected aggressive rate hikes undertaken by the RBA. Whilst the 'underperformance' may continue in the short term, this is expected to be temporary.
- Over February 2024, movements for major bank term deposit rates were mixed compared to January 2024. Major bank deposit rates dropped by as much as 16bp across the shorter-tenors (3-12 months), whilst flat across the medium term (2-3 years), and were slightly up by around 2-3bp across the longer-tenors (4-5 years). Interestingly, major bank deposit rates are approximately 10-22bp lower than what they were 6 months ago (August 2023), clearly pricing in the future rate cuts expected later this year.
- Over the past 12 months the portfolio has returned 2.79% p.a. which is 1.32% lower than the benchmark (AusBond Bank Bill Index).
- Outstanding loan balances are at manageable levels to enable borrowings for capital works moving forward and significant new loans are included in the current Long Term Financial Plan.
- The loans portfolio is currently attracting average rates lower than new investments, meaning that Council is currently experiencing a positive net exposure to interest rates.

Discussion

The purpose of this report is to provide details of Council's investment and loan portfolios and to certify that all investment funds have been made in accordance with section 625 of the Local Government Act 1993.

Council has engaged Arlo Advisory to provide both an investment management platform and investment advisory service. Attachments 1 and 2 prepared by Arlo Advisory provide detailed information on the performance of Council's investment portfolio for the period.

Investment Portfolio

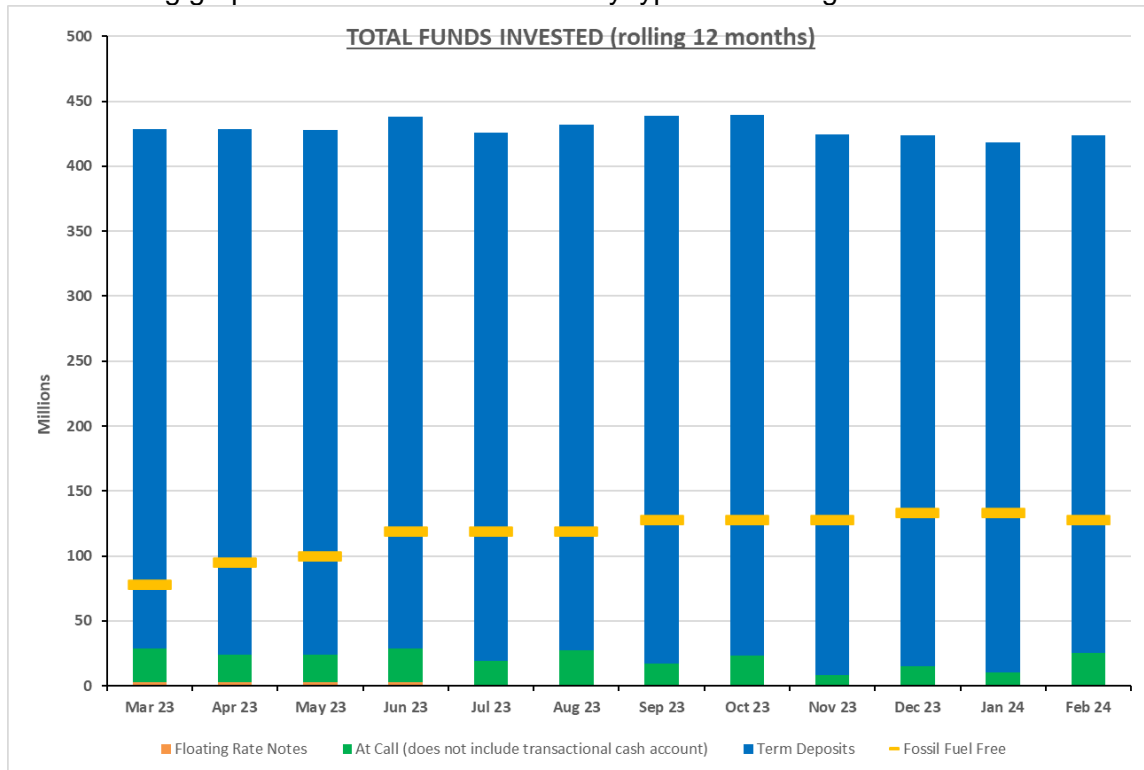
As of 29 February 2024, the investments held by Council totalled \$424,060,765.

Investment activity during the month was as follows:

Activity	Amount	Institution	Rate	Term	Funds Fossil Fuel
Matured	2,500,000	Westpac	1.45%	2yr	Yes
Matured	4,000,000	Westpac	1.55%	2yr	Yes
Matured	3,000,000	NAB	5.00%	1yr	Yes
Matured	5,000,000	MyState	1.80%	2yr	No
Withdrawal	0	Westpac	4.60%	On Demand	Yes
Total Matured	14,500,000				
Invested	15,050,734	Westpac	4.60%	On Demand	Yes
Invested	5,000,000	ING	5.13%	5yrs	Yes
Total New Investments	20,050,734				
Net Investment Movement being the difference in Principal invested at end of month & excluding Investment Earnings	5,550,734				

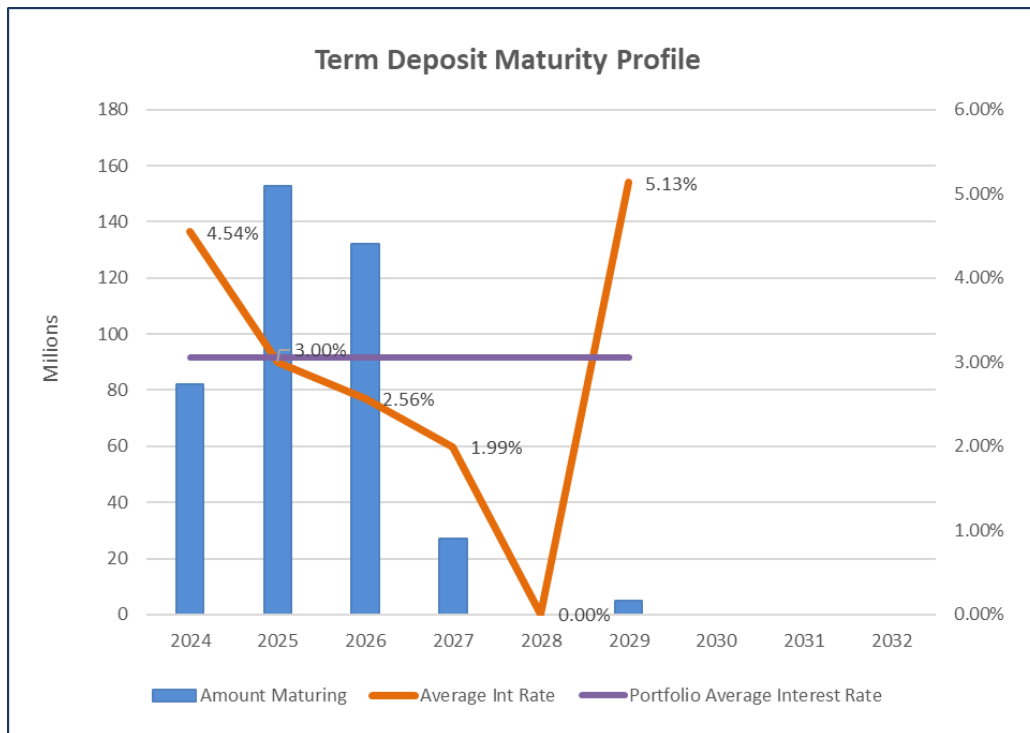
All investments are made in accordance with Council’s adopted investment policy, including policy risk limits and performance. The policy is formulated with reference to Office of Local Government Investment Policy Guidelines.

The following graph shows total investments by type on a rolling 12-month basis:



The maturity profile of the investment portfolio, (excluding the cash management account which is at call) is illustrated below and shows that maturities are well balanced across the next 3-to-5-year horizon.

The average interest rate of those falling in the current year illustrates the impact of longer-term investments made in higher rated products prior to the interest rate decline during the COVID-19 pandemic. This has meant that returns have been somewhat protected against falling rates and the portfolio performed strongly despite this. From next year, the average interest rate of maturities falls. This reflects the declining interest rates of the last two years, noting that Council protected the portfolio against even lower interest rates by taking advantage of longer term and higher rated products, thereby still maintaining average returns above industry benchmarks. Moving forward it will be important to take advantage of rising interest rates if re-investing maturing investments, whilst also balancing with a level of risk mitigation against a potential recession environment. As shown below an investment has been taken out this month over a longer term (5 years) to take advantage of an interest rate of 5.13%.



Council’s total investment portfolio is attributed to the following funds:

Fund	Balance (\$)	Notes
General Fund	163,144,658	1
Waste Fund	30,434,841	2
Water Fund	161,927,603	2
Sewer Fund	68,553,663	2
Total	424,060,765	

Whilst the current level of investments remains high, these largely relate to funds which have legal restrictions (i.e. Water and Sewer), where funds cannot be spent on general operations or works, or to funds held for specific purposes. These funds will be spent depending on the required timing of future works and the totals will fluctuate depending on the status of individual projects.

(1) The General Fund reserves include the following:

- Approximately \$75.6m are development contributions (S.711) that must be expended in relation to adopted plans to fund growth related infrastructure. They cannot be spent on existing infrastructure or on projects not listed in the relevant plans.
- At 30 June 2023, \$59m were grants for specific projects to be spent in 2023 and 2024, including for Ocean Drive (\$16.6m) and Maria River (\$10.6m).
- Remaining reserves are fully allocated to a range of projects including Ocean Drive (\$10m), additional parks maintenance (\$1m) and various airport projects. They are also allocated to fund operational needs of Council, such as replacing Plant and Equipment, with approximately \$10.5m held for security bonds which will be returned to suppliers on completion of works.

(2) Much of the portfolio is held in the Water, Sewer and Waste Funds which require significant capital investment. Projects often occur cyclically, with a combination of reserves and borrowings used to fund the large infrastructure needs. The funds are fully allocated to projects over the coming years including:

- Cowarra Water Treatment / Filtration Plant - \$125m of reserves funding
- Thrumster Sewerage Treatment Plant - \$19m of reserves funding
- Kew STP Upgrade - \$35m of reserves funding
- Kew and Bonny Hills Reservoirs - \$11m of reserves funding

The following is a summary of Council’s exposure to financial institutions that fund fossil fuels:

Financial institutions funding fossil fuels	Purchases since 01/07/23 (\$)	Purchases since 01/07/23 (%)	Amount invested at 29/02/24 (\$)	Amount invested at 29/02/24 (%)
Yes	35,076,760	78%	296,060,765	70%
No	10,000,000	22%	128,000,000	30%
	45,076,760		424,060,765	

Further commentary on fossil fuel investments is provided by Arlo Advisory in the attached Monthly Investment Report (Attachment 1).

When investing, Council seeks and receives multiple quotes from a range of financial institutions across the different ratings spectrum. In the instance that a bank is not lending to the fossil fuel industry, are offering the highest rate, and comply with the various Policy risk limits, Council preferences that bank, in accordance with the Investment Policy. As noted above, the investment policy is formulated with reference to Office of Local Government *Investment Policy Guidelines*.

Interest on Investments

The following table shows the interest returns as of 29 February 2024 for the 2023-24 financial year and the portfolio performance against benchmark (bank bill Index).

Item	Performance
Interest for the Month (\$)	1,077,331
Interest YTD (\$)	8,975,329
% of Annual Budget Rec'd	89%
Portfolio Performance FYTD Actual (%)	1.96%
AusBond Bank Bill Index FYTD Actual (%)	2.88%
Performance Compared to Bank Bill Index (%)	-0.92%

As noted above, although the total portfolio performance for the financial year to date was marginally below benchmark due to the unexpected aggressive rate hikes undertaken by the RBA, this 'underperformance' is expected to be temporary.

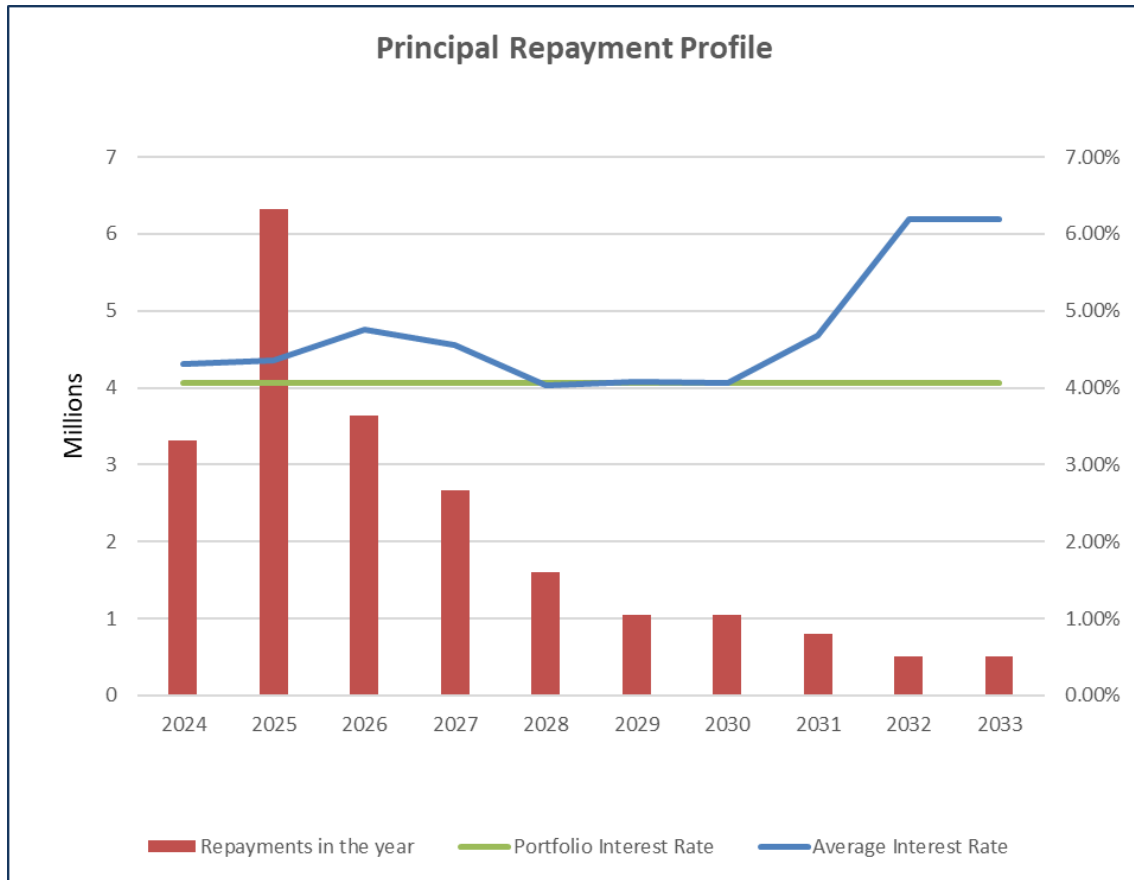
Loan Portfolio

Below are details of Council's current loan balances and interest expense for the month:

Fund	Amount Borrowed	Outstanding Balance	Weighted Average Interest Rate	Accrued Interest for Month	Remaining Repayments FYTD
General	66,144,755	21,007,083	4.49%	75,429	3,691,998
Waste	1,500,000	424,315	3.44%	1,160	89,291
Total	67,644,755	21,431,398		76,589	3,781,289

*see attachment 3 for detailed listing of loan repayments for 2023/2024

The maturity profile of the loans portfolio is shown below. It details when the outstanding loan balances will be paid down and the average interest rate payable that has been attributable to those loans. The increase in the average interest rate in the 2032 and 2033 years is a result of the two new loans taken up in May 2023. Additional detail on the loan portfolio is provided in an attachment to this report.



Summary - Net Position Investments and Loans

Interest Analysis for the Month	
Investment Interest Income	1,077,331
Loan Interest Expense	(76,589)
Net Interest Income for the Month	1,000,742
Investments Vs Borrowings	
Total Current Investment Balance	424,060,765
Total Current Loan Balance	(21,431,398)
Net Position	402,629,367

As interest rates rise, Council can invest funds at higher rates, currently locking in rates in the vicinity of 5.13%. With much of the loan portfolio locked in at average rates lower than this, Council is experiencing a positive net exposure to interest rates. However, pressure may be put on this position moving forward as future loans are expected to attract higher rates.

Options

This is an information report.

Community Engagement and Internal Consultation

Council uses the services of an independent financial advisor, on an ongoing basis with investments. Council obtains regular updates regarding market activities positions from various institutions.

Planning and Policy Implications

There are no planning and policy implications in relation to this report.

Financial and Economic Implications

Budget levels have been exceeded on a year-to-date basis. Returns are currently marginally below benchmark.




Council's total investment portfolio performance for the financial year to date is 0.92% below the benchmark (1.96% against 2.88%) and year to date income is 89% of the total annual budget.

Certification

I hereby certify that the investments listed within this report were made in accordance with Section 625 of the *Local Government Act 1993*, clause 212 of the *Local Government (General) Regulation 2012* and Council's Investment Policy.

Nicole Spencer
Responsible Accounting Officer

Attachments

1.  Port Macquarie Hastings Council Investment Report - 29 February 2024
2.  Port Macquarie Hastings Council Portfolio Valuation - 29 February 2024
3.  Port Macquarie Hastings Council Loan Repayments - 2023-2024

Item: 10.10

Subject: MONTHLY BUDGET REVIEW - FEBRUARY 2024

Presented by: Business and Performance, Keith Hentschke

Alignment with Delivery Program

1.5.1 Manage Council’s financial assets and provide accurate, timely and reliable information.

RECOMMENDATION

That Council:

- 1. Adopt the adjustments in the “February 2024 Adjustments” section of the Monthly Budget Review – February 2024 report and associated attachment.**
- 2. Amend the 2023-2024 Operational Plan to include all budget adjustments approved in this report.**

Executive Summary

This report details monthly budget adjustments recommended to be made for the month of February 2024. The Council-adopted 2023-2024 budget position at the commencement of the financial year was a balanced budget. The budget adjustments contained in this report forecast a budget surplus position of \$17,495 as at the end of February 2024. This is outlined in the table below.

Monthly Budget Review Summary

Original Budget as at 1 July 2023	Balanced	\$0
<i>Plus adjustments:</i>		
July Review	Balanced	\$0
August Review	Balanced	\$0
September Review	Balanced	\$0
October Review	Balanced	\$0
November Review	Surplus	\$17,495
January Review	Balanced	\$0
February Review	Balanced	\$0
Forecast Budget Position for 30 June 2024	Surplus	\$17,495

* No report in December due to no Council meeting

Discussion

Each month, Council's budgets are reviewed by Group Managers and Directors with any required adjustments reported. The purpose of this report is to provide Council with an up to date view of the current actual financial position in comparison to the originally adopted 2023-2024 budget position along with the proposed movement of funds to accommodate any changes.

Any budget variations which are greater than \$50,000 and 2% of the project budget are reviewed and approved by the Executive Group in their function to oversee operational activities and approve operational actions.

February 2024 Adjustments

The commentary below is to be read in conjunction with the "Forecast Budget Statement for the Year Ended 30 June 2024" on page 3 of this report. Further details on individual transactions are provided in Attachment "February 2024 Budget Review".

Grants and Contributions totalling \$2,784k were recognised during the month of February. These include grants for Koala Habitat Mapping (\$255k), Local Roads Community Infrastructure Program (\$1,054k) and Fixing Country Bridges (\$1,425k).

Reserve Transfers were required during the month for the Airport (\$97k), developer funded sewer works (\$348k) and a Waste Strategy project (\$15k).

Budget Variance Requests were approved by Executive during the month for Road Resealing Works (\$692k), Bain Park Masterplan (\$100k), Gordon and Horton Street Intersection (\$1,600k), Kendall Skate Park (\$190k), Pilot Beach Play Space (\$73k) and Kendall Recreation Reserve Play Space (\$137k).

Other adjustments are accounting entries only, or movements between projects, and have no impact on Council's budget position.

Forecast Budget Statement for the Year Ended 30 June 2024

	2023-24 Original Budget ‘\$000	Carry Overs ‘\$000	Approved Adj YTD ‘\$000	Prior Month Forecast ‘\$000	Current Month Adj ‘\$000	2023-24 Full Year Forecast ‘\$000
Operating Activities Movements						
Income from continuing operations						
Rates and Annual Charges	117,526		0	117,526		117,526
User Charges and Fees	44,396		0	44,396	377	44,773
Interest Received	10,456		0	10,456		10,456
Grants and Contributions	89,160	7,818	12,179	109,157	2,784	111,941
Other Operating Receipts	6,670		3	6,673		6,673
Expenses from continuing operations						
Employee Costs	(65,226)		(266)	(65,492)		(65,492)
Materials and Contracts	(56,421)	(1,831)	(1,708)	(59,960)	(182)	(60,142)
Depreciation	(54,366)		0	(54,366)		(54,366)
Interest Paid	(1,057)		0	(1,057)	(210)	(1,267)
Other Operating Payments	(18,468)		0	(18,468)	(362)	(18,830)
Loss on Disposal of Assets	(3,050)		0	(3,050)		(3,050)
Operating result from continuing operations	69,620	5,987	10,208	85,815	2,407	88,222
Restricted Asset Movements						
Transfer from Restricted Assets	91,273	13,842	(8,705)	96,410	(117)	96,293
Transfer to Restricted Assets	(60,348)		0	(60,348)		(60,348)
Net Revenues (Used in)/Provided by in Restricted Assets	30,925	13,842	(8,705)	36,062	(117)	35,945
Property, Plant and Equipment Movements						
Purchase of Assets	(175,994)	(19,829)	(1,486)	(197,309)	(2,290)	(199,599)
Developer Provided Assets	(8,000)		0	(8,000)		(8,000)
Net Revenues (Used in)/Provided by Property, Plant and Equipment Activity	(183,994)	(19,829)	(1,486)	(205,309)	(2,290)	(207,599)
Financing Activities Movements						
Proceeds from Borrowings and Advances	32,450			32,450		32,450
Repayments of Borrowings and Advances	(6,417)			(6,417)		(6,417)
Net Revenues (Used in)/Provided by Financing Activity	26,033	0	0	26,033	0	26,033
Net Result (Incl Depreciation)	(57,416)	0	17	(57,399)	0	(57,399)
Add Back: Non Cash Items	57,416		0	57,416		57,416

Note that ‘Other Operating Payments’ includes items such as electricity, street lighting, insurances, waste levy, emergency services levies.

Options

Council may adopt the recommendations as proposed or amend as required.

Community Engagement and Internal Consultation

Not applicable.

Planning and Policy Implications

There are no planning and policy implications in relation to this report.


Financial and Economic Implications

Attachment 1 to this report contains information of each individual budget adjustment by Division and Section. The budget movements within this report result in the budget position surplus of \$17,495.

Statement by Responsible Accounting Officer

“The adopted original budget result for 2023-2024 was a balanced budget. As at 29 February 2024 this position is changed to a budget surplus of \$17,495 and this position is considered acceptable”.

Attachments

1.  February 2024 Budget Review

Item: 10.11

Subject: REPORT OF THE AUDIT, RISK AND IMPROVEMENT COMMITTEE
MEETING HELD 7 MARCH 2024

Presented by: Business and Performance, Keith Hentschke

Alignment with Delivery Program

1.5.1 Manage Council's financial assets and provide accurate, timely and reliable information.

RECOMMENDATION

That Council note the report of the Audit, Risk and Improvement Committee held 7 March 2024.

Executive Summary

In accordance with the Risk Management and Internal Audit for Local Government in NSW Guidelines, Council's Audit, Risk and Improvement Committee is required to report to Council following each ordinary meeting on the items considered and outcomes of the meeting.

It is noted that due to the sensitive nature of some items considered at this meeting, details may be excluded from this report.

Discussion

Council's Audit, Risk and Improvement Committee met on 7 March 2024. The meeting was attended by all members in person. The meeting was also attended by Council's Chief Executive Officer, Dr Clare Allen and Director Business and Performance, Keith Hentschke together with other support staff including Governance, Legal and Internal Audit staff.

Prior to the commencement of the meeting, the Committee held an in-camera meeting with only Committee members in attendance, followed by a further in-camera meeting with Council's Chief Executive Officer.

There were 22 items considered outside of housekeeping items such as previous minutes and disclosures of interest.

All Audit, Risk and Improvement Committee meetings commence with members being asked to indicate if they are aware of any emerging risks that Council may wish to consider. The emerging risks identified included:

1. Artificial intelligence (AI) and Council's position/policy on the use AI
2. Cybersecurity and risks and impacts currently being experienced within local government.

3. The impact of the Local Government elections on Council with a change to Councillors and expectations and political activities leading into an election.
4. Impact on local government workforce as a result of skills shortages and attraction, lower levels of graduates from traditional local government key skills areas such as accountants and engineers and skills shortages and resources in work, health and safety; and governance areas.

A representative from Centium presented to the Committee the Internal Audit on Assets Provided by Developers. This audit has identified a number of high risks that Council is currently addressing. There were comments made about some proposed timeframes to address certain recommendations that have not been determined and the Committee have requested these timeframes be reviewed and updated. It was also requested that progress updates be provided on a regular basis on long term actions. Recommendations from the internal audit report have been added to the outstanding audit recommendations register.

A number of financial/operational management based reports were provided for the consideration of the Committee including:

- Council Reports: Quarterly Budget Review Statement Report and October 2023 Investment Report End of Year Financials
- 2023-2024 Operational Plan Second Quarter Status Report as at 31 December 2023
- 2022-2026 Delivery Program (Year 2) - Six Month Progress Report as at 31 December 2023

Council's Group Manager Financial Services attended the meeting to respond to any comments or questions posed by Committee members. There was little discussion around this item other than the Committee expressed their approval of the format and information provided in these reports.

It is also noted that representatives from Council's external audit providers, Thomas Noble and Russell, were also in remote attendance during consideration of the following items:

- 2023 Year End Audit Management Letter
- Audit Office - Annual Engagement Plan

The chairperson discussed the contents of the final management letter and advised that the management letter was discussed informally at the December 2023 Audit, Risk and Improvement Committee meeting. It was noted that no recommendations were at a high risk rating. Recommendations from the final management letter have been added to the outstanding audit recommendations register. With regard to the annual engagement plan, discussion occurred around timing of distributing draft financial statements and plans to members. Timeframes were discussed to ensure that Committee members receive these documents with adequate time to review them.

There was an Internal Audit on Recruitment and Selection of Staff presented to the Committee with 10 recommendations being made, 4 being identified as high risk. The internal audit report was accepted and recommendations from the audit report have been added to the outstanding audit recommendations register.

A Cybersecurity report was provided to the Committee however the Chief Information Officer was an apology for this meeting. This report was well received and outlines Council's current preparedness and future plans to protect Council from Cybersecurity threats. An ongoing cyclic information report has been requested for future Committee meetings.

The Committee received a report from the Group Manager Project Delivery on the status of major projects currently underway by Council. These projects include:

- Ocean Drive Duplication
- Maria River Road
- Fixing Country Bridges
- Thrumster Wastewater Scheme
- Port Macquarie Bulk Water Treatment Plant at Cowarra (Cowarra Water Supply Scheme)
- Kew/Kendall Wastewater Scheme Diversion to Camden Haven
- Port Macquarie Aquatic Facility

Particular attention was given to the status of Maria River Road and Kew Wastewater Treatment Plant Upgrade as they indicated corrective action necessary and further discussion was undertaken on these items. It was further noted that the Kew Wastewater Treatment Plant Upgrade as listed in previous reports is now referred to as Kew/Kendall Wastewater Scheme Diversion to Camden Haven due to a change in scope of this project.

Council's Group Manager People, Safety and Performance provided a quarterly update on Work, Health and Safety matters. This report addressed hazard reporting, injuries (including lost time injuries) and workers compensation claims and other matters. This report also addressed important initiatives currently underway and training opportunities.

The Internal Audit Activity Report was presented to the Committee. The Committee discussed a proposed set of key performance indicators and made some suggested changes. The Committee also noted that quite a few outstanding audit recommendations had been closed.

The Committee also considered a draft Internal Audit Charter for endorsement and presentation to Council for consideration. This draft charter was based on a model charter as provided by the OLG Guidelines. This item was endorsed by the Committee.

A forward task responsibility schedule was also presented to the Committee for consideration. This was adopted noting that this will be refined and added to as required.

Following Council's resolution of the February 2024 Ordinary Council meeting regarding a proposed rate freeze in preparation of the 2024-2025 Operational Plan and Budget, a copy of the Council report from that meeting was included on this agenda for the comment of the Committee. ARIC confirmed its position as was detailed in that report including concerns on the potential impact on the long-term sustainability of Council operations, including the intergenerational equity impacts.

Similarly, the item from the February 2024 Ordinary Council meeting on the proposed abolition of the Town Centre Master plan was also provided to the Committee for noting. The Committee discussed the complexity of the history relating to the TCMP but ultimately acknowledged that these are the decisions of Council, and that Council had all the relevant information before it to make that decision.

The Director Business & Performance noted that he had no change to the position of the staff recommendation in both of these reports.

A number of regular governance related matters were also reported to the Committee being:

- Material Litigation Matters Report
- Major Non-Compliance Exceptions Report

The Committee received a further report that was considered at the February 2024 Ordinary Council meeting on the Audit of returns of interests of Councillors and Designated Persons for the information of the Committee. This report was noted by the Committee.

The Committee also requested a future Legal Report which outlined any relevant legislative changes being considered by Parliament and potential implications for Council.

An information report was also provided to the Committee on the current Risk Management Transformation Project to provide further details as to the major components of the project and roadmap for implementation. This item was noted by the Committee.

A number of draft policies were also considered by the Committee for their endorsement. Each of the following policies were endorsed to be presented to Council for their consideration:

- Draft Legislative Compliance Policy
- Draft Determining Applications Lodged by Councillors and Staff Policy
- Draft Data Breach Policy and Privacy Management Plan
- Draft Policy Framework

No items of General Business were discussed.

The next meeting will be held on 28 June 2024.

Options

This report is for notation only.

Community Engagement and Internal Consultation

**No engagement was required or has occurred regarding this report.
Planning and Policy Implications**

There are no planning and policy implications in relation to this report.

Financial and Economic Implications

There are no financial and economic implications in relation to this report.

Attachments

Nil

Item: 10.12

Subject: INTERNAL AUDIT CHARTER

Presented by: Business and Performance, Keith Hentschke

Alignment with Delivery Program

1.3.3 Ensure there is appropriate management of risk to mitigate impact for Council and the community.

RECOMMENDATION

That Council adopt the Port Macquarie-Hastings Council Internal Audit Charter attached to this report.

Discussion

Local Government (General) Amendment (Audit, Risk and Improvement Committees) Regulation 2023 Section 216O requires Council to adopt an internal audit charter to guide how internal audit will be undertaken by the Council.

The attached Internal Audit Charter has been developed from the Office of Local Government Model internal audit charter and feedback from the Institute of Internal Auditors. The Internal Audit Charter includes the early adoption of the new Global Internal Audit Standards released January 2024 which will come into force January 2025.

Community Engagement and Internal Consultation

There are no planning and policy implications in relation to this report.

Financial and Economic Implications

There are no financial and economic implications in relation to this report.

Attachments

1.  Draft Port Macquarie-Hastings Council Internal Audit Charter

Item: 10.13

**Subject: OPPORTUNITY FOR LOCAL FIRMS TO DO BUSINESS WITH PORT
MACQUARIE-HASTINGS COUNCIL**

Presented by: Business and Performance, Keith Hentschke

Alignment with Delivery Program

1.5.2 Use procurement, tendering, purchasing and contract management approaches that are transparent and equitable.

RECOMMENDATION

That Council:

- 1. Note the information provided in this report.**
- 2. Note a future report will be presented to the Ordinary Council meeting in October 2024 that details Council's commitment to supporting local business through its tendering and purchasing process from the previous 12 months.**

Executive Summary

This report is a periodic report that provides Council with insights on the application of the Tendering Local Preference Policy on Council's tendering activities for the previous 12-months.

A councillor briefing was conducted in November 2023, providing councillors with a comprehensive overview of the impact that this policy is having with our local businesses.

The proposal to defer the periodic report until October 2024 is driven by the need to provide Councillors with a complete year's worth of information and trends. By postponing the report, we aim to offer a more comprehensive and accurate analysis of local supplier data, thereby enhancing the quality of insights and strategic recommendations presented to decision-makers.

Discussion

At the Ordinary Meeting of Council on 16 March 2023, with regard to Item 10.05 Opportunities for Local Firms To Do Business With Council, the Council resolved:

That Council:

- 1. Note the information provided relating to the Tendering Local Preference Policy.*
- 2. Request that a report be presented to the March 2024 Council Meeting that details Council's commitment to supporting local business through their tendering and purchasing process from the previous 12 months.*

In November 2023, a Councillor Briefing was held to delve into various aspects of this policy, including:

- the purpose of the policy
- the application of the policy in practice
- influences on the policy's effectiveness, and
- local business composition.

Since this briefing, the application of this policy has not influenced the outcome of any tendering activity.

The proposal to defer the periodic report on local supplier data until October 2024 is driven by the commitment to provide Council with the most comprehensive and insightful analysis possible. By leveraging a full year's worth of data, the deferred report will offer valuable insights to inform strategic decisions.

Additionally, in August 2022, the Council revised its procurement threshold, transitioning from requiring one verbal quote for purchases under \$2,000 to now mandating one written quote, with a primary focus on local businesses, for procurements under \$10,000. Throughout the financial year 2022-2023, requisitions exceeding \$70 million were initiated for suppliers located within our Local Government Area (LGA).

Given the positive outcomes results achieved through the revised procurement method for purchases under \$10,000, we are now considering alternative avenues to bolster our support for local suppliers and advance the goals of this policy.

Planning and Policy Implications

This policy will be reviewed as part of the procurement policy review.

Attachments

Nil

Item: 10.14

Subject: NOTICE OF MOTION - OPPORTUNITIES FOR LOCAL FIRMS TO DO BUSINESS WITH PORT MACQUARIE-HASTINGS COUNCIL.

Councillor Nik Lipovac has given notice of his intention to move the following motion:

RECOMMENDATION

That Council:

1. Note the Resolution from the March 2023 Ordinary Council Meeting relating to Opportunities for Local Firms to do Business with Council.
2. Request that a report be presented to the April 2024 Council Meeting that details Council's commitment to supporting local business through their tendering and purchasing process from the previous 13 months.

Comments by Councillor Nik Lipovac

Resolution of Council March 2023

10.05 OPPORTUNITIES FOR LOCAL FIRMS TO DO BUSINESS WITH COUNCIL

RESOLVED: Lipovac/Intemann

That Council:

1. Note the information provided relating to the Tendering Local Preference Policy.
2. Request that a report be presented to the March 2024 Council Meeting that details Council's commitment to supporting local business through their tendering and purchasing process from the previous 12 months.

CARRIED: 9/0

FOR: Edwards, Griffiths, Intemann, Lipovac, Maltman, Pinson, Roberts, Sheppard and Slade. AGAINST: Nil

Attachments

Nil

Item: 10.15

Subject: POLICY REVIEW - INVESTMENT POLICY

Presented by: Business and Performance, Keith Hentschke

Alignment with Delivery Program

1.5.1 Manage Council's financial assets and provide accurate, timely and reliable information.

RECOMMENDATION

That Council:

- 1. Place the revised draft Investment Policy on public exhibition for 28 days, from 25 March 2024 until 22 April 2024.**
- 2. Note that a further report will be presented at the May 2024 meeting of Council, detailing the submissions received from the public during the exhibition period.**

Executive Summary

In accordance with the NSW Office of Local Government *Investment Policy Guidelines*, a review of Council's Investment Policy should be conducted on an annual basis. In addition, Council resolved as follows at the 15 June 2023 Ordinary Council Meeting:

10.12 POLICY REVIEW - INVESTMENT POLICY

That Council:

- 1. Note that no changes are recommended to the policy as a result of the review.*
- 2. Note that given that no changes are recommended, the policy will not be placed on public exhibition.*
- 3. Re-adopt the current Investment Policy for the ensuing period.*
- 4. Request the Chief Executive Officer to provide a briefing on this matter no later than October 2023 once the new Risk Appetite Statement has been adopted and consideration has been given to any matters arising that are relevant to the Investment Policy.*

As such, a review of the Investment Policy has been conducted, with particular consideration given to the adopted Risk Appetite Statement. This report details changes arising from that review.

Discussion

In accordance with the NSW Office of Local Government *Investment Policy Guidelines*, a review of Council's Investment Policy should be conducted on an annual basis.

An investment policy is a governing document that guides the investment process to assist councils to invest funds in a prudent and appropriate manner. Details of these investments are then reported to Council each month, in accordance with section 625 of the *Local Government Act 1993*.

Council procures the services of Arlo Advisory for expert financial advice on its Investment Policy, investment strategy and individual investments.

As a result of the review and advice provided by Arlo Advisory, the proposed changes to the Investment Policy are as follows:

- Amend "BBB" rated overall limits from 35% to 40%
- Amend individual "BBB" rated limits, from 10% to 15%

Refer Attachment 1 for the current adopted Investment Policy and Attachment 2 for the revised draft Investment Policy for public exhibition.

Options

Council has the option to:

1. Endorse the draft Investment Policy identified within this report for public exhibition; or
2. Request further information or changes prior to placing the draft Investment Policy on exhibition.

Community Engagement and Internal Consultation

Consultation has occurred with:

- Relevant Finance Staff
- Arlo Advisory
- Executive Group

A Briefing on Council's Investment Policy, including the above amendments, was provided to Councillors on 8 February 2024.


Planning and Policy Implications

This report recommends minor amendments to the portfolio and counterparty limits in the existing Investment Policy.

Financial and Economic Implications

The Investment Policy frameworks and requirements can positively impact returns through its regulation of investments.

Attachments

1.  Current Adopted Investment Policy
2.  Revised Draft Investment Policy for Public Exhibition

Item: 10.16

Subject: POLICY REVIEW - DRAFT STRATEGIC PROPERTY INVESTMENT
POLICY - FOLLOWING PUBLIC EXHIBITION

Presented by: Business and Performance, Keith Hentschke

Alignment with Delivery Program

1.3.2 Build trust and improve Council's reputation through transparency, good decision making and living Council's Values.

RECOMMENDATION

That Council:

1. Adopt the draft Strategic Property Investment Policy.
2. Thank members of the public who made submissions and advise them of Council's determination in this matter.

Executive Summary

The existing Property Investment Policy from 2017 was reviewed in 2023 as part of the development of the Strategic Property Investment Framework. The revised policy is now called the Strategic Property Investment Policy.

At the December 2023 Ordinary meeting, Council resolved to place the updated draft policy on public exhibition for no less than 42 days. The policy was subsequently placed on public exhibition from 2 January 2024 to 15 February 2024. During the exhibition period, 6 (six) submissions were received from the public.

Supporting the Draft Strategic Property Investment Policy, there is a wide range of legislative provisions, codes, registers, guidelines and Council policies and procedures that satisfactorily address the concerns raised in the public feedback.

Discussion

The purpose of this report is to

- provide Council with an overview of the public feedback comments on the Draft Strategic Property Investment Policy, which was publicly exhibited in accordance with the *Local Government Act 1993*; and
- provide a response to the public comments setting out the measures in place that address the concerns raised.

Council's resolution with respect to this draft policy is provided below:

BLOCK RESOLVED: Lipovac/Edwards

That Council:

1. Publicly exhibit the draft Strategic Property Investment Policy for a period of not less than 42 days.
2. Note that a further report will be tabled at the March 2024 meeting of Council, detailing the submissions received from the public during the exhibition period.

Public Feedback Received

Some feedback was supportive of the policy, and other feedback raised concerns in a number of areas. For more details on the public feedback received see **Attachment 1**. The main themes from the feedback were as follows:

1. Probity, Transparency, and Equity
2. Infrastructure Prioritisation
3. Conflict of Interest and Viability (of Investments)
4. Decision-Making Processes

Response to Public Feedback

The information provided below addresses the themes and concerns raised in public feedback comments. This response includes discussing a range of broad principles and specific measures and requirements.

Broad principles under which Council's exercise their roles and responsibilities are set out in the *Local Government Act 1993*. The following principles are highlighted as relevant to the Draft Strategic Property Investment Policy, and to some of the concerns raised by the public.

8A Guiding Principles for Councils

(1) **Exercise of functions generally** *The following general principles apply to the exercise of functions by councils—*

- (a) *Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.*
- (b) *Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.*
- (c) *Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.*
- (d) *Councils should work with others to secure appropriate services for local community needs.*
- (e) *Councils should act fairly, ethically and without bias in the interests of the local community.*

(2) **Decision-making** *The following principles apply to decision-making by councils (subject to any other applicable law)—*

- (a) Councils should recognise diverse local community needs and interests.
- (b) Councils should consider social justice principles.
- (c) Councils should consider the long-term and cumulative effects of actions on future generations.
- (d) Councils should consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent, and decision-makers are to be accountable for decisions and omissions.

In terms of property investment and financial management requirements, a Council is also required to follow principles of sound financial management set out in the Act:

8B Principles of sound financial management

The following principles of sound financial management apply to councils—

- (f) Council spending should be responsible and sustainable, aligning general revenue and expenses.
- (g) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- (h) Councils should have effective financial and asset management, including sound policies and processes for the following—
 - (i) performance management and reporting,
 - (ii) asset maintenance and enhancement,
 - (iii) funding decisions,
 - (iv) risk management practices.
- (i) Councils should have regard to achieving intergenerational equity, including ensuring the following—
 - (i) policy decisions are made after considering their financial effects on future generations,
 - (ii) the current generation funds the cost of its services.

Probity, Transparency, and Equity

Probity, transparency, and equity requirements for Council are covered by a broad range of legislative provisions, codes, registers, guidelines and Council's own policies and procedures.

Section 440 of the *Local Government Act 1993* requires every Council to adopt a code of conduct that incorporates the provisions of the *Model Code of Conduct*.

The Model Code of Conduct sets the minimum standards of conduct for Council officials. It is prescribed by regulation to assist Council officials to:

- Understand and comply with the standards of conduct that are expected of them.
- Enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439).
- Act in a way that enhances public confidence in local government.

As set out in Part 4 of the Model Code of Conduct for Local Councils in NSW (2018), Council is required to keep a register of disclosures of pecuniary interests, lodged by our elected body and other designated persons with the organisation.

Council's Returns of Interest registry and Code of Conduct is publicly available on Council's website.

The Office of Local Government has prepared *Capital Expenditure Guidelines* to assist Councils in the prudent management of community resources. These Guidelines recommend that Councils undertake *Capital Expenditure Reviews* before committing to any major capital project. These Reviews require a probity plan for projects of more than \$10 million. The council may choose to put a probity plan in place for smaller projects depending on the risks identified. A probity advisor may also be engaged on projects if required.

Council's internal Strategic Property and Investment Procedure provides a transparent process for ensuring value for money when staff recommend property-related decisions. Council will also follow competitive processes, consistent with Council's procurement policies.

Considering the above information and the Draft Strategic Property Investment Policy, Council can satisfactorily address the probity, transparency and equity issues raised by the public.

Infrastructure Prioritisation

Public feedback raised concerns about Council's ability to focus on (new) property investment initiatives when there are existing infrastructure gaps.

One of the policy principles in the Draft Strategic Property and Investment Policy is:

*"To invest in property assets and **maintain a Property Investment Portfolio to efficiently manage and prepare for future major Council infrastructure works** (included, but not limited to, major transport corridors and connections, orbital roads, major water, and sewer trunk main infrastructure; renewable energy sites; quarry material sites; biodiversity banking and offset sites; and operational sites)".*

Good strategic planning in the property investment space is essential to address existing infrastructure issues and support the delivery of future infrastructure projects.

Council's Strategic Property Investment Coordinator formally consults with other Council teams to ensure property development activities align with Council's strategic plans including the Community Strategic Plan, Urban Growth Strategy, and Strategic Land Use plans.

The public concerns are satisfactorily addressed with existing policies, procedures, and processes.

Conflict of Interest and Viability (of Investments)

There is a range of guidelines, and legal/regulatory processes associated with Council property acquisition and disposal, and with the process of changing the classification of Council-owned land.

Council has two distinct roles as a landowner/developer and as a planning/consent authority when it is seeking to develop its own properties. The Strategic Property and Investment Policy and Procedure comply with the NSW Department of Planning and Environment, *Council-Related Development Application Conflict of Interest Guidelines*.

To preserve the integrity and independence of Council's planning function, Council will apply a conflict-of-interest management matrix to any proposed Council development.

Strict role separation is maintained between the assessment and strategic property teams. This includes ensuring that all correspondence is in writing and that discussions are held in formal settings such as a meeting with minutes recorded. Council development assessment staff are not involved in preparing Council development applications.

In regard to viability of proposed property investments, see the above section on *Principles of sound financial management* and the broad requirements around financial management and capital investment planning. Funding for specific property projects will need to go through Council's formal budget process.

Proposed property investments will be carried out in accordance with Council's risk appetite statement. Property investments with unsatisfactory risk profiles will not be considered.

Income from commercial or other property, broadens Councils' revenue base and helps to fund the provision of Council services and facilities, indirectly reducing the cost impact on ratepayers.

Determining the commercial viability of an investment in, or the returns from a disposal of property, will be assessed through the development of an individual business case. Only properties with solid, stable yields will be considered. The business case will form part of a broad decision matrix and will be included in reports to Council regarding proposed property transactions.

Finally, under the *Local Government Act 1993*, all proposed property transactions require a Council resolution before they can be initiated.

With the above measures in place, Council can satisfactorily address the public concerns raised on this issue.

Decision-Making Process

Any proposal for the purchase or divestment of any land must be presented for Council's consideration and endorsement, in accordance with Section 377 of the *Local Government Act 1993*. A business case will be developed for each property

when significant changes are required. Business cases will consider a range of elements, including:

- Outcomes and benefits
- Strategic alignment
- Risks
- Financial assessment
- Market analysis
- Independent valuation of the land

In the majority of divestments of land, the information contained in reports to Council to sell land may confer an advantage upon a person with whom the Council is, or proposes, to be conducting business. On balance, it would be contrary to the public interest for Council to deal with such a matter in an open session because the release of the information could prejudice the Council's ability to obtain the maximum return on the land.

It is acknowledged therefore that reports to Council on the divestment of land will be generally deemed confidential under section 10A (2) (c) of the Local Government Act, 1993.

The need for confidentiality also arises for acquisitions of land by Council, as business papers for resolutions will contain an indicative budget amount for the acquisition thus providing an advantage to the potential vendor. Hence, Section 10A (2) (c) will also apply to all acquisitions by Council.

In summary, the decision-making process around property transactions is tightly prescribed and well-understood. Maintaining confidentiality will often be required to ensure that property market participants do not gain an unfair advantage. Council can satisfactorily address the public concerns raised without any requirements for additional measures.

Options

- That the draft policy be adopted as is.
- That the draft policy be amended and adopted.
- That the draft policy be rejected.

Community Engagement and Internal Consultation

The public exhibition period is now complete with the outcomes of the exhibition process discussed in the Engagement Report, which is included in **Attachment 1**.



Planning and Policy Implications

Upon adoption, this will become Council's Strategic Property Investment Policy and replace the current policy.

Financial and Economic Implications

There are no financial and economic implications concerning this report.

Attachments

1.  Engagement Summary Report - Draft Strategic Property Investment Policy
2.  Draft - Strategic Property Investment Policy

Item: 10.17

Subject: POLICY REVIEW - DRAFT DETERMINING APPLICATIONS LODGED BY COUNCILLORS AND STAFF POLICY

Presented by: Business and Performance, Keith Hentschke

RECOMMENDATION

That Council:

1. Place the draft Determining Applications Lodged by Councillors and Staff Policy on public exhibition for a minimum of 28 days.
2. Note that a further report be presented to the May 2024 Ordinary Council meeting, detailing the submissions received from the public during the exhibition period.

Executive Summary

At the Ordinary Council meeting held April 2023, Council resolved:

Request the Chief Executive Officer to develop a draft policy for the management of the assessment and determination of applications lodged by Councillors and/or relevant staff.

Council's Executive Team endorsed this draft policy at its 27 February 2024 Strategic Executive Team meeting to be presented to Council for consideration. This draft policy was also endorsed by the Audit, Risk and Improvement Committee at its meeting held 7 March 2024 to recommend that Council place this draft policy on public exhibition.

The draft policy is now attached for the consideration of the Council.

Discussion

At the Ordinary Council meeting held April 2023, Council resolved:

Request the Chief Executive Officer to develop a draft policy for the management of the assessment and determination of applications lodged by Councillors and/or relevant staff.

This policy has taken time to develop as there are a myriad of applications that Council assesses and staff have been analysing operational difficulties in some of the potential circumstances. The implementation of this policy must balance the probity and transparency required when assessing applications by staff, Councillors and their families without imposing onerous operational tasks in achieving this level of probity and transparency.

Following lengthy discussions between Governance and Community, Planning and Environment staff, the attached draft appears to be well balanced and appropriate.

Council's Executive Team endorsed this draft policy at its 27 February 2024 Strategic Executive Team meeting to be presented to Council for consideration. This draft policy was also endorsed by the Audit, Risk and Improvement Committee at its meeting held 7 March 2024 to recommend that Council place this draft policy on public exhibition.

Community Engagement and Internal Consultation

Governance staff and Community, Planning and Environment staff have worked collaboratively to develop this draft policy. No further consultation has occurred.

Council's Executive Team endorsed this policy at its 27 February 2024 Strategic Executive Team meeting to be presented to Council for consideration.

This draft policy was also endorsed by the Audit, Risk and Improvement Committee at its meeting held 7 March 2024 to recommend that Council place this draft policy on public exhibition.

Planning and Policy Implications

This is a draft policy that should it be adopted by Council it will become a policy of Council.

Financial and Economic Implications

There are no financial and economic implications in relation to this report.

Attachments

1.  Draft Determining Applications Lodged by Councillors and Staff Policy

Item: 10.18

Subject: POLICY REVIEW - DRAFT POLICY FRAMEWORK

Presented by: Business and Performance, Keith Hentschke

RECOMMENDATION

That Council:

- 1. Place on public exhibition the draft Policy Framework for a minimum of 28 days.**
- 2. Note that a further report will be tabled at the May 2024 meeting of Council, detailing the submissions received from the public during the exhibition period.**

Executive Summary

Council currently has an adopted Policy titled the Making of Council Policy. This policy was last adopted by Council in September 2015. A draft Policy Framework has been developed and is attached as Attachment 1. The current policy is attached as Attachment 2.

The purpose of the Policy Framework is to provide direction for the creation, review, amendment, and rescission of Port Macquarie-Hastings Council policies, procedures, and guidelines. This is a completely rewritten framework to make Council's management of policies more contemporary.

Council's Executive Team endorsed this draft policy at its 27 February 2024 Strategic Executive Team meeting and by the Audit, Risk and Improvement Committee on 7 March 2024 to be presented to Council for consideration.

Options

Council has the option to not publically exhibit the draft Making of Council Policy for public exhibition.

Community Engagement and Internal Consultation

This draft framework was presented to the Senior Leadership Team. Minimal feedback was received with the only comment suggesting Local Approval Policies should be covered by this policy. It is proposed that these follow the same process so they have not been specifically mentioned in this policy.

Council's Executive Team endorsed this draft policy at its 27 February 2024 Strategic Executive Team meeting to be presented to Council for consideration.

Council's Audit, Risk and Improvement Committee endorsed the draft policy on 7 March 2024 to be presented to Council for consideration



Planning and Policy Implications

There are no planning implications in relation to this report. Should Council adopt this policy it will become a Council policy.

Financial and Economic Implications

There are no financial and economic implications in relation to this report.

Attachments

1.  Draft Policy Framework
2.  Current Adopted Policy - Making of Council Policy

Item: 10.19

Subject: POLICY REVIEW - DRAFT UNREASONABLE CUSTOMER CONDUCT POLICY

Presented by: Business and Performance, Keith Hentschke

Alignment with Delivery Program

1.1.1 Use a variety of tools to engage with the community in a manner that is transparent, effective, relevant and inclusive.

RECOMMENDATION

That Council:

1. Place on public exhibition as soon as practicable for a period of not less than 28 days, the draft Unreasonable Customer Conduct Policy and actively seek community feedback.
2. Note that a further report be considered by Council in June 2024, detailing the submissions received from the public during the exhibition period and presenting a final draft for adoption.

Executive Summary

Most customers of Council act in a reasonable and responsible manner when interacting with Council and its staff. There are however a small group of customers that act unreasonably that can prevent staff from undertaking their normal duties which effects the entire community. This conduct can be classified into five categories as mentioned in the body of the report.

Council adopted the current version of the Unreasonable Customer Conduct Policy in December 2020. This draft policy has been amended to accommodate amendments to the NSW Ombudsman's Office model policy for the management of unreasonable complainants conduct. Council is proposing to adopt a policy with a broader scope to manage the unreasonable conduct of all customers. This draft policy is attached as Attachment 1 to this report. Any proposed changes have been highlighted in red text.

Discussion

Most customers who approach Council act reasonably and responsibly in their interactions, even when they are experiencing high levels of distress, frustration and anger about their complaint. However in a very small number of cases some customers behave in ways that are inappropriate and unacceptable – despite Council's best efforts to help them. They are aggressive and verbally abusive towards Council staff. They threaten harm and violence, inundate Council's offices with unnecessary and excessive phone calls and emails, make inappropriate demands on staff time and resources and refuse to accept decisions and recommendations in relation to their complaints or enquiries. When customers behave in these ways their behaviour is considered 'unreasonable'.

Unreasonable customer conduct ('UCC') is any behaviour by a current or former customer which, because of its nature or frequency raises substantial health, safety, resource or equity issues for Council, staff, other service users and customers or the customer himself/herself.

UCC can be divided into five categories of conduct:

- a) Unreasonable persistence
- b) Unreasonable demands
- c) Unreasonable lack of cooperation
- d) Unreasonable arguments
- e) Unreasonable behaviours

Accordingly, a policy to address customers who fall under these categories has been developed and is attached as Attachment 1 to this report.

Council adopted the current version of the Unreasonable Customer Conduct Policy in December 2020. This draft policy has been amended to accommodate amendments to the NSW Ombudsman's Office model policy for the management of unreasonable complainants conduct. The draft policy defines those interactions that are deemed unreasonable and provides actions that can be employed by staff to minimise the disruptions caused by these unproductive interactions. The policy provides a comprehensive framework to provide staff with the tools to manage these circumstances including checklists and draft letters. This policy includes listing various options available for staff including, in extreme circumstances, restricting access to Council officers to better manage these requests or complaints. This draft policy has been based on the NSW Ombudsman's Model Policy, and is designed to complement the NSW Ombudsman's publication, "Managing unreasonable conduct by a complainant - A manual for frontline staff, supervisors and senior managers". It represents current best practice in the management of unreasonable complainant behaviour. It is noted that the NSW Ombudsman's Office Model Policy is specifically for the management of unreasonable "complainants" however it is proposed to expand the scope of this policy to unreasonable customers in general based on the broad range of customers Council deals with on a regular basis.

It is recommended that this draft policy be placed on public exhibition for 28 days prior to a further report being presented to Council with the outcome of the public exhibition process.

Options

- That the draft policy be endorsed and placed on public exhibition.
- That the draft policy be amended and placed on public exhibition.
- That the draft policy be adopted.
- That the draft policy be amended and adopted.
- That the draft policy be rejected.

Community Engagement and Internal Consultation

This policy will be placed on public exhibition for a period not less than 28 days to receive public comment prior to further consideration of Council.

Internal Consultation

- Executive Team


Planning and Policy Implications

There are no planning and policy implications in relation to this report.

Financial and Economic Implications

There are no financial and economic implications in relation to this report.

Attachments

1.  Draft Policy - Unreasonable Customer Conduct Policy

Item: 10.20

Subject: POLICY REVIEW - DRAFT DATA BREACH POLICY AND PRIVACY MANAGEMENT PLAN

Presented by: Business and Performance, Keith Hentschke

RECOMMENDATION

That Council:

1. Adopt the draft Data Breach Policy.
2. Adopt the draft Privacy Management Plan.

Executive Summary

Part 6A of the *Privacy and Personal Information Protection Act 1998* (PIIP Act) establishes the NSW Mandatory Notification of Data Breach (MNDB) Scheme. The MNDB Scheme requires Port Macquarie-Hastings Council (Council), as a public sector agency bound by the PIIP Act, to notify the Privacy Commissioner and affected individuals of eligible data breaches.

Under the MNDB Scheme, Council is required to prepare and publish a Data Breach Policy (this Policy) for managing such breaches, as well as maintaining an internal Eligible Data Breach Incident Register, and Public Notification Register, of eligible data breaches.

Council has developed the Data Breach Policy based on the Policy of the Information and Privacy Commissioner. This Policy outlines how Council complies with the MNDB Scheme, responds to data breaches involving personal information, the roles and responsibilities for reporting data breaches, and its strategies for containing, assessing, and managing eligible data breaches. The draft policy is attached as Attachment 1.

As a related matter, Council has reviewed its Privacy Management Plan which was last adopted in February 2022. A significant review has been undertaken which is attached as Attachment 2 to strengthen Council's Privacy Management Plan. The current adopted version is attached as Attachment 3 for comparative purposes.

Council's Executive Team endorsed this draft policy at its 27 February 2024 Strategic Executive Team meeting to be presented to Council for consideration.

This draft policy was also endorsed by the Audit, Risk and Improvement Committee at its meeting held 7 March 2024 to recommend that Council place this draft policy on public exhibition.

Discussion

Part 6A of the *Privacy and Personal Information Protection Act 1998* (PIIP Act) establishes the NSW Mandatory Notification of Data Breach (MNDB) Scheme. The

MNDB Scheme requires Port Macquarie-Hastings Council (Council), as a public sector agency bound by the PPIP Act, to notify the Privacy Commissioner and affected individuals of eligible data breaches.

Under the MNDB Scheme, Council is required to prepare and publish a Data Breach Policy (this Policy) for managing such breaches, as well as maintaining an internal Eligible Data Breach Incident Register, and Public Notification Register, of eligible data breaches.

This Policy outlines how Council complies with the MNDB Scheme, responds to data breaches involving personal information, the roles and responsibilities for reporting data breaches, and its strategies for containing, assessing, and managing eligible data breaches.

The MNDB Scheme applies where an 'eligible data breach' has occurred. For a data breach to constitute an 'eligible data breach' under the MNDB Scheme, there are two tests to be satisfied:

- a. There is an unauthorised access to, or unauthorised disclosure of, personal information held by Council, or there is a loss of personal information held by Council in circumstances that are likely to result in unauthorised access to, or unauthorised disclosure of, the information; and
- b. A reasonable person would conclude that the access or disclosure of the information would be likely to result in serious harm to an individual to whom the information relates.

Effective breach management, including notifications, assists Council in avoiding or reducing possible harm to both the affected individuals/organisations and Council, and may prevent future breaches.

As a related matter, Council has reviewed its Privacy Management Plan which was last adopted in February 2022. A significant review has been undertaken which is attached as Attachment 2 to strengthen Council's Privacy Management Plan. The current adopted version is attached as Attachment 3 for comparative purposes.

The purpose of the Privacy Management Plan is to outline how Council manages the Personal and Health Information it collects, stores, accesses, uses, and discloses in the course of its business activities.

The objective of the Privacy Management Plan is to:

- a. Outline how Personal and Health Information is collected, used, and stored by Council;
- b. Educate Council employees of their obligations in relation to Personal and Health Information; and
- c. Maximise compliance with requirements relating to the protection of Personal and Health Information and the privacy of individuals under the:
 - i. *Health Records and Information Privacy Act 2002* (HRIP Act);
 - ii. *Privacy and Personal Information Protection Act 1998* (PPIP Act); and
 - iii. *Privacy Code of Practice for Local Government* (Code)

Community Engagement and Internal Consultation

Council's Executive Team endorsed this draft policy at its 27 February 2024 Strategic Executive Team meeting to be presented to Council for consideration. Council's Audit, Risk and Improvement Committee also considered this draft policy and Privacy Management Plan at its meeting held 7 March 2024 where it endorsed these draft documents. Due to the nature of these policies, it is not recommended that these policies be publicly exhibited.




Planning and Policy Implications

There are no planning implications in relation to this report. Should Council adopt these policies they will become Council policies.

Financial and Economic Implications

There are no financial and economic implications in relation to this report.

Attachments

1.  Draft Data Breach Policy
2.  Draft Privacy Management Plan
3.  Current Adopted Privacy Management Plan

Item: 10.21

Subject: POLICY REVIEW - DRAFT LEGISLATIVE COMPLIANCE POLICY

Presented by: Business and Performance, Keith Hentschke

RECOMMENDATION

That Council adopt the draft Legislative Compliance Policy.

Executive Summary

Port Macquarie-Hastings Council (Council) has a responsibility to comply with a range of statutory instruments. The purpose of the Legislative Compliance Policy (Policy) is to establish the principles that Council will use to meet its compliance requirements and commitments.

Port Macquarie-Hastings Council is committed to maintaining a Compliance Management System that meet compliance obligations, promotes a culture of compliance, takes corrective action when non-compliance is identified, and mitigates compliance risk to achieve financial, operational, and strategic objectives.

Council's Legislative Compliance Policy was last reviewed in 2017. A newly created Legislative Compliance Policy has been developed to assist in meeting Council's legislative obligations. This policy is attached as Attachment 1.

Council is undertaking a significant review of its current legislative compliance register by performing an exhaustive search of all legislation to ensure no obligation is not being met. Council receives legislative updates through a number of different channels which will be used in the future to maintain the currency of this register. Council is also currently investigating a technology solution to manage the legislative compliance register.

It is recommended that the Council adopt this draft policy.

Community Engagement and Internal Consultation

Consultation has occurred with Council's Legal Counsel and Governance staff. Council's Audit, Risk and Improvement Committee also considered this draft Legislative Compliance Policy at its meeting held 7 March 2024 where it endorsed the draft policy. Due to the nature of this policy, it is not recommended that this policy be publicly exhibited.


Planning and Policy Implications

There are no planning implications in relation to this report. Should Council adopt this policy it will become a Council policy.

Financial and Economic Implications

There are no financial and economic implications in relation to this report.

Attachments

1.  Draft Legislative Compliance Policy

Item: 10.22

Subject: LABORATORY MEDIA SUPPLY

Presented by: Business and Performance, Keith Hentschke

Alignment with Delivery Program

1.5.2 Use procurement, tendering, purchasing and contract management approaches that are transparent and equitable.

RECOMMENDATION

That Council:

1. Under the extenuating circumstances provision of 55(3)(i) of the *Local Government Act 1993*, not invite tenders, as a satisfactory outcome would not be achieved for the reason of limited availability of competitive suppliers for the supply of specific pre-prepared laboratory media and kits as detailed in the report.
2. Enter into negotiations with Thermo Fisher Scientific Australia Pty Ltd, Edwards Group Pty Ltd and IDEXX Laboratories Pty Limited with a view of entering into a contract for the supply of pre-prepared laboratory media and kits commencing April 2024 and expiring April 2029.
3. Note that the Chief Executive Officer, under existing delegation to the General Manager, will execute the necessary contract documents.

Executive Summary

Port Macquarie Hastings Environmental Laboratory (PMHEL) is responsible for the provision of high-quality analytical services covering a wide range of matrix including but not limited to surface water, groundwater, wastewater, reticulated waters, recycled waters and waters from Landfill sites.

Key to ensuring provision of high-quality results are the pre-prepared media and kits required to perform a range of microbiological analysis. This report requests the direct engagement of suppliers to provide pre-prepared media and kits to ensure the Laboratory can continue to provide these services to internal and external customers.

Discussion

Background and Context

PMHEL has National Association of Testing Authorities (NATA) accreditation for the majority of the analytical services it provides to its wide customer base. The services provided by the Laboratory include sampling and chemical, microbiological and phycological analysis of waters which is primarily undertaken to meet customer's regulatory and operational requirements.

PMHEL's microbiological methods require the use of verified pre-prepared media from accredited suppliers to ensure compliance with our reference standards and accreditation body NATA. PMHEL currently utilise 3 accredited suppliers for the pre-prepared media which has been verified as part of our method development: Thermo Fisher Scientific Australia Pty Ltd (Thermo Fisher); Edwards Group Pty Ltd (Edwards Group); and IDEXX Laboratories Pty Limited (IDEXX).

IDEXX is the sole supplier in Australia of the products that PMHEL utilises for the Colilert 18 and HPC analysis (as detailed under Expected Outcomes).

Thermo Fisher is the only supplier to stock Brilliance *E.coli*/Coliform Selective Agar with the exact formulation referenced in the standard Council uses and has been proven through method verification to perform as required.

All other pre-prepared media utilised from these suppliers has been verified for the specific methods. These factors restrict our ability to undertake a competitive tendering process for the supply for these items.

Currently, these laboratory media supplies have been sourced on an ad hoc basis as and when required. This results in additional administration paperwork.

Project Benefits

The benefits of the proposed procurement pathway are as follows:

- continuation of high-quality services to customers by using verified media for the range of microbiological analysis undertaken at the Laboratory;
- simplified process that ensures the NATA Accredited laboratory can maintain the appropriate and required standards; and
- reduced risk to Council compared to alternative media supplies.

Procurement

It is proposed to directly engage IDEXX, Thermo Fisher, and Edwards Group for the supply of specified media.

In accordance with s.55(3)(i) of the *Local Government Act 1993*, the requirements for tendering does not apply to a contract where, "*because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.*"

This approach is proposed due to consideration of the monopolised market of certain products by IDEXX and Thermo Fisher. Additionally, a change in media purchased would require the methodologies employed at PMHEL to be verified again which could potentially result in additional costs and unsatisfactory results.

Expected Outcomes

The engagement of suppliers (Thermo Fisher, Edwards Group and IDEXX) will be required to provide high quality pre-prepared media and kits to meet the requirements of PMHEL standardised and verified Laboratory methodologies. These suppliers must maintain their ISO accreditations as required by NATA and continue

to provide products of the same formulation as those used when we verified our in-house methods.

The following are the media to be purchased through Thermo Fisher Scientific:

- Brilliance *E. coli*/Coliform Selective Agar Plates.

The following are the media to be purchased through Edwards Group:

- mel Agar, and
- EC MUG.

The following are the media to be purchased through IDEXX:

- Colilert 18/Quanti Tray combo
- Colilert 18/Quanti Tray 2Kcombo
- SimPlate for HPC
- 120 mL vessel with Antifoam
- 120 mL vessel sterile, and
- Comparator Tray.

Project program

The term of this new arrangement will be for 5 years. Historically, the annual spend on the above media and kit items for the routine testing program is approximately \$110,000 pa. This amount could increase dependent on the number of event based testing that is required throughout the year (e.g. flooding, project work, etc). However, the subsequent contracts will be non-exclusive and based on a schedule of rates. This arrangement will be reviewed by the relevant stakeholders annually to ensure the following:

- value for money is being achieved
- supplier performance is adequate
- quality of the media remains at the expected standards, and
- the media identified in this plan remains the required media (if new media needs to be added due to changes in legislative or accreditation requirements or changes to standards, written endorsement must be sought by the delegate).

Options

Council has the option to accept or amend the recommendations presented within this report or reject the recommendation and determine an alternative resolution.

If Council declines the recommendation, the expected result will remain the same for the media and kits that are monopolised by IDEXX and Thermofisher Scientific. Other media (if different to what is currently being used) will need to be verified, which will involve additional costs and resources and may not result in a satisfactory outcome.

Community Engagement and Internal Consultation

Internal consultation was undertaken with the following Council staff in the development and assessment of the Procurement Plan:

- Laboratory Manager
- Supervising Scientist - Biology

- Procurement Manager
- Group Manager Procurement, and
- Group Manager Commercial and Business Services.

Planning and Policy Implications

The *Government Information (Public Access) Act 2009* (GIPA Act) requires government agencies to publish the details of any contracts they have entered into with private sector entities, with a value of \$150,000 (inclusive of GST) or more.

Pursuant to Part 3, Division 5, clause 30(1)(a) of the GIPA Act, the contract is considered Class 2 contract as *'there has not been a tender process, the proposed contract has not been made publicly available and the terms and conditions of the contract have been negotiated directly with the contractor'*.

Financial and Economic Implications

The contracts will be funded via the existing Laboratory Budget, which is supported by fees and charges for the analytical services provided.

Attachments

Nil

Item: 10.23

Subject: COMMUNITY UTILITIES LEGISLATIVE REQUIREMENTS
UNDERTAKINGS ANNUAL REPORT

Presented by: Community Utilities, Jeffery Sharp

Alignment with Delivery Program

1.3.2 Build trust and improve Council's reputation through transparency, good decision making and living Council's Values.

RECOMMENDATION

That Council note the information contained within this report regarding the Annual performance reporting of Council's drinking and recycled water supply, wastewater systems and waste management services for the reporting period 1 July 2022 to 30 June 2023.

Executive Summary

Port Macquarie Hastings Council manages five (5) water supply systems, one (1) Recycled water supply system, eight (8) wastewater schemes and three (3) licenced Waste Management facilities. The regulatory and assurance framework for local water utilities, which covers Council's water supply and sewerage functions under the *Local Government Act 1993* and the *Water Management Act 2000*, requires that water utilities submit performance data to the NSW Department of Planning and Environment on an annual basis.

The *Water Management Act 2000* also establishes a framework which allows for sharing of water available for extraction through Water Access Licences (WALs). Council has a number of water access licences for the extraction and supply of drinking water for the Local Government Area (LGA) and are required to report on extraction volumes on an annual basis.

The *Environment Operations Act 1997 (POEO Act)* requires that all scheduled activities are required to have an Environmental Protection Licence (EPL), administered by the Environment Protection Authority (EPA). For Council sewage treatment, waste disposal and waste storage facilities that are Scheduled Activities and therefore have an EPL, Council is required to submit performance and compliance data on an ongoing basis, on Council's Website, and on an annual basis as an Annual Licence Return.

This report provides an outline of performance and compliance reporting that Council undertakes, on an annual basis, as part of Council's regulatory frameworks.

Discussion

National Performance Reporting

All Urban Water Service Providers that serve more than 10,000 properties are required to report under the National Performance Reporting (NPR) framework.

Council contributes to the NPR by providing annual performance data to the NSW Department of Climate Change, Energy, the Environment and Water as per the NSW Water Supply and Sewerage Performance Monitoring Framework. These frameworks provide an annual, independent benchmark of pricing and service quality of NSW and Australian urban water utilities. In NSW, Port Macquarie Hastings Council is considered a large urban water supplier, with Council being the 5th largest water supplier (excluding the metropolitan utilities of Sydney and Hunter Water).

Port Macquarie-Hastings Council is required to report to the NPR on five Wastewater systems, five water supply systems and our recycled water systems. The five Wastewater systems include Port Macquarie, Wauchope, Kew Kendall, Camden Haven and Bonny Hills. The five water supply schemes include Port Macquarie-Camden Haven, Wauchope, Comboyne, Telegraph Point and Long Flat areas, which supply potable water to the majority of residents. Council also provides data for the Port Macquarie Recycled Water Supply system and a number of effluent reuse schemes.

Council has completed the data submission for the 2022 to 2023 reporting period, however this data has not been provided by the NSW government for NSW benchmarking. The data for 2021-2022 financial year is however available for this benchmarking analysis.

There are a number of areas from the 2021-2022 reporting year that Council has identified as key areas for improvement, through performance comparison from other large water utilities. The two key areas are identified below in detail.

- Port Macquarie ranked high in comparison to all other large water utilities in the number of Odour Complaints received per 1000 Properties. The majority of these odour complaints were experienced in the Port Macquarie Wastewater Scheme. There are a number of projects being undertaken in the Port Macquarie scheme to mitigate odour issues, including implementing improved odour chemical dosing management in the reticulation and the construction of an odour management system (OMS) at the Port Macquarie WwTP inlet works. The improvements in odour management were evident in the data reported with the odour complaints reduced from 67 in 2021-2022 to 27 in 2022-2023. It is expected to see further improvements with the construction of the OMS at the inlet works in 2024.

Select Ind_Group_SubGroup_Name: Service levels - Complaints - Odour Complaints per 1000 properties - Sge
 Select Report Year: 2021-22
 Weighted Median: 1.00

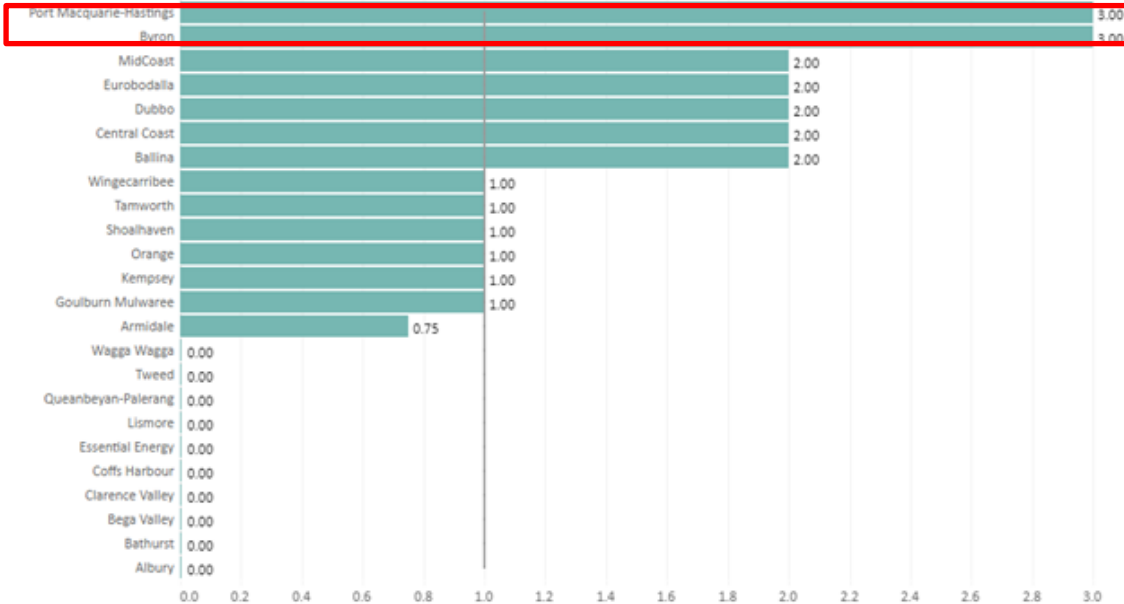
Odour Complaints per 1000 properties - Sge

Units: per 1000 props

Number of total odour complaints per 1000 properties.

The weighted median is the median of the available validated data for the indicator with the number of connected properties applied as weights.

The national median is the median of available data from the latest national performance report. The included data is only for the LWUs with more than 10,000 connected properties.



- Council experienced a higher number of sewer overflows compared to the weighted medium for all large utilities in NSW. The number of overflows were reflective of the extreme rainfall events in 2021 and 2022. Council has implemented an Inflow and Infiltration (I&I) program to investigate where stormwater is directly or indirectly entering our sewer scheme. Inflow refers to direct flow of rainfall into sewers from surface runoff or illegal connections from stormwater infrastructure, such as household stormwater guttering. Infiltration refers to groundwater entering into cracks in pipes or manholes of other infrastructure in the ground.

Council have engaged contractors to undertake smoke testing of the sewer schemes, which focuses on Inflow investigations. The smoke is sent up through the sewer system and if there is an illegal connection to the sewer it will be identified where smoke escapes, such as from a house roof guttering. They have also inspected sewer inspection openings and identified those that are too low and will capture surface water runoff during rainfall events. To date, sections of the sewerage schemes in Port Macquarie, Bonny Hills, Camden Haven and Wauchope have been investigated. A compliance program has been developed to manage the rectification of the defects identified and manage further I&I investigations.



Ind_Group_SubGroup_Name: Service levels - Overflows - Sewer Overflows per 100 km main - Reported to Regulator
 Select Report Year: 2021-22

Weighted Median
1.03

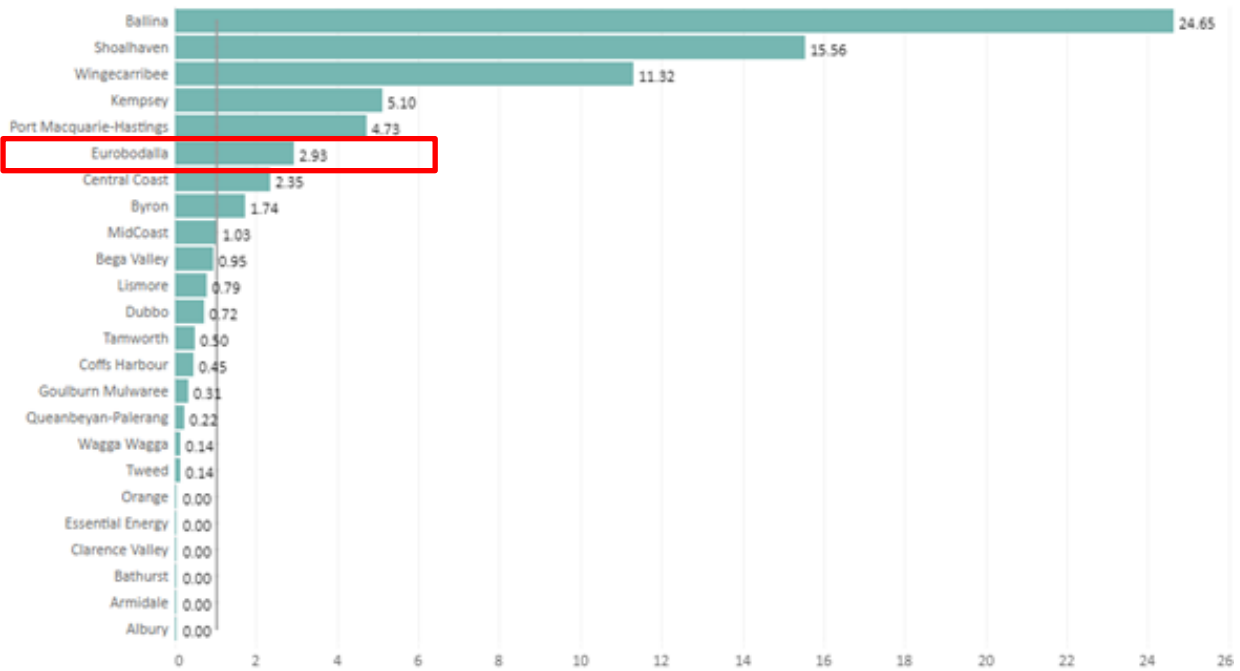
Sewer Overflows per 100 km main - Reported to Regulator

Units: No. per 100km main

Untreated sewage spills or discharges escape from the sewerage system to the external environment, reported as per utility's licence.

The weighted median is the median of the available validated data for the indicator with the number of connected properties applied as weights.

The national median is the median of available data from the latest national performance report. The included data is only for the LWUs with more than 10,000 connected properties.



Other areas for improvement where Council scored slightly worse than the weighted average include:

- management of water losses (leakage) in the water supply scheme, and
- rehabilitation of water mains and water service connections.

Comparative data from NSW Regional Local Water Utilities is available on the DCCEEW website.

Water Extraction Licences

The Water Management Act 2000 establishes a framework which allows for sharing of water available for extraction through water access licences (WALs). Council has several water access licences for the extraction and supply of drinking water for the LGA. The conditions for extraction and use of water are managed through water supply works approvals and water use approvals. The licences and approvals outline the conditions, responsibilities and restrictions on extraction of water, including the volume of water available for extraction.

Council is required to provide annual water consumption figures to WaterNSW. Annual consumption is calculated on a financial year basis each year. WaterNSW charges fees to cover the assessment and processing costs for approved water licences as well as charges for water use. The details on the reported volume of water extracted and annual fees paid for water extraction, are provided in the table below.



Water Source	Supply	Licence amount (ML)	Available amount (ML)	22/23 consumption (ML)	22/23 FY Fees (\$)
Camden Haven River	Not Used	3000	6000	0	\$14,267
Hastings River Alluvial Groundwater	Not Used	19	19	0	\$316
Hastings River	Long Flat	15	16.2	19.3*	\$316
Hastings River	Koree 3 PS	11,860	23,720	3,207	\$75,096
Hastings River	Koree 2 PS	8,500	17,000	2,851	\$57,257
Thone River	Comboyne	32	64	16.3	\$325
Wilson River	Telegraph Point	70	140	49.7	\$701

* For Long Flat, the reported water extraction figure appears to be higher than is measured as production through the plant. This has been highlighted and is now being checked for accuracy. It is estimated that this figure should be a around 13 ML/year.

For all supply schemes, except Long Flat, the water meter readings are manually entered by Council on Water NSW reporting portal, the Water extraction meter for Long Flat has established telecommunications with the Water NSW monitoring system and is updated automatically each week. In September 2023, Licences 30AL322750 (WAL42610), 30AL322754 (WAL 42611) and 30 AL322770 (WAL42603) were cancelled and amalgamated into one licence 30AL32503 for Koree 2 Pump Station as a key learning from the 2019 drought.

Although not used, extraction licences are maintained for the Camden Haven River and the Hastings River coastal floodplain alluvial groundwater source, for emergency purposes if required. The fees charged for the Camden Haven and groundwater licenced are administrative fees only, charged in accordance with the licence extraction volume allowance.

Annual EPA licence Returns

The NSW Environment Protection Authority (EPA) issues environment protection licences to the owners or operators of various industrial premises under the Protection of the Environment Operations Act 1997 (POEO Act). Licence conditions relate to pollution prevention and monitoring, and cleaner production through recycling and reuse and the implementation of best practice. If a facility or activity at a facility is listed under Schedule 1 of the POEO Act (Scheduled Activity) then a EPL is required. For Council, sewage treatment, waste disposal and waste storage are applicable Scheduled Activities.

Council’s Community Utilities Division currently hold all of Council’s EPLs, totalling 8 as follows:

- Port Macquarie (PM) Wastewater Treatment Plant - Licence #589
- Camden Haven (CH) Wastewater Treatment Plant - Licence #805
- Wauchope Wastewater Treatment Plant - Licence #804
- Bonny Hills (BH) Wastewater Treatment Plant - Licence #594
- Kew/Kendall (KK)Wastewater Treatment Plant - Licence #10339



Cairncross Waste Management Facility - Licence #11189
 Port Macquarie (Kingfisher) Waste Management Facility - Licence #20698
 Dunbogan Waste Management Depot - Licence #5924

For all licenced premises, Council is required to submit performance and compliance data on an ongoing basis, on Council's Website, and on an annual basis as an Annual Licence Return.

The Telegraph Point, Long Flat and Comboyne Wastewater Treatment Plants don't meet the discharge volume requirements to have an EPL regulated by the EPA. Our internal Compliance Section undertake compliance monitoring of data from these plants to ensure we are still meeting the requirements outlined in the Review of Environmental Factors (REF) - environmental approval.

The Protection of the Environment Operations (General) regulation 2022 also requires that facilities that exceed thresholds for a National Pollution Inventory (NPI) substance are legally required to report emissions of that substance to the NPI. Council reports NPI emission for four wastewater systems (Port Macquarie, Wauchope, Bonny Hills and Camden Haven). These are reported annually, in conjunction with the EPL annual report as required.

The section below provides information on the performance of our licenced facilities, as reported in our annual licence returns.

The table below summarises the performance of each of the Wastewater Schemes with regards to EPL Compliance.

Scheme	Licence Period	Number of Non-Compliances	Number Recorded Bypasses
Wauchope	Feb 22 to Jan 23	2	5 (Wet Weather licenced overflow)
Port Macquarie	Nov 22 to Oct 23	1	3 (Wet weather) 2 (Dry Weather)
Bonny Hills	Nov 22 to Oct 23	0	0
Camden Haven	Feb 23 to Jan 24	1	2 (Wet Weather)
Kew/Kendall	June 22 to June 23	3	1 (Wet Weather Licenced Overflow)

The table below summarises the EPL annual return reported complaints for each of the Wastewater Schemes

Complaint	Wauchope	PM	BH	CH	KK
Odours - STP	0	0	0	0	0
Odours - Retic	1	31	1	6	3
Water Pollution - STP	6	0	0	2	0
Water Pollution - Retic	0	3	0	1	0
Sewer Surcharge/choke	21	55	8	17	1

There were two non-conformances reported for Wauchope WwTP. One non-conformance was due to three exceedances of the 100 percentile licence limit for pH in December 2023 and January 2024. pH exceedances are typical during summer when algae growth is at its peak. The volume discharge limit for effluent disposal was also exceeded on four occasions due to excessive flows through the treatment plant causing increased flow through the plant. These excessive flows also resulted in five reportable wet weather bypasses, with bypassed flow overflowing at overflow licence

point to Yippen Creek. Council is currently completing installation of flow meters on all pumped discharge lines to improve Councils ability to adequately measure reuse, effluent discharge and overflows. Currently overflows are estimated for regulatory reporting.

There was one non-conformance reported for Port Macquarie WwTP. This was due to six separate exceedances of the 90th percentile limit for Thermotolerant Coliforms. These exceedances were due to intermittent operational issues of the UV disinfection system. The issues were rectified through servicing and multiple lamp replacements. Heavy rainfall and excessive flow through the scheme due to infiltration also resulted in two licence bypass events at the treatment plant. A large storm, infiltration and a power outage also caused one reportable overflow event in the reticulation. In addition, Council reported two dry weather overflow events in the reticulation due to sewer chokes/blockages.

There was one non-conformance reported for the Camden Haven WwTP. This was due to five separate exceedances of the 90th percentile limit for Total Phosphorus (TP). The TP exceedance occurred due to issues with the Alum dosing, that were rectified through maintenance. Heavy rainfall events also resulted in excessive flows also resulted in two reportable wet weather bypasses at the Treatment Plant with bypassed flow being discharged to the licenced effluent discharge point (Ocean discharge).

There were three non-conformances reported for the Kew Kendall WwTP. Two were due to 26 separate exceedances of the 100th percentile limit for Licence Points 2 and 6, for Faecal coliforms (FC), pH and Total Suspended Solids (TSS). Intermittent failures of the UV system resulted in the Faecal coliform exceedances and all other exceedances are due to algae growth in the effluent ponds. The volume discharge limit for effluent disposal was also exceeded on 126 occasions due to excessive flows through the treatment plant causing increased flow through the plant. These excessive flows also resulted in one reportable wet weather overflow at the Treatment Plant which was pumped to the overflow licenced discharge point in the Camden Haven River.

Pollution Reduction Programs (PRP) or Pollution Reduction Studies (PRS) may be imposed by the EPA in response to continuing environmental issues or ongoing compliance problems. The intention is to achieve improved environmental outcomes in a negotiated timeframe and these are imposed on the licensee under a licence condition. Council has a number of PRP or PRS that have been included as licence conditions. The details on progress for the PRP/PRS are provided below.

- PM WwTP PRP 5 - Implementation of Odour Reduction Measures.

This PRP was imposed on Council due to the large number of odour complaints received from near neighbours of the Port Macquarie WwTP. Investigations have identified that the major cause of these odour complaints is H₂S gas release through the inlet works.

Deliverables 1.2 to 1.8 of the PRP have been completed. The actions completed include trialling chemical dosing in the reticulation and at the WwTP for odour management. Through the investigations, council has chosen to continue to manage and improve the chemical dosing in the reticulation and combine this with the construction of an Odour Management System (OMS) at the inlet works at the Port Macquarie WwTP. Council has awarded the design and construction of the OMS to

Aquatech Pty Ltd. The project is currently in the design phase, and is expected to be completed, including construction, by May 2025 and in line with the PRP timeline requirements.

- BH WwTP PRP 2 - Implement Bonny Hills Effluent Reuse Scheme

Council has completed all actions as required of this PRP. Council has recently achieved conditional Section 60 Approval to operate the scheme once a few final conditions of approval are implemented. Staff are currently working through these final operational conditions prior to the scheme going live.

- BH WwTP PRS 4 - Ongoing Surface water and Groundwater Quality Investigations - Duchess Creek

Council has completed all deliverables for this PRS and are awaiting on EPA review of the reports from the investigations. There may be more studies or PRP conditions imposed on the licence as part of the outcomes from this study.

- Wauchope WwTP PRP 3 - Investigate Impact of the STP on the Water Quality in the Hastings River

Council has completed all the deliverables as required by the PRP. The report provided to the EPA has not been addressed and this PRP remains as an out-of-date action item on the PRP. Council has continued to sample as required by this PRP and will address the outstanding PRP in 2024, with further water quality data and discussions regarding upgrade of the Wauchope WwTP.

Non-Licensed WwTP Sites

Compliance of the Telegraph Point, Long Flat and Comboyne Wastewater Treatment Plants is monitored by Community Utilities internal Compliance Section. The Table below provides a summary of the performance of each of these WwTP 's in accordance with the REF, for the period of January to December 2023, in reference to the 100 percentile performance.

Scheme	Number of Non-Compliances	Number Recorded Bypasses
Comboyne	3	3 exceedances of Total Nitrogen in April
Long Flat	6	2 exceedances Total Nitrogen in Sept & Oct 2 exceedances of ammonia in Sept 2 exceedance phosphorus in Sept & Oct
Telegraph Point	12	5 exceedances of Nitrogen in first half of year 2 exceedances of ammonia in April and August 5 exceedances of phosphorus in Feb/March

The exceedances on each occasion of total Phosphorus were due to failures in Alum dosing, and these have been rectified. The Ammonia and Nitrogen failures were due to the system being underloaded with flow and the aerator overaerating the system. The operators have been systematically changing the operations of the aeration system to reduce the likelihood of over aeration and this has resulted in improved performance for the second part of the year at all three treatment plants.

Waste Management Facilities

The table below summarises the EPL annual return reported complaints for each of the Waste Management Facilities. Each facility has a different reporting period, so these have been identified.

Complaint Type	Cairncross 23/10/2022 - 22/10/2023	Dunbogan 13/10/2022 - 12/10/2023	Port Macquarie - 24/4/2022 - 21/4/2023
Air	1	0	0
Water	0	0	0
Noise	0	0	0
Waste	0	0	0
Other	0	0	0

The table below summarises the non-compliances for each of the Waste Management Facilities in their respective reporting periods.

Facility	Number of Non- Compliances	Details of Non-Compliances
Cairncross - 23/10/2022 - 22/10/2023	1	Exceedance of concrete and bricks stockpile limit
Dunbogan 13/10/2022 - 12/10/2023	12	Monthly gas monitoring in houses located within 250m of landfill not undertaken
Port Macquarie 24/04/2022 - 21/04/2023	0	Not applicable

It is noted that the Cairncross Annual Return did not report any non-compliances, however it was discovered afterwards that the stockpile limit for concrete and bricks had been exceeded. The EPA have been notified of this.

Stemming from COVID restrictions and now on-going issues with gaining access to private houses, monthly gas monitoring within houses that are within 250m of the disused landfill at Dunbogan has not been occurring, hence the 12 non-compliances (1 for each month). Risk assessment investigations are currently underway regarding this licence condition that will inform further discussion with the EPA.

All EPL’s attract an annual administrative fee and some licences also require payment of annual load-based fees. The Waste Management Facilities and the Kew Kendall WwTP do not trigger annual load-based fees. Load-based licencing sets limits on the pollutant loads emitted by holders of Environmental Protection Licensed

and Links Licence fees to pollutant emissions. The table below provides a summary of the fees paid by Council for the most recent Annual licence Returns.

Licence Facility	Licence Fees (\$)
Port Macquarie (PM) Wastewater Treatment Plant	\$23,513
Camden Haven (CH) Wastewater Treatment Plant	\$9,016
Wauchope Wastewater Treatment Plant	\$24,950
Bonny Hills (BH) Wastewater Treatment Plant	\$3,563
Kew/Kendall (KK)Wastewater Treatment Plant	\$3,467
Cairncross Waste Management Facility	\$4,560
Port Macquarie (Kingfisher) Waste Management Facility	\$2,219
Dunbogan Waste Management Depot (non-operational)	\$4,560

Options

This report is for information and noting. Council may resolve to request more information as required.

Community Engagement and Internal Consultation

No specific community engagement or internal consultation was undertaken regarding this report.

Planning and Policy Implications

Whilst there are no planning and policy implications directly in relation to this report, ongoing monitoring of performance against regulatory expectation generates maintenance and works programs items to ensure compliance levels and maintained and improved over time.

Financial and Economic Implications

Whilst there are no financial and economic implications directly associated with the production of this report, future works programmes are influenced by response to regulatory requirements and may require targeted investment in future years operational plans.

Attachments

Nil

2 Your Community Life

What we are trying to achieve

A healthy, inclusive and vibrant community.

What the result will be

We will have:

- Community hubs that provide access to services and social connections
- A safe, caring and connected community
- A healthy and active community that is supported by recreational infrastructure
- A strong community that is able to identify and address social issues
- Community participation in events, programs, festivals and activities

How we will get there

- 2.1 Create a community that feels safe
- 2.2 Advocate for social inclusion and fairness
- 2.3 Provide quality programs, community facilities and public spaces, for example, community halls, parks and vibrant town centres
- 2.4 Empower the community through encouraging active involvement in projects, volunteering and events
- 2.5 Promote a creative and culturally rich community

Item: 11.01

Subject: POLICY REVIEW - SMOKE FREE ENVIRONMENT POLICY -
FOLLOWING PUBLIC EXHIBITION

Presented by: Community, Planning and Environment, Melissa Watkins

Alignment with Delivery Program

2.1.1 Support community safety initiatives.

RECOMMENDATION

That Council:

1. **Adopt the draft Smoke Free Environments Policy.**
2. **Thank those that made submissions and advise them of Council's determination in this matter.**

Executive Summary

Council currently has a Smoke Free Outdoors Policy to restrict smoking in public areas, and at our facilities and buildings. Council has legal responsibilities under the Smoke-Free Environment Act (2000), Smoke Free Regulation 2016 and Work Health and Safety Act 2011 as an employer and provider of community services, to support safe and healthy communities.

Following a review of the 2018 Policy, it was recommended the new Policy be titled Smoke Free Environment Policy (Attachment 1) recognising it governs smoking restrictions for both indoor and outdoor spaces. At the 16 November 2023 Council meeting, Council resolved to place the Draft Smoke Free Environment Policy on public exhibition.

Council received submissions that are summarised in the engagement report as Attachment 1.

This report recommends adoption of the revised Policy.

Discussion

With changes to community attitude and behaviour, the new Smoke Free Environment Policy provides a process to:

- Protect the community from the health and social impacts of exposure to smoke from cigarettes and e-cigarettes (vaping) in public places.
- Improve the look and enjoyment of our beaches, parks, and other recreation spaces.
- Minimise the adverse environmental impacts of discarded cigarette butts.

The updated Policy recognises that:

- Passive smoking has identified health risks.

- Children are most vulnerable to the effects of passive smoking respiratory illness and asthma (Cancel Council; National Health and Medical Research Council).
- Where Council provides assets and services, Council has an obligation to promote positive health outcomes.

Under the Smoke-Free Environment Act 2000 and Smoke-Free Environment Regulation 2016, smoking and vaping are banned:

- Within 10 metres of children's play equipment.
- At public swimming pools.
- In spectator areas at sport grounds or recreational areas at organised sporting events.
- At public transport stops, bus stops, taxi ranks and ferry wharves.
- Within 4 metres of a pedestrian access point to a public building; and
- In commercial outdoor (alfresco) dining areas.

Declared under the provisions of the Local Government Act 1993 and covered under this Policy, smoking is also not permitted on land Council owns or manages including:

- All beaches.
- Sport and recreation facilities (buildings and grounds).
- Bushland, parks, walking trails and reserves.
- Outdoor dining (alfresco) areas including footpaths and other access ways.
- Parking stations that are partly or fully enclosed by walls and ceilings.
- Activities, functions, and events run or promoted by Council.

In response to a comment within a submission addressing the community's adherence to the Policy, particularly regarding smoking on public footpaths, Council remains committed to supporting law enforcement efforts. Council will continue its collaboration with Police, through Ranger patrols and education to promote a community that values consideration and fosters a healthy environment.

Options

- That the draft policy be adopted.
- That the draft policy be amended and adopted.
- That the draft policy be rejected.

Community Engagement and Internal Consultation

The draft Smoke Free Environment Policy was placed on public exhibition between 6 February 2024 and 5 March 2024 with submissions being received from the public. The engagement report is attached as Attachment 2.

During the public exhibition period, two submissions were received. Of these submissions, the two are from community members.

The following points provide a summary of the responses received through Have Your Say:

- Community members should not have to walk down a public path, or anywhere in a public space and ingest stale cigarette smoke.
- Port Macquarie-Hastings Council should ban smoking in all public places.
- Port Macquarie Hastings Council should not entertain further smoke free environments.

Planning and Policy Implications

Upon adoption, this will become Council's Smoke Free Environments Policy and replace the current policy Smoke Free Outdoors Policy.

Financial and Economic Implications

There are no financial and economic implications in relation to this report.

Attachments

1.  Draft Smoke Free Environment Policy
2.  Engagement Summary Report - Smoke Free Environment Policy

Item: 11.02

Subject: **NOTICE OF MOTION - SIGNAGE CODING SYSTEM TO IMPROVE EMERGENCY RESPONSE TIMES**

Mayor Peta Pinson has given notice of her intention to move the following motion:

RECOMMENDATION

That Council:

1. **Seek feedback from the Local Emergency Management Committee (LEMC) regarding the benefits or otherwise relating to the potential introduction of an Emergency Signage Coding System to improve emergency responses.**
2. **Upon receipt of the feedback from the LEMC, request the Chief Executive Officer to write to the NSW Ministers for Emergency Services and Resilience requesting consideration of a State-wide Emergency Response Signage Coding System to improve emergency responses similar to the systems implemented in Victoria and Western Australia.**

Comments by Mayor

Following the Great White shark attack to a local resident at Lighthouse Beach last year, I have been approached regarding a signage coding system used in Western Australia which vastly improves emergency response times. Signs provide “specific location information”, vital when emergency services are deployed, ie. to a shark attack, drowning incident or other beach emergency.

I have been advised that the feedback received regarding experiences in WA and Victoria, is not a system that a single Council can be implementing and should be implemented at a State Government level, and bearing in mind considerable funding and community education that would be required.

In the first instance, it is recommended that feedback be sought from our Local Emergency Management Committee first, before proceeding with writing to the relevant Ministers responsible for first responders to emergencies.

Attachments

Nil

Item: 11.03

Subject: QUESTION WITH NOTICE - COMMUNITY ENERGY UPGRADE - GRANTS ROUND 1.

Presented by: Business and Performance, Keith Hentschke

RECOMMENDATION

That Council note the Question With Notice from Councillor Edwards regarding the Federal Government Grant Program for Local Government - Community Energy Upgrade Fund.

Question from Councillor Lauren Edwards.

In relation to the Community Energy Upgrade Fund Grants Round 1 requiring a 50% co-contribution, what would be the costs and payback period for an appropriately sized battery storage system to service the following cluster of Port Macquarie Hastings Council Assets sites both at the current state and at the maximum possible capacity for PV installations on each: NMI-NFFFNRKD40 - Port Macquarie Hastings Council Administration Building (including the EV charging station), NMI-4407023040 - Port Macquarie Library, NMI-NFFFCA0225 Port Macquarie Pool and NMI-44070243754 The Mac Adams Music Centre?

Comments by Councillor Lauren Edwards

There are at least ten existing examples of Local Governments securing battery storage for energy use and cost savings on their assets. These include Narrabri, Shoalhaven, Sunshine Coast and even Goulburn (Angus Taylor's electorate).

Local Government investment in batteries has proven popular because it saves rate-payers money - Building batteries to service Council assets provides the opportunity to capture energy produced at peak supply, to then be used later when the electricity would be more expensive.

Beyond saving rate payers money in the long run, additional benefits of batteries servicing Council assets include:

- Reducing load on the grid during peak production times
- Reducing waste of energy resources
- Reducing Council emissions
- Meaningful progress toward Port Macquarie Hastings Council's existing renewable energy target of 100% renewable energy by 2027.

Attachments

Nil

Item: 11.04

**Subject: RECOMMENDED ITEMS FROM THE FEBRUARY 2024 MEETING
OF THE PORT MACQUARIE-HASTINGS SPORTING FUND**

Presented by: Community, Planning and Environment, Melissa Watkins

Alignment with Delivery Program

2.3.2 Provide a range of inclusive sporting and recreational opportunities and facilities to encourage a healthy and active lifestyle.

RECOMMENDATION

That Council endorse the Port Macquarie-Hastings Sporting Fund Committee recommendations to award funding as follows:

- 1. \$750 to Lane Jordan for representation at the U16 Cricket Australia National Championships.**
- 2. \$750 to Taj McIntosh for representation at the U18 Hockey Australia Indoor Hockey National Championships.**
- 3. \$750 to Bear Farmer for representation at the U13 Hockey Australia Indoor Hockey National Championships.**

DISCUSSION

The Port Macquarie-Hastings Sporting Fund committee met on 8 February 2024 and considered 3 grant applications. The submissions from Lane Jordan, Taj McIntosh and Bear Farmer were determined to have met the funding criteria. Accordingly, the Sub-Committee recommends to Council the following payment from the Fund:

- Lane Jordan - \$750 to compete at the U16 Cricket Australia National Championships in Hobart on January 18 - 25 January 2024.
- Taj McIntosh - \$750 to compete at the 2024 U18 Hockey Australia Indoor Hockey National Championships in Canberra on 12 - 16 January 2024.
- Bear Farmer - \$750 to compete at the 2024 U13 Hockey Australia Indoor Hockey National Championships in Canberra on 17 - 20 January 2024.

It is noted that all submissions were received prior to the event taking place. These amounts are covered under the amount payable for participation at a National Sporting Level under the Port Macquarie-Hastings Sporting Fund.

Attachments

Nil

3 Your Business and Industry

What we are trying to achieve

A region that is a successful place that has vibrant, diversified and resilient regional economy that provides opportunities for people to live, learn, work, play and invest.

What the result will be

We will have:

- A strong economy that fosters a culture supportive of business and ensures economic development of the region
- Townships, villages and business precincts that are vibrant commercial, cultural, tourism, recreational and/or community hubs
- A region that attracts investment to create jobs
- Partnerships that maximise economic return and create an efficient and effective business environment

How we will get there

- 3.1 Embrace business and a stronger economy
- 3.2 Create vibrant and desirable places
- 3.3 Embrace opportunity and attract investment to support the wealth and growth of the community
- 3.4 Partner for success with key stakeholders in business, industry, government, education and the community

Item: 12.01

**Subject: RESCISSION MOTION - PAYMENT OF WATER FUND AND SEWER FUND DIVIDEND FOR THE YEAR 2022-2023
ITEM 10.13 OF THE FEBRUARY ORDINARY COUNCIL MEETING 2024**

Councillors Rachel Sheppard, Lisa Intemann and Nik Lipovac have given notice of their intention to move the following motion:

RECOMMENDATION

That the undermentioned motion adopted at the Ordinary Council Meeting held on 15 February 2024:

That Council:

- 1. Note Council has complied with sections 4.2 and 4.3 of the Guidelines (Regulatory and Assurance Framework for Local Water Utilities) for council dividend payments for water supply or sewerage services and any direction under s.409(6)(b) of the Local Government Act.**
- 2. Authorise the payment of a dividend of \$961,254 to the General Fund from the surplus in Water Supply operations for 2022-2023.**
- 3. Authorise the payment of \$106,806 for tax equivalents to the General Fund from the Water Supply operations for 2022-2023.**
- 4. Authorise the payment of a dividend of \$930,015 to the General Fund from the surplus in the Sewerage Fund for 2022-2023.**
- 5. Authorise the payment of \$103,335 for tax equivalents to the General Fund from the Sewerage Fund for 2022-2023.**
- 6. Note that once the information provision requirements in section 4.4 of the Guidelines is finalised, apply the dividends as noted in Points 2,3,4 and 5, to first hold in reserve the amount required to pay out the loan associated with the Town Centre Master Plan, with any residual amount being the subject of a future report to Council before further allocation.**

be rescinded.

Should the rescission motion be successful, it is the Councillors' intention to move the following motion:

That Council:

- 1. Note Council has complied with sections 4.2 and 4.3 of the Guidelines (Regulatory and Assurance Framework for Local Water Utilities) for council dividend payments for water supply or sewerage services and any direction under s.409(6)(b) of the Local Government Act.**
- 2. Authorise the payment of a dividend of \$961,254 to the General Fund from the surplus in Water Supply operations for 2022-2023.**
- 3. Authorise the payment of \$106,806 for tax equivalents to the General Fund from the Water Supply operations for 2022-2023.**
- 4. Authorise the payment of a dividend of \$930,015 to the General Fund from the surplus in the Sewerage Fund for 2022-2023.**

5. Authorise the payment of \$103,335 for tax equivalents to the General Fund from the Sewerage Fund for 2022-2023.
6. Note that once the information provision requirement in section 4.4 of the Guidelines is finalised, a separate report will be provided to Council outlining proposed expenditure of the dividend.

Comments by Councillor Rachel Sheppard:

Summary:

In the February 2024 Council Meeting, Council unexpectedly resolved to allocate approximately \$1.2 million of moneys, before relevant information was provided to the Council to inform this decision. This was unusual and irregular process, giving the appearance that relevant financial and other implications could not have been reasonably taken into account when allocating this \$1.2 million.

If successfully carried, the present rescission motion and subsequent proposed motion would enable the financial and other implications to be considered by Council, before directing these \$1.2million.

Detail:

At the February 2024 Ordinary meeting of Council, staff brought an unremarkable, cyclical report to Council: Item 10.13 Payment of Water fund and sewer fund dividend for the year 2022-2023. This report is typically procedural. It was recommended that a future report provide advice to councillors on how best to allocate the approximately \$2million combined dividend, including potential of reinvestment back into water supply and sewer funds. (See agenda report and minutes, attachments 1 & 2)

However, Council instead unexpectedly resolved to allocate approximately \$1.2 million of the dividends toward paying off the Town Centre Master Plan (TCMP) loan. Debate can be observed here: <https://youtu.be/7IDghHcwaHk?t=5931>

This resolution to direct \$1.2 million of public moneys was irregular and unusual on several counts:

- Lack of notice: The proposal was made without notice to at least four Councillors, on the floor of the Council meeting.
- No relevant information provided: Council has made a decision on how to allocate \$1.2million of the dividend, before any information or recommendation from staff has been supplied.
- Amendments for Councillors to receive information before making a decision were voted down (4/4, Mayors casting vote against).

A brief, non-exhaustive cost/benefit analysis includes the following:

Benefit of Allocating dividend to pay TCMP loan.	Cost of Allocating dividend to pay TCMP loan.
<p>TCMP zone ratepayers are relieved of the approximately \$1.2 million loan obligation to be paid off by 2027, providing substantial appreciable financial benefit to some land-owners and business operators in the TCMP zone.</p>	<p>Council/broader community loses approximately \$1.2million which would have been available for one-off projects for the benefit of other parts of the LGA, or the whole LGA depending how allocated.</p> <p>Council/community/staff: Council’s decision set a precedent that Community can expect Council might direct the use of large amounts of public moneys, without notice on the floor of Council, without community engagement, discussion with Councillors, or even basic staff advice.</p> <p>Community trust in Council: Irregular and unusual process in allocating moneys compromises probity and public trust.</p>

Under the Local Government Act, Council’s Code of Conduct and Code of Meeting practice, it is clearly intended that Councillors should first be aware of and understand the financial and other implications before Council makes decisions.

Rescinding item 10.13 provides the opportunity to act with reasonable care and diligence.

Should the rescission be successful, I intend to move the staff recommendation.

This will enable Council to pursue responsible, efficient use of public moneys, that provides the greatest benefit to our broader community.

Attachments

1.  Report: Item 10.13 - Ordinary Council Meeting - 15 February 2024
2.  Minutes: Item 10.13 Ordinary Council Meeting 15 February 2024
3.  Principles - Port Macquarie-Hastings Council - Code of Meeting Practice

4 Your Natural and Built Environment

What we are trying to achieve

A connected, sustainable, accessible community and environment that is protected now and into the future.

What the result will be

We will have:

- Effective management and maintenance of essential water, waste and sewer infrastructure
- A community that is prepared for natural events and climate change
- Sustainable and environmentally sensitive development outcomes that consider the impact on the natural environment
- Accessible transport network for our communities
- Infrastructure provision and maintenance that meets community expectations and needs
- Well planned communities that are linked to encourage and manage growth
- Accessible and protected waterways, foreshores, beaches and bushlands
- An environment that is protected and conserved for future generations
- Renewable energy options that are understood and accessible by the community

How we will get there

- 4.1 Provide (appropriate) infrastructure and services including water cycle management, waste management, and sewer management
- 4.2 Aim to minimise the impact of natural events and climate change, for example, floods, bushfires and coastal erosion
- 4.3 Facilitate development that is compatible with the natural and built environment
- 4.4 Plan for integrated transport systems that help people get around and link our communities
- 4.5 Plan for integrated and connected communities across the Port Macquarie-Hastings area
- 4.6 Restore and protect natural areas
- 4.7 Provide leadership in the development of renewable energy opportunities
- 4.8 Increase awareness of issues affecting our environment, including the preservation of flora and fauna



Item: 13.01

Subject: NOTICE OF MOTION - FERRY SERVICE OPERATIONS - RESPONSE FROM THE MINISTER FOR REGIONAL TRANSPORT AND ROADS

Mayor Peta Pinson has given notice of her intention to move the following motion:

RECOMMENDATION

That Council:

1. **Note the response received from The Hon Jenny Aitchison MP, Minister for Regional Transport and Roads, regarding the operation of the two vehicular ferries over the Hastings River and Council's request for the NSW Government to take over the operation of the service or provide funding support.**
2. **Note that this decision of the NSW Government will result in Port Macquarie-Hastings Council continuing to fund ferry services across the Hastings River, whilst most other vehicular ferry services in NSW are provided by the NSW Government or receive funding support.**

Comments by Mayor

Council has received a response from the Hon Jenny Aitchison MP, Minister for Regional Transport and Roads, to a letter sent by Council as a result of a resolution on ferry operations at the Ordinary Council Meeting held in February 2023 (Item 11.01) and reiterated in multiple letters sent in 2023 (March, June, June and October) and followed up in 2024. The response also followed meetings in June and December 2023 of the Minister and Transport for NSW representatives with Councillors and senior staff, which included discussion and advocacy with regard to ferry operation support.

Council resolved, in part, in relation to Item 11.01 at the February 2023 Ordinary Council meeting as follows:

"10. Advocate to Transport for NSW with regard to transfer of ferry management to NSW or a financial contribution from the NSW Government for ferry operations, to reduce the financial burden of the service on the General Fund of Council as most ferry operations across NSW are fully funded and managed by the NSW Government."

Council within its correspondence to Transport for NSW and the Minister sought support from Transport for NSW through future management of the ferries or ongoing financial assistance.

The Minister within her response advises in part:

"I understand the Hibbard and Settlement Point ferries have always been provided, operated and maintained by Port Macquarie-Hastings Council. The ferry service provides Port Macquarie's North Shore residents with access to

Port Macquarie and gives the local community and tourists access to the National Park and beaches to the north.

I have considered your request carefully and given the current financial position of the Government and financial commitments to be fulfilled we are not in a position to take on the operation and maintenance of the Port Macquarie ferry services”.

A copy of the Minister’s response letter is attached for information.

This outcome is disappointing and will mean the Hastings River ferry services will continue to be funded by Port Macquarie-Hastings Council and users. The need to fund the services directs funds away from provision of important infrastructure within our community and is a cost to our residents and visitors who use the ferries.

For information, the State Government currently operates the following ferry services in NSW:


- Berowra Waters ferry - crosses Berowra Creek at Berowra Waters from Bay Road to Berowra Waters Road.
- Lawrence ferry - crosses the Clarence River at Rutland Street. It shuttles between Lawrence and Woodford Island.
- Mortlake ferry - crosses the Parramatta River from Hilly Street, Mortlake to Pellisier Road, Putney.
- Sackville ferry - crosses the Hawkesbury River, north of Sackville on the Sackville Road.
- Speewa ferry - crosses the Murray River on the border between NSW and Victoria at Speewa.
- Ulmarra ferry - crosses the Clarence River between the town of Ulmarra and Southgate.
- Webbs Creek ferry - crosses the Hawkesbury River between the community of Wisemans Ferry and a point just south of the junction with the Macdonald River.
- Wisemans ferry - crosses the Hawkesbury River just east of the junction of the Macdonald River at the village of Wisemans Ferry.
- Wymah ferry - crosses the Murray River at Wymah/Granya.

The ferry services listed above that are provided by the NSW Government are operated and fully funded via Transport for NSW and there is no charge for ferry users. Accordingly, these services are fully funded by the NSW taxpayer.

In addition, it is also noted that the NSW Government committed funding support of \$500,000 per year for the Lower Portland Ferry, operated by Hills Shire Council and Hawkesbury City Council, for a period of 4 years from 2020.

Ferry services on the Hastings River are part funded through ferry user charges and the remainder is funded by General Fund rate income, meaning the service cost is borne by users and all community members in the local government area who pay rates. Accordingly, there continues to be clear inequity with the provision of vehicular ferry services across NSW.

Attachments

1.  Response from Minister - Operation and Maintenance of the Hibbard and Settlement Point Ferries

Item: 13.02

**Subject: POLICY REVIEW - DEVELOPMENT CONTRIBUTIONS
ASSESSMENT POLICY**

Presented by: Community, Planning and Environment, Melissa Watkins

Alignment with Delivery Program

4.5.2 Plan for infrastructure that supports population growth.

RECOMMENDATION

That Council:

- 1. Publicly exhibit the revised draft Development Contributions Assessment Policy for a period of not less than 28 days.**
- 2. Note that a further report will be tabled at the June 2024 meeting of Council after the public exhibition period, detailing any submissions received from the public during the exhibition period.**

Executive Summary

An important component of public sector governance is establishing key policies and ensuring they are clear, available, regularly updated and monitored for compliance.

The Development Contributions Assessment Policy (DCAP) was previously amended to address the assessment and payment of development contributions for business and student accommodation developments. The amended DCAP was adopted by Council at the Ordinary meeting of 19 October 2016 and came into effect on 20 October 2016, as provided within Attachment 1. The DCAP indicates that the next review date was to be undertaken by 19 October 2019.

Council is developing a new Local Infrastructure Contributions Plan. This plan is consistent with the Development Contributions Framework noted by Council at the Ordinary Council Meeting of 20 April 2023. The original intent was to complete the new Local Infrastructure Contributions Plan before the related policies were reviewed. However, now it is appropriate to review this policy for clarity and removal of ambiguity while addressing risk for Council. Following the completion of the new Local Infrastructure Contributions Plan this policy may require a further administrative review to ensure alignment.

This Policy has been revised for consideration by Council and it is recommended that this Policy as provided within Attachment 2, be endorsed by Council and placed on public exhibition for a minimum period of 28 days.

Discussion

This Policy aims to provide a relationship between the contributions levied for residential, commercial, and industrial development under Council's Development Contribution Plans and Development Servicing Plans (DSP).

A new development contributions plan is currently being prepared in accordance with the *Environmental Planning and Assessment Act 1979*, the Development Contributions Practice Notes, Ministerial Directions issued by the Department of Planning and Environment and GLN Planning consultancy advice and assessment of the present state of Port Macquarie-Hastings Contributions Planning. The intent of the new plan, in accordance with Council's framework is to have a more consistent and simplified approach. This will enable Council to respond appropriately to the anticipated population growth within the LGA.

The current DCAP was adopted on 20 October 2016 and indicates that the next review date is 19 October 2019.

The current DCAP has not been reviewed since 2016, and since its adoption and since that time:

- References to specific sections and definitions within the Act and Regs have changed;
- The notice of payment re-issue fee needs to be aligned with the Fees and Charges;
- The guidelines for not-for-profit organisations has been developed;
- contributions offsets for ecological sustainable development have not been utilised; and
- The direction for deferral deeds has also changed.

The objective of this review is to create a more robust and succinct contributions policy that is easier to interpret.

The review of the DCAP has not proposed any changes to the DSP Charges, contribution rates or contribution plans. The production of a new Development Servicing Plan is a separate activity being undertaken by Council and will be reported to Council at appropriate milestones.

Main Changes

The main changes to the DCAP involves clause 24 and 27, as follows:

1. Contribution Offsets for Ecologically Sustainable Development

One of the main changes to the DCAP is to delete Clause 2.4 Contribution Offsets for Ecologically Sustainable Development (ESD).

The aim of this clause is to encourage a level of ESD that exceeds current legislative requirements, of which the development would receive contribution offsets. Under this clause, *ESD means residential subdivision for permanent occupants of at least 50 residents where the development can demonstrate reduced water and energy consumption as provided by table 1*. Table 1 refers to reduced water and energy consumption in relation to BASIX (Building Sustainability Index). It should be noted

that BASIX only relates to residential building development and does not apply to subdivision.

A review of Council's records indicates that no development has utilised the provisions of this clause since its inception. This could be due to:

- the definition of ESD not being clear and the referred table makes a link to BASIX of which subdivisions are not applicable; or
- developers not having an appetite to commit to the reduction of water and energy consumption in residential development, greater than the legislative requirements (BASIX); or
- developers are undertaking greenfield subdivisions, not house and land packages.

As there is no desire for the incentives within clause 2.4, it is recommended that this clause be deleted.

2. Deferral of Payment of Development Contributions

One of the main changes to the DCAP is in relation to clause 2.7, the deferral of payment of development contributions.

The provision for the deferral of the payment of development contributions was first introduced into the DCAP with the adoption of the amended DCAP at Council's meeting of 16 July 2014.

Clause 2.7 of the DCAP allows the deferral of the payment of development contributions in relation to residential and rural residential subdivision, building works and other development not involving subdivision for a period of up to two years subject several provisions. If Council agrees to the deferral of the payment of development contributions the developer needs to enter into a deed of deferral.

Since the inclusion of clause 2.7 into the DCAP, the majority of developments utilising the deferral of the payment of development contributions are greenfield subdivisions. If Council supports the entering into a deed, the developer needs to pay the outstanding contributions prior to the sale of the lot and the outstanding contributions are to be secured by either:

- bank guarantee; or
- charge on land; or
- caveat on each individual lot; or
- voluntary planning agreement.

The majority of deeds have utilised the registration of a caveat onto the title of each individual lot within the subdivision.

The use of this clause has identified a risk to Council in the use of a caveat on the title of each lot as a security. If the developer does not pay the outstanding deferred development contributions within two years, Council has no legal mechanism to obtain the outstanding deferred development contributions.

At present, there is \$1,312,863.80 in deferred development contributions. Of this amount, \$879,633.20 is outstanding since 17 August 2023 and is associated with one development application.

The non-payment of outstanding development contributions within two years of entering into the deed, is a risk to Council that is realised at times, particularly when

land lots do not sell in the deferral period and the developer is reliant on the sale proceeds to pay the development contributions. Attachment 3 indicates the current outstanding and overdue deferred development contributions, as well as the overdue deferred development contributions since March 2020.

Due to the issues regarding non-payment of the deferred development contributions within the required timeframe and Council having limitations to collect those outstanding deferred development contributions, it is proposed to change clause 2.7 as follows:

- more details on how to apply for, and the criteria of acceptable circumstances to defer the payment of development contributions;
- the only security is a bank guarantee. This bank guarantee shall be for the total development contribution amount plus 10% of the total amount of the development contribution;
- administration fee to cover processing the bank guarantee;
- the deferred amount shall be reduced from 2 years to 1 year;
- the total amount of contributions that is proposed to be deferred is to be no less than \$100,000;
- the bank guarantee can be utilised if the outstanding deferred development contributions are not paid within 1 year;
- requires condition on development consent;
- development consents issued on or after 16 July 2014 and still valid, will be able to apply to defer the payment of their development contributions;
- the certifying authority is to verify the payment of the outstanding deferred development contributions prior to issuing the construction certificate, occupation certificate or subdivision certificate.

The proposed changes to clause 2.7 of the DCAP will minimise the risk to Council in terms of collecting outstanding deferred development contributions, and provide a mechanism to collect those outstanding monies.

In addition, the removal of the security option of a caveat on each lot, will also reduce the administrative burden on the Development Contributions Team. When the developer requests to defer the payment of their development contributions, the following processing times are required for the following administrative tasks:

- Deed of deferral preparation:
 - simple application - 8 hours;
 - complex application - 12 hours
- Administration per lot (including removal of caveat and creating individual notice of payment):
 - simple - 3 hours;
 - complex - 4 hours

The changes proposed to this Policy are indicated in the table below:

Current Policy	Changes Proposed to Draft Policy
Title - Development Contributions Assessment Policy	Title changed to Development Contributions Administration Policy

Various clauses	Various clauses have been amended to reflect the sections in the new <i>Environmental Planning and Assessment Act 1979</i> (Act) and <i>Environmental Planning and Assessment Regulation 2000</i> (Regs).
1. Introduction	Amended to explain development contributions and include details of the purpose of the policy.
2. Policy Statement and Scope	Amended to reflect current legislation.
2.1 Contribution Rates	No changes.
2.2 Short Term or Emergency Accommodation	Removed wording 'short-term' as this clause is related to emergency accommodation. Amended 'Development Contributions Plans' to "Local Infrastructure Contributions Plans' as this is now the correct description.
2.3 Development by Non-Profit Organisations	Amended to include reference to the Australian Charities and Not-for-Profits Commission and their requirements of classification for a not-for-profit.
2.4 Contribution Offsets for Ecologically Sustainable Development	This clause and sub-clauses deleted.
2.5 Secondary Dwellings ("Granny Flats")	Amended to reflect current legislation.
2.6 Indexation and Recalculation of Contributions	Dot point 2 amended to remove \$25 fee and refer to Council's Fees and Charges, as this fee will increase overtime.
2.7 Deferral of Payment of Development Contributions	Amended to: <ul style="list-style-type: none"> • provide more details on how to apply for, and the criteria required for the deferral payment of development contributions; • require a bank guarantee only; • reduce the timeframe from 2 years to 1 year, with no extension; • require total contributions to be not less than \$100,000; • require bank guarantee to be for total contribution plus 10% of total value of contribution to be deferred; • an administration fee to cover processing bank guarantee; • require a condition on the development consent; • include provision that if contributions not paid within 12 months, Council can request the bank pay the full amount guaranteed by the bank guarantee; and • include provision that certifying authority must not issue construction certificate, subdivision certificate or occupation certificate unless obligations of the deferred



	development contributions have been satisfied and verified.
2.8 Student Accommodation	Consolidated into clause 2.7.
2.9 Non Residential Accommodation	Consolidated into clause 2.7.
3. Responsibilities and Authorities	No changes.
3.1 Roles and Responsibilities	No changes.
3.2 Determination of Applications for Exemption	Amended to reflect correct Director.
3.3 Support and Advice	No changes.
3.4 Review	Amended to include more parameters as to when the Policy is to be reviewed.
3.5 Not in current Policy	Added to include details of approval and revision.
4. References	Amended to reflect current legislation.
5. Definitions	Bed and breakfast - amended to reflect definition and clause 5.4 in LEP. Student accommodation - amended to reflect legislative change.
6. Process Owner	Moved into clause 3.5.
7. Amendments	Moved into clause 3.5.

The adopted Policy is included here as Attachment 1 while the revised draft Policy is included here as Attachment 2.

Options

Council has the options to:

1. Adopt the draft Development Contributions Administration Policy for exhibition; or
2. Request or make further amendments to this Policy, noting this may delay exhibition; or
3. Not adopt the recommendation and resolve in some other fashion.

This report recommends Option 1, endorsement of the draft Policy for the purposes of public exhibition.

Community Engagement and Internal Consultation

Community Engagement

It is recommended that this Policy be placed on public exhibition for not less than 28 days.

Internal Consultation

Internal consultation was undertaken with the Utilities, Planning and Design and Development Assessment teams.

During public exhibition, further consultation will be undertaken with the following internal stakeholders:

- Business and Performance;
- Community Infrastructure, Planning and Design;
- Development Assessment Team;
- Development Engineering Team;
- Natural Resources Management Team;
- Recreation and Community Team;
- Utilities, Planning and Design.

Planning and Policy Implications




The draft DCAP proposes substantial changes that will become new policy subject to Council's decision on the matters raised in this report. The proposed changes will ensure compliance with current legislation; remove provisions that have not been utilised; and amend clauses to ensure Council receives the required development contributions associated with development in the Port Macquarie-Hastings Local Government Area (LGA); and provide legal mechanisms if deferred development contributions are outstanding.

Financial and Economic Implications

The provisions within the DCAP are to ensure that Council receives the development contributions associated with development, so that these monies can be allocated to, and enable identified projects within the LGA to be constructed, providing positive financial and economic implications.

The review of the DCAP seek to limit and reduce financial risk to Council associated with the non-payment of contributions relating to Council's contributions deferral policy.

Attachments

1.  Current Development Contributions Assessment Policy
2.  Draft Development Contributions Assessment Policy
3.  Outstanding Deferred Contributions Summary Report

Item: 13.03

Subject: POLICY REVIEW - PLANNING AGREEMENTS POLICY

Presented by: Community, Planning and Environment, Melissa Watkins

Alignment with Delivery Program

4.5.2 Plan for infrastructure that supports population growth.

RECOMMENDATION

That Council:

- 1. Publicly exhibit the revised draft Planning Agreements Policy for a period of not less than 28 days.**
- 2. Note that a further report will be tabled at the June 2024 meeting of Council after the public exhibition period, detailing any submissions received from the public during the exhibition period.**

Executive Summary

An important component of public sector governance is establishing key policies and ensuring they are clear, available, regularly updated and monitored for compliance.

The Planning Agreements Policy was adopted by Council at the Ordinary meeting of 19 June 2006 (Attachment 1) and came into effective on that date.

Council is developing a new Local Infrastructure Contributions Plan. This plan is consistent with the Development Contributions Framework noted by Council at the Ordinary Council Meeting of 20 April 2023. The original intent was to complete the new Local Infrastructure Contributions Plan before the related policies were reviewed. However, now it is appropriate to review this policy to address the clarity to counter parties and the administrative burden of planning agreements to Council. Following the completion of the new Local Infrastructure Contributions Plan this policy may require a further administrative review to ensure alignment.

In February 2021, the Department of Planning, Industry and Environment (now Department of Planning, Housing and Infrastructure (DPHI)) updated the Planning Agreements Practice Note, to address recommendations from the Kaldas review and to align with contemporary best practice and references. It now contains explanatory note requirements which have been transferred from the *Environmental Planning and Assessment Regulation 2000* (Regs). This practice note provides detailed guidance on the negotiation, administration and making of planning agreements.

In accordance with section 203(7) of the Regs, Council is required to consider practice notes when proposing to negotiate and enter planning agreements under section 7.4 of the *Environmental Planning and Assessment Act 1979* (Act).

In December 2023, DPHI placed on exhibition the draft Local Planning Agreements Practice Note. This is the first comprehensive rewrite of all local infrastructure contributions practice notes since 2005. The practice note has been rewritten to modernise their guidance and make them easier to use. The updates include simplifying the language, expanding on best practice guidance, and providing worked examples. If this Practice Note is made, it will replace the 2021 Practice Note.

The Planning Agreements Policy has been rewritten to comply with the Act, Regulation and the 2021 Practice Note, as well as consider the provisions of the draft Practice Note. It is recommended that this draft Policy (Attachment 2), be endorsed by Council to be placed on public exhibition for a minimum period of 28 days.

Discussion

The NSW planning framework enables Council's to enter into agreements with developers to provide public benefits in conjunction with a development application or planning proposal. The agreements are voluntary, and the public benefits can be in the form of a monetary contribution, the dedication of land or the provision of material public benefits directly.

This Policy sets out Council's policy relating to planning agreements for land within the Port Macquarie-Hastings Local Government Area, in accordance with the provisions of the Act and Regs.

The content of this Policy cannot be inconsistent with the planning legislation and the DPHI's practice notes for preparing planning agreements.

A planning agreement is a voluntary agreement between a planning authority and a developer, who has:

- *sought a change to an environmental planning instrument; or*
- *made or proposes to make a development application or application for a complying development certificate; under which the developer is required to:*
 - *dedicate land free of cost;*
 - *pay a monetary contribution;*
 - *provide any other material benefit; or*
 - *provide any combination of the above.*

This Policy has not been updated since its adoption in 2006. Due to the significant lapse in time since this Policy's adoption, the change in legislation and introduction of a Practice Note, this Policy has been rewritten to ensure compliance with the changes to the Act and Regs and 2021 Practice Note, as well as consider the provisions of the draft Practice Note. In addition, the rewriting of this Policy will also ensure best practice when Council is considering, negotiating, and entering into a planning agreement with a developer to safeguard and protect the public interest and the integrity of the planning process.

Both Practice Notes require Council to consider the following when developing a policy for planning agreements:

- the legislative framework;
- the fundamental principles;

- acceptability test;
- public interest and probity;
- not using a planning agreement for value capture;
- relationship with planning proposal and / or development application;
- objectives; and
- public participation.

The draft Practice Note requires the development of a standard template for the planning agreement and explanatory note.

The draft Policy includes details of the planning agreement process for both new and existing planning agreements. This detail will provide transparency and clarity on the process to be following by both the developer and Council.

Due to the length of time since this Policy has been updated, the legislative requirements, the provisions within the 2021 Practice Note, and due to the substantial changes required, the existing Policy will be replaced with the draft Policy.

The table below summaries the requirements of the draft Policy, the reasons for their inclusion, as well as any benefits. The table below also identifies any requirements that are within the existing Policy and the differences within the draft Policy:

Clause Titles	Current Policy	Draft Policy
Introduction	Limited detail.	The draft Policy explains what a PA is; the reason for a PA; why Council will not accept a PA; and what needs to be considered in accepting an offer to enter into a PA.
Purpose	Limited detail.	The purpose of the Policy has been details in eight dot points within the draft Policy. The draft Policy details the legislative requirements; explains what a PA can be connected to; and how a PA can be funded.
Statutory Framework	Previous legislative requirements.	Details current legislative framework for PAs, including details on the circumstances when a PA maybe entered into. Reference is made to the North Coast Regional Plan and Council’s Community Strategic Plan and Local Strategic Planning Statement.
Objective of PAs	Outdated objectives including previous	Objectives updated. Clarifies that just because a

	legislative requirements.	developer wants to enter into a PA does not mean development consent will be granted if the development is unacceptable.
Mandatory Requirements of a PA	No details.	The draft Policy includes the relevant legislation detailing the mandatory requirements under the Act and Regs.
Principles / Responsibilities	Outdated principles.	Updated principles in considering, negotiating and entering into a PA.
Acceptability Test	Outdated provisions.	Updated provisions within 2021 Practice Note.
Types and forms of Contributions	No provisions to consider ensuring development contributions are directed appropriately.	Requirements to consider ensuring development contributions under PA are directed appropriately.
Standard PA Template	No requirement.	Template provided to assist developers in preparing PA.
Explanatory Notes	No requirement.	Explanatory note required under Regs. Details of what explanatory note is to detail.
Planning Agreement Register	No requirement.	Details of legislative requirement to keep an on-line register.
Process	Outdated provisions.	Updated process considering, negotiating and entering new PAs or amending existing PAs.
Credits and Refunds	Outdated provisions.	Updated provisions.
Valuation Methodology	Outdated provisions.	Updated provisions.
Recurrent Charges	Outdated provisions.	Updated provisions.
Application of Section 7.11 & 7.12 of the EP&A Act	Outdated provisions and includes previous legislation.	Updated provisions and legislation.
Implementation Requirements	Outdated provisions.	Updated provisions.
Probity	No requirement.	Details of the requirements Council is to consider, ensuring fair, transparent and uphold public confidence.
Council's Costs	Outdated provisions.	Updated provisions of costs the developer is responsible for; requirement that additional costs may be

		required; and security maybe required.
Operation & Monitoring PAs	Outdated provisions.	Updated provision to include annual monitoring report and periodical reports on compliance of obligations by developer.
Modification & Discharge of Obligations	Outdated provisions.	Updated provisions.
Assignment & Dealings by the Developer	Outdated provisions.	Updated provisions and additional requirements.
Provision of Security under a PA	Outdated provisions.	Updated provisions and additional security requirements to a bank guarantee, including monetary contributions and land dedication.
Registration of PAs	Outdated provisions.	Updated provisions.
Dispute Resolution	Outdated provisions.	Updated provisions with reference to the planning agreement template.
Disclaimer	No requirement.	Details of the disclaimer requirements when Council provides advice at any stage when negotiating a PA, including the legislative requirement that the PA cannot impose an obligation on Council to grant a development consent or change to the LEP.
Periodical Updates	Outdated provisions.	Details of when the Policy is to be reviewed.
Implementation	Outdated provisions.	Updated provisions.
References	No requirement.	Details of references.
Definitions	Outdated provisions.	Updated provisions.
Appendices	No details.	Details of the appendices, planning agreement process flow-chart; planning agreement template; and potential material public benefits.

The current adopted Policy is included here as Attachment 1. The proposed draft Policy is included here as Attachment 2.

Options

Council has the options to:

1. Endorse the draft Planning Agreements Policy for exhibition; or
2. Request or make further amendments to this Policy, noting this may delay exhibition; or
3. Not endorse the recommendation and resolve in some other manner.

This report recommends Option 1. Endorsement of the draft Policy for the purposes of public exhibition.

Community Engagement and Internal Consultation

Community Engagement

It is recommended that this Policy be placed on public exhibition for not less than 28 days.

Internal Consultation

The draft Policy has been reviewed by Council's Legal Counsel.

The following internal stakeholders will be engaged during the public exhibition period:

- Business and Performance;
- Community Infrastructure, Planning and Design;
- Development Assessment Team;
- Development Engineering Team;
- Natural Resources Management Team;
- Recreation and Community Team;
- Utilities, Planning and Design.

Planning and Policy Implications

The draft Policy proposes substantial changes that will become new policy subject to Council's decision on the matters raised in this report. The proposed changes will ensure compliance with current legislation and the 2021 Practice Note, as required by DPHI, as well as taking into consideration the provisions within the Draft Local Planning Agreements Practice Note.

In addition, the new Policy will provide transparency to developers on the planning agreement process for both new planning agreements and amendments to existing planning agreements.




Financial and Economic Implications

The provisions within planning agreements are to be wholly related to the proposed development and are to meet the demands created by that development for new or augmented public infrastructure, amenities and services. The planning agreement shall clearly detail and justify these costs.

Planning agreements should not be used as a means of general revenue raising or to overcome revenue shortfalls or deliver infrastructure that is not related to the development.

The new Policy will provide clear and concise details on negotiating and entering planning agreements, with positive financial and economic implications, through the orderly coordination of infrastructure to serve the development, in accordance with the current legislative framework.

Attachments

1.  Current Planning Agreement Policy Adopted 190606
2.  Draft Planning Agreement Policy
3.  Draft Planning Agreement Template

Item: 13.04

Subject: POLICY REVIEW - CONTRIBUTIONS FOR PATHS KERB AND GUTTER POLICY

Presented by: Community Infrastructure, Robert Fish

Alignment with Delivery Program

1.3.2 Build trust and improve Council's reputation through transparency, good decision making and living Council's Values.

RECOMMENDATION

That Council:

- 1. Place on public exhibition the Draft Contributions for Paths Kerb and Gutter Policy for a period of not less than 28 days.**
- 2. Note that a further report will be provided to the May 2024 Ordinary Council meeting detailing the submissions received from the public during the exhibition period.**

Executive Summary

An important component of public sector governance is establishing key policies and ensuring they are clear, available, regularly updated and monitored for compliance.

The Contributions for Paths Kerb and Gutter Policy has been developed for consideration by Council and details how and when Council considers contributions to paths, kerb and gutter from adjoining landowners in accordance with the NSW Roads Act 1993.

Discussion

The Contributions for Paths Kerb and Gutter Policy has been developed with the following considerations:

- To make clear how landowners contribute to infrastructure adjoining their property in accordance with Section 217 of NSW Roads Act 1993.
- Align with Council's infrastructure funding strategies and community expectations.
- To articulate Council's obligations and position on path, kerb and gutter infrastructure and when Council considers the benefits relate to the adjoining landowner as well as the wider community.

Under provisions of Section 217 of the NSW Roads Act 1993, Council can charge adjoining landowners for up to half of the costs incurred in constructing or paving any kerb, gutter or footway along the side of the public road adjacent to the land. Council first adopted the policy of charging property owners a contribution for the initial

provision of kerb and gutter and concrete footpath adjacent to their property on 9/4/1984. In 2011, Council reviewed this policy and retained the practice of charging adjoining landowners for the calculated contribution to the path and kerb and gutter infrastructure and this has remained as the current policy. Due to changes in community perception regarding benefiting parties it is recommended that changes as outlined below are made to reflect a more contemporary perspective.

Policy Review

Outlined below are the major themes within the policy. Recommendations for changes, if any, are outlined in each individual section.

To be noted, this policy does not affect construction of paths, kerb and gutter related to conditions of development.

Kerb and Gutter

It is proposed that contributions will continue to be sought from adjoining landowners for the provision of new kerb and gutter. This is aligned with historical practice and suits the contemporary view. It is recognised that kerb and gutter generally provides benefits to both the adjoining owner and the wider public through reduced impacts from rainwater through improved drainage.

The adopted fees charged in 2023/2024 were based on the rates received through recent contract rates (under a panel contract) and reviewing the cost to undertake the works. This will continue to be the practice through an annual review cycle which may see fees updated year on year based on rates provided by the panel. It is noted that the adopted fee is the maximum charge that may apply.

Paths

It is proposed that contributions are not to be sought for the provision of footpath construction. This is based on the principle that the benefit of a footpath is primarily for the wider community who will utilise the path network and not as high to the adjoining landowner. Though the immediate owner may benefit through connectivity to the path network, as well as less deterioration to the nature strip, it was not considered reasonable to charge adjoining landowners for this benefit over and above their ordinary rate contributions.

Grant Funding

Council occasionally receives grant funding for paths, kerb and gutter infrastructure from the State and Federal governments. The current practice is that when Council has been successful in receiving grant funding for infrastructure works, the adjoining landowners have not been charged for a contribution towards the works.

The original policy was silent on grant funding. A paragraph on grant funding has been included in the new policy to outline the recommended approach of continuing to seek contributions from adjoining landowners for kerb and gutter construction to help improve grant applications or embellish project outcomes such as the extension of kerb and gutter beyond the original scope of works. This also ensures consistency is maintained for landowners where infrastructure works are undertaken.

Practical Application and Determination of Works

Work locations are considered by the Community Infrastructure Planning and Design (CIPD) Unit. Requests for consideration of new infrastructure are received from the community via various methods but primarily:

- Customer requests through the CRM process and the Have Your Say website when reviewing Council strategies and action plans.
- Annual Operational Plan submissions.

The CIPD Unit consider these requests along with technical criteria and current resourcing (financial and staffing) to propose the locations for inclusion in the annual works programs based on identified risk and priority. As such, the Policy update clarifies to ratepayers that the works program is led by a Council decision on an annual basis, and we will only seek contribution for kerb and gutter projects as they are delivered.

The current policy does not specify if Council would consider applications from residents to undertake works where they are willing to fully fund the works. The Policy update clarifies that Council will not consider applications for fully funded works. This recommendation is because private infrastructure works are administratively burdensome and divert project management and administration resources away from current priorities and core activities. When works are not adequately supervised or analysed, this leads to greater risks to Council as well as compromised outcomes through poorly constructed assets that create a future maintenance liability.

Infrastructure constructed by property owners as a condition related to development are managed separately via established development application processes to ensure adequate certification and quality control.

Subsidy and Financial Hardship

The policy has been updated to reflect that the charges are calculated based on half the average current rate Council pays to construct kerb and gutter following review of recent contract rates. These charges may not always reflect full cost of works as the costs are determined based only on the construction components related to the specific infrastructure and not the whole works. The costs are determined only for the component relating to the adjoining landowners and savings are achieved through efficiencies as projects are generally larger than the property frontages. The determined charges also provide certainty to landowners for their contribution irrespective the actual project costs.

The Policy has also been updated to refer to Council’s Rates and Charges Hardship Assistance Policy for residents who are experiencing hardship and may have difficulties paying the charges.

Summary of Amendments

Updated title to reflect broader paving (paths)
Updated definition of kerb and gutter
Removal of contributions for path infrastructure
Clarification of where and when works are considered



Clarification of subsidies for works
Clarification of contributions when works are funded by grants
Clarification of how locations for works are determined and applications by landowners are considered
Reference to the Rates and Charges Hardship Assistance Policy
Responsible Officers updated and clarification of responsibilities

Options

Council has the option to not endorse the draft Contributions for Paths Kerb and Gutter Policy for exhibition.

Community Engagement and Internal Consultation

Community Engagement

Nil

Internal Consultation

- Director Community Infrastructure
- Group Manager Community Infrastructure Planning and Design
- Manager Planning and Design (Strategic)



Planning and Policy Implications

By adopting this Policy following exhibition, Council will be updating an external policy and recognising the amendments.

Financial and Economic Implications

The financial and economic impacts from this policy relate to how Council charges residents for provided infrastructure. Though there are no direct costs associated with this report, there are financial implications for the funding and provision of future infrastructure. This policy has been updated to provide balanced outcomes for the community in relation to the provision of infrastructure with affordability in the current economic climate.

Attachments

1.  Draft Policy - Contributions for Paths Kerb and Gutter
2.  Current Policy - Contributions for Paths Kerb and Gutter

Item: 13.05

Subject: LAKE CATHIE NATURAL RESOURCE MANAGEMENT MONTHLY UPDATE REPORT

Presented by: Community, Planning and Environment, Melissa Watkins

Alignment with Delivery Program

4.2.1 Develop and implement coastal, estuary, floodplain, and bushfire management plans.

RECOMMENDATION

That Council note the progress of natural resource management projects/initiatives within the Lake Cathie, Lake Innes and Cathie Creek waterways and progress on the Coastal Management Program.

Executive Summary

This report provides an update on Lake Cathie/Lake Innes/Cathie Creek waterway natural resource management projects/initiatives and the progression of the Coastal Management Program (CMP) that have occurred since the previous report was presented to the February 2023 Ordinary Council Meeting.

Works currently being undertaken and outlined in this report include:

1. Hydrodynamic Model of Lake Innes, Lake Cathie and Cathie Creek
2. Bundella Avenue Asbestos Remediation Works
3. Dredging Lower Cathie Creek
4. Coastal Recreational User Needs Analysis
5. Coastal Hazard Assessment and Coastal Vulnerability Assessment Mapping Project
6. Review of the Opening Strategy
7. Invasive Weed Management
8. Development of Other CMP Chapters
9. Other Projects

Discussion

The following provides an overview of the progress since the last monthly report detailing Council projects and initiatives within the Lake Cathie, Lake Innes and Cathie Creek waterway, as well as other projects and initiatives related to the development of the CMP.

1. Hydrodynamic Model of Lake Innes, Lake Cathie and Cathie Creek

Staff from Council and the NSW Department of Climate Change, Energy, the Environment and Water (DCCEE - formerly DPE) undertook a detailed review of the draft report associated with the updated Hydrodynamic model of Lake Innes,

Lake Cathie and Cathie Creek. Based on this feedback, staff from Royal HaskoningDHV have now prepared a final draft version of the report for staff and DPE review and acceptance.

Given the importance of the project and its potential implications for the future management of the waterway, the draft report has been distributed to technical experts within NSW DCCEEW for feedback. Such feedback provides additional confidence to Council that the information presented in the report is of the highest quality and includes any feedback from technical experts within NSW DCCEEW. The incorporation of such feedback may also save time in the future when the report is referenced when proposing management actions.

Following finalisation of the report, Council staff and Royal HaskoningDHV representatives will prepare a detailed briefing for Councillors prior to the final results being reported to Council. A date for this briefing will be set as soon as possible following finalisation of the report.

2. Bundella Avenue Asbestos Remediation Works

Council and NSW Crown Lands have committed to share the cost of remediating the section of embankment off Bundella Avenue known to contain illegally dumped historic Asbestos Containing Material, given the contamination has been identified across both Council and Crown Land tenure.

In January 2024, staff from NSW Crown Lands indicated to Council staff that they will share the cost of remediation, which is \$252,266 for each party. Council staff and staff from NSW Crown Lands are currently in the final processes of procurement to undertake the remediation of the site. Soil Conservation Services have previously completed the first stage of the project which involved the development of safety and environmental documentation associated with undertaking the proposed remediation works at the site.

The proposed remediation works will involve the removal of the top 500mm of surface material from the embankment at the eastern end of Bundella Avenue, Lake Cathie. The material will be transferred to Cairncross Waste Management Facility. A separation layer will be installed across the works and topped with sand sourced from the berm immediately north of the works site. The area will then be landscaped and revegetated.

It is currently proposed to commence site works after Easter school holidays. Council staff will commence community engagement once procurement has been finalised.

3. Dredging Lower Cathie Creek

Dredging of lower Cathie Creek was completed on 20 October 2023. Council staff secured an additional \$7,725 from NSW DPE (subject to a Council matching these funds) to undertake revegetation and landscaping works along the top of the nourished dune to aid retention of sand and assist in establishing a long-term dune profile. The works were undertaken late January / early February and included the installation of jute mesh and coir logs and planting approximately 1,500 Pig face (*Carpobrotus* Spp).

Council staff will also be trialling the use of bamboo brush plug devices which mimic clumped grass to further help retain the nourished dune by trapping sand. Approximately 128 devices will be installed on 12 March in two locations of the upper dune, covering an approximate area of 100m².

4. Coastal Recreational User Needs Analysis

The final report associated with the Port Macquarie-Hastings Council Coastal Recreational User Needs Analysis has been completed. The report identifies coastal recreational needs and opportunities across the Port Macquarie-Hastings Council LGA based on current and future growth projections.

A quantity surveyor is currently preparing a costings report which will include price estimates for the recommendations listed in the Coastal Recreational User Needs Analysis.

The costings report is expected to be completed by early March. It should be noted that the ability to action some recommendations made in this report relies on the approval of stakeholders such as TfNSW, Crown Lands, DPE, NSW NPWS and FCNSW to ensure strategic alignments.

5. Coastal Hazard Assessment and Coastal Vulnerability Assessment Mapping Project

Bluecoast Consulting Engineers are continuing to undertake Coastal Hazard Assessment and Coastal Vulnerability Assessment Mapping. Staff from Bluecoast Consulting Engineers are currently reviewing existing reports relevant to the project to identify data gaps and refine the project methodology.

The project is expected to be completed in September 2024.

6. Review of the Lake Cathie Opening Strategy

Following finalisation of the Lake Cathie/Lake Innes Hydrodynamic Model and reporting by Royal HaskoningDHV in line with Council's resolution of April 2022, a review of the Opening Strategy will then be possible. An extension to the hydrodynamic model project is intended to be undertaken with consideration of the hydrodynamic model recommendations, and the recommendations put forward in the Soil Conservation Service / Southern Cross University Bushfire Affected Coastal Waterways report.

7. Invasive Weed Management

Invasive weed control activities that have occurred since the February 2023 Lake Cathie Natural Resource Management Monthly Update Report included:

- Lakeside Way: 4.365ha of control targeting ground asparagus, lantana, small leaf senna, ochna serrulata and morning glory.
- Foreshore Reserve: 0.1ha of control targeting Glory lily.
- Chepana Street Reserve: 0.2ha of control targeting Winter senna asparagus fern, ipomea, lantana, bitou bush.
- Middle Rock: 0.1ha of control targeting Glory lily.
- Karikeree Street: 0.1ha of control targeting Glory lily.

8. Development of other Coastal Management Program (CMP) Chapters

The development of CMPs is prescriptive and includes five stages. Staff are currently undertaking investigations associated with Stage 2 of the CMP development. The CMP is being developed in geographical chapters. An indicative timeframe of the progression of the CMP is presented below in Table 1.

Current Progress	CMP Stage	Expected Completion			
		Lake Cathie / Bonny Hills	Hastings River	Camden Haven	Open Coastline
✓	Stage 1	Complete			
➡	Stage 2	2021-2024	2022 - 2024	2023 - 2024	2023 - 2024
	Stage 3 - 4	2024	2024	2025	2025
	Stage 5	2024 +	2025 +	2026 +	2026 +

Table 1: Indicative CMP Timeframe

Staff are currently progressing with Stage 2 of the CMP development across the four chapters. Stage 2 of the CMP process involves undertaking detailed studies that will help Council to identify, analyse and evaluate risks, vulnerabilities, and opportunities in the study area. The studies conducted during Stage 2 are to provide information to support decision-making in the later stages of the CMP planning process. Given the complexities of these studies, this stage is the most time consuming. Ensuring high quality studies in Stage 2 will result in high quality management plans in the CMP.

9. Other projects

Camden Haven River Estuary Bank and Riparian Assessment

Fruition Environmental have completed the Camden Haven River Estuary Bank and Riparian Assessment on behalf of Council. The project provides a comprehensive understanding of the issues associated with bank and riparian land condition within the entire Camden Haven Estuary and identifies targeted, costed actions to inform future management actions within the Camden Haven Estuary CMP.

The field mapping component the estuary was a major component of the assessment. In total approximately 132km estuary bank were surveyed, including 614 individual reaches (section of river bank). This covered the Camden Haven Inlet, Camden Haven River, Herons Creek, Stingray Creek, Gogleys Lagoon, Queens Lake and Watson Taylors Lake systems. The field investigations showed that just under 1% of surveyed estuary banks were considered to have high severity erosion, meaning that the rate and scale of erosion was considered significantly accelerated. Riparian vegetation condition was assessed using a multi-metric index of riparian condition which considered vegetation width, continuity, structure, diversity and weed presence/cover. Almost half of the banks surveyed had riparian vegetation in very good condition (48.7%), with a further 29.3% recording riparian vegetation in good condition. This is unusually high for the region and in part explains the results of the erosion assessment. The unusually high proportion of good to very good riparian reaches is related to the extensive areas of foreshore contained with National Park and Crown Reserve particularly in the areas of Watson Taylor Lake and Queens Lake.

Poor and very poor condition riparian vegetation is concentrated in the lower reaches of the Camden Haven Inlet and is mostly associated with the extensive areas of foreshore protection works adjacent to the urban settlements of Laurieton, North Haven, Dunbogan and the trained estuary entrance. A number of very poor condition riparian vegetation reaches are also located in the Camden Haven River above the Pacific Highway bridge and around Kendall where agricultural landuse is more intensive and past vegetation clearing has occurred.

A Digital Elevation Model of Difference (DEMoD) methodology was utilised to compare 2012 to 2023 LiDAR derived DEMs at ten sites of observed high severity erosion to quantify erosion volume over the observation period. It was estimated that 176 tonnes (~100m³) of suspended sediment and 132 tonnes (or ~77m³) of bedload sediment is inputted annually from the ten mapped high erosion sites in the study area. This figure is very low by regional standards and is probably an improvement since the estuary management planning process was completed in 2002.

Of the 614 reaches surveyed, 47 were included in the pool of priority reaches for action and management that address public asset protection and/or maintenance, water quality improvement, and vegetation protection and enhancement. The report includes concept designs demonstrating hybrid works remediation options for five sites that could be used throughout the system.

The outputs of this project have been used to prepare a grant application for the Federal DCCEE Urban Rivers and Catchments Program, seeking almost \$2M in grants to address the top 10 priority sites for remediation. Outcomes of the grants program applications are expected in the coming months.

Sea Country

The Coast and Estuary team continues to work closely with a working group consisting of Birpai elders and community members, representatives from Birpai and Bunyah Local Aboriginal Land Councils (LALCs), and the DPI Fisheries Marine Estate Management Strategy Sea Country lead for NSW to develop a Sea Country Action Plan for incorporation into Council's CMP.

Discussions with working group members and staff are leading towards community feedback on a draft Sea Country Action Plan to take place during NAIDOC Week 2024.

Options

This report is provided for information purposes only.

Community Engagement and Internal Consultation

This report is provided for information purposes.

Community consultation has been undertaken in some of the abovementioned projects, as mentioned in the discussion section of this report.

Planning and Policy Implications

There are no planning and policy implications in relation to this report.

Financial and Economic Implications

There are no financial and economic implications in relation to this report. An updated status of adopted projects is provided below.

Project	Grant Funding (\$)	Council Contribution (\$)	Total Estimated Project Cost (\$)
Lake Cathie / Lake Innes / Cathie Creek			
Hydrodynamic Model	300,000	150,000	450,000
Bushfire Affected Coastal Waterways Program	265,000	30,000	295,000
Dredging Lower Cathie Creek	235,004	235,004	470,010
Bundella Avenue Asbestos Remediation Project	252,266	252,266	250,000
SUB TOTAL	1,052,270	667,270	1,719,540
Open Coast			
Coastal Recreational User Needs Analysis (LGA wide)	82,414	41,206	123,620
Coastal Hazard Assessment & Coastal Vulnerability Assessment	108,000	54,000	162,000
SUB TOTAL	190,414	95,206	285,620
Camden Haven Estuary			
Camden Haven Estuary Bank & Riparian Assessment	66,667 (DPE) 30,000 (DPI-Fisheries)	33,333	130,000
SUB TOTAL	96,667	33,333	130,000
TOTAL	1,339,351	795,809	2,135,160

Attachments

Nil

Item: 13.06

Subject: **WORKS IN KIND AGREEMENT - THE SANCTUARY - 344 JOHN OXLEY DRIVE THRUMSTER
APPLICANT - KING AND CAMPBELL PTY LTD
LANDOWNER - BIRD IN THE HAND NO.2 PTY LTD**

Presented by: **Community, Planning and Environment, Melissa Watkins**

Alignment with Delivery Program

1.3.2 Build trust and improve Council's reputation through transparency, good decision making and living Council's Values.

RECOMMENDATION

That Council:

1. **Approve the application for road works in John Oxley Drive, Thrumster on the basis that the work will provide material public benefit pursuant to section 7.11(5)(b) of the *Environmental Planning and Assessment Act 1979*, subject to the applicant entering into a Works in Kind Agreement.**
2. **Note that the Chief Executive Officer will execute the Works in Kind Agreement in item 1 above under existing delegation.**
3. **Endorse the exception to clause 6 of the Works in Kind Policy to retrospectively approve the works on John Oxley Drive, Thrumster.**

Executive Summary

Council enables the lodgement of works in kind agreements (WIKAs) to enable the developer to provide a material public benefit in lieu of the payment of development contributions required as a condition of development consent.

Council has received an application on behalf of the developers of The Sanctuary Residential Estate at 344 John Oxley Drive, Thrumster, for the construction of intersection works, comprising a roundabout with pedestrian and fauna underpasses, as indicated within Attachments 1 and 2.

The Works in Kind Policy applies to all development consents that require the payment of development contributions and enables developers in lieu of the payment of development contributions to provide a material public benefit in the form of a WIKAs. Clause 6 of the Works in Kind Policy indicates that WIKAs will normally only be negotiated on those works detailed in a contribution plan and no WIKAs will be negotiated retrospectively.

The works proposed within the WIKAs are identified within the Local Roads Contributions Plan - Areas 13, 14 and 15 (Contributions Plan), June 2014. However, the works have been commenced and the WIKAs has been lodged with Council retrospectively.

The value of works is \$4,233.015.94, with those works being verified by Council's Community Infrastructure Planning and Design Team.

Discussion

The purpose of this report is for Council to consider a request to enter into a WIKA with Council in relation to intersection works, comprising a roundabout with pedestrian and fauna underpasses. The Applicant has requested that Council consider offsetting the cost of the intersection works in lieu of the payment of development contributions for roads under Section 7.11 of the *Environmental Planning and Assessment Act 1979*.

The proposed works are identified within the Contributions Plan, Appendix 1 - Detailed Work Schedule - Local Road Works and Traffic Facilities, items 3 and 9, as indicated within the table below:

	LOCAL CATCHMENT	PROJECT DESCRIPTION	PROJECT LOCATION - STREET	APPORTIONMENT TO NEW DEVELOPMENT GROWTH (%)	s.94 Contribution (\$)	Council's Schedule (Commencement of Preconstruction Activities)
1	Area 13 Thrumster	Traffic Signals and Road works	Town Centre Main Street and John Oxley Drive	100%	\$3,749,870	Completed
2	Area 13 - Thrumster	Extension of Thrumster Street from substation and collector link across Partridge Creek (MR850A&B) 400m plus bridge over Partridge Creek	Collector Link	100%	\$4,946,500	Short Term
3	Area 13 - Thrumster	Intersection (No.4) with Partridge Creek Access - Large rural roundabout (MR765A&B)	John Oxley Drive	100%	\$2,500,000	Medium Term
4	Area 13 - Thrumster	South Oxley including Type 3 & 4 Fauna/Koala Crossings per A13 DCP 450m and Oxley Highway underpass link 150m (MR866 & MR 854) Total 600m	Collector Links	100%	\$2,301,000	Medium Term
5	Area 13 - Thrumster	Northern Link - Lot 206 DP 754434 to Lot 1 DP 1087368 including Type 1 Koala underpass. (MR867A&B) 260m	Collector link	100%	\$997,100	Medium Term
6	Area 13 - Thrumster	Southern Link - Lot 1 DP 1087368 adjacent to Lot 3 DP 565437 including Type 1 Koala underpass (MR868A&B) 300m	Collector link	100%	\$1,150,000	Medium Term
7	Area 13 - Thrumster	Intersection (No.5) with West Lindfield Access - Two lane rural roundabout (MR764A&B)	John Oxley Drive	100%	\$2,500,000	Long Term
	Area 13 - Thrumster	Continued				
8	Area 13 - Thrumster	Intersection (No.3) with Thrumster Street - 2 lane rural roundabout (MR766A&B)	John Oxley Drive	100%	\$2,500,000	Long Term
9	Area 13 - Thrumster	Koala & Pedestrian Underpasses x 2 (Map 4.13 Area 13 DCP) (MR859A&B)	John Oxley Drive	100%	\$1,690,000	Long Term
10	Area 13 - Thrumster	Thrumster Street to North Oxley Town Centre - with on road cycleways, edge treatments, footpath & buffers (Local works only)(MR619BL) 925m	John Oxley Drive	100%	\$1,665,000	Long Term
11	Area 13 - Thrumster	West Lindfield Access to Partridge Creek Access with on road cycleways, edge treatments, footpath & buffers (Local works only) (MR620BL) 825m	John Oxley Drive	100%	\$1,485,000	Long Term
12	Area 13 - Thrumster	Partridge Creek access to Thrumster Street with on road cycleways, edge treatments, footpath and buffers (Local works only) (MR864) 900m	John Oxley Drive	100%	\$1,620,000	Long Term
13	Area 13 - Thrumster	Thrumster Street Upgrade - John Oxley Drive to Lot 1 DP 1087368. (MRThrum) 500m	Thrumster Street	100%	\$1,500,000	Long Term
13A	Area 13 - Thrumster	Collector Road Link (one) to Lot 147 DP 754434 south of John Oxley Drive. 150m	Collector Link	100%	\$575,250	Long Term
	Area 13 Total				\$29, 179,720	

Background

A WIKA for the intersection works was lodged with Council in February 2022 and Council requested further information from the applicant in order for the application to proceed. No additional information was received.

In August 2022 Council received a letter of offer to enter into a Planning Agreement for road and sewer infrastructure. In March 2023 Council requested that the letter of



offer be withdrawn as the letter of offer could not be supported due to insufficient detail in relation to the key terms and conditions proposed within the planning agreement; details of works greater than those required under the development consent; total cost of works and justification of a public benefit.

In August 2023 Council received a further letter of offer to enter into a Planning Agreement for road and sewer infrastructure. In November 2023 Council sent a letter to the applicant indicating that the letter of offer could not be supported as the works associated with the roundabout were not greater than the works required under the development consent, and Council staff indicated a preference for the sewer infrastructure works be undertaken as a WIKA. In addition, the reason for the non-support was also due to the complexity and administrative burden of the proposal relative to the public benefit.

The WIKA that is the subject of this report is a simpler and direct mechanism that creates less administrative burden and ongoing management for Council.

The works for the intersection commenced upon issue of the Section 138 Roads approval in February 2023.

Development

Development consent for a staged subdivision comprising 235 residential lots and 63 industrial lots was granted on 29 October 2015 under Development Application DA2014-114. Lots were created that separated the residential and industrial zoned land. This consent requires the construction of an intersection prior to the release of the subdivision certificate. The relevant condition for the proposed intersection reads as follows:

(20) (A201) The intersection of John Oxley Drive & the future collector road (Road #1) is to be:

- a) *Constructed as a 'T' intersection with dedicated turn lanes (CHR and AUL) or round-a-bout prior any subdivision certificate releasing any residential lots. Turn lanes to be designed to satisfy requirements for all residential lots.*

Construction works to include line marking and channelized through lanes, deceleration and acceleration lanes on the northern side, a sheltered right-turn bay on John Oxley Drive, and street lighting in accordance with AS 1158. The design plans for the intersection works shall comply with AUSTRROADS (CHR, AUL) and AUSPEC standards addressing all potential traffic generation required for the residential development. Approval for construction works to be issued pursuant to Section 138 of the Roads Act, 1993.

- b) *Constructed as a roundabout prior to any subdivision certificate releasing industrial lots. Roundabout to be designed as:*
- i) *Two-lane roundabout if John Oxley Drive is a four-lane road (two-lanes in each direction); or*
 - ii) *a one-lane roundabout subject to a Traffic Impact Assessment (in accordance with RMS requirements) demonstrating two-lane roundabout not required within a 10-year planning horizon of the buildout of the development and John Oxley Drive is to remain as a two-lane (one lane in each direction).*

Construction works to include relevant line marking and splitter islands, on John Oxley Drive and the Collector Road, and street lighting in accordance with AS 1158. The design plans for the intersection works shall comply with AUSTRROADS and AUSPEC standards addressing all potential traffic generation required for the development. Approval for construction works to be issued pursuant to Section 138 of the Roads Act, 1993.

Road and intersection works shall be constructed as warranted by the development. Cost associated with intersection and road work upgrades may be subject to offset against road contributions if works are deemed to be associated with the ultimate roundabout design and appropriate offset agreements in place with Council. 1

The developer has resolved to construct the ultimate intersection, being the two-lane roundabout.

A Development Application DA2022-822 has been lodged for a ten-lot residential subdivision on a residue lot within DA2014-114. This application has not been determined.

The Applicant has proposed to offset the roads contributions for the lots within the DA2014-114 and DA2022-822 against the cost of the intersection.

Cost of Works

The Applicant has indicated that the value of works of the intersection is \$4,233,015.94, as indicated within Attachment 1.

The Community Infrastructure Planning and Design team has reviewed the application and determined that the costings provided are appropriate.

The applicant proposes to offset the road contributions for the 245 residential lots against the value of works of the intersection.

The total section 7.11 development contributions for the 245 residential lots is \$7,796,390. The total roads contributions proposed to be offset against the value of works is \$3,954,300.

The value of works is \$278,715.94 more than the offset sought against the section 7.11 roads contributions. Council can only offset the total road contributions applicable to development. In this instance, if supported, the developer will only be able to offset \$3,954,300, being the total roads contributions applicable to the development.

The application is supported on the basis that the works will provide material public benefit to the broader community by providing a roundabout on John Oxley Drive that has been identified within the Contributions Plan.

Works in Kind Policy

Clause 6 of this Policy provides six criteria for Council to consider when assessing a WIKA application, which are as follows:

- *Works to be undertaken: WIK Contracts will normally only be negotiated on those works detailed in the relevant contribution plan. Application for consideration of Material Public Benefit will require approval by a Council Meeting.*

The intersection works proposed as part of the WIKA application are identified within the Contributions Plan, being items 3 and 9. Therefore, satisfying the provisions of this criteria.

- *Timing of works: No WIK Contracts will be negotiated retrospectively, ie. after works commence.*

As indicated previously, the applicant has lodged previous WIKAs and letters of offer to enter into a Planning Agreement, all of which were not supported at the time.

In addition, the works for the intersection commenced upon issue of the Section 138 Roads approval in February 2023. Therefore, not satisfying the provisions of this criteria.

- *Circumstances of the case: payment of the cash contribution, in accordance with the provision of the Plan, is unnecessary in the circumstances of the case.*

The payment of a cash contribution for roads, is considered unnecessary in the circumstances of the case, as the proposed intersection works are identified within the Contributions Plan and the value of works for the construction of the intersection (\$4,233,015.94), is similar to the value of works identified within the Contributions Plan (\$4,190,000). Therefore, satisfying the provisions of this criteria.

- *Community Benefit: it can be demonstrated that approval of the application will be a significant benefit to the community.*

In December 2023, the Department of Planning, Housing and Infrastructure placed on exhibition the draft Local Planning Agreements Practice Note, which defines community or public benefit as:

"...a benefit enjoyed by the public as a consequence of an infrastructure contribution".

The intersection works subject to the proposed WIKA are infrastructure contributions listed within the Contribution Plan and are by nature a public benefit. The significance of this public benefit associated with these infrastructure works can be quantified by the safety of future vehicular movements utilising the roundabout from the adjoining future residential and industrial subdivisions and through traffic, as well as safe pedestrian and fauna movements within the underpasses. Therefore, satisfying the provisions of this criteria.

- *Prejudicial Impact: The Application must not prejudice the timing or the manner of the provision of the infrastructure for which the contribution was required. Prejudicial impact will have regard of all items in the Plan's Work Schedule, not only the item(s) in the Application, and will consider any impacts, both negative and positive, upon service levels.*

The Contributions Plan indicates that the two items are to be undertaken in the medium term, being 5 to 10 years (2019-2024).

The WIKA does not prejudice the timing and manner of the provision of infrastructure in respect to the Contributions Plan, as the infrastructure has been constructed within the identified timeframe.

The value of works exceeds the value of roads contributions proposed to be offset, therefore, ensuring roads contributions will be available for other projects identified within the Contributions Plan.

Therefore, satisfying the provisions of this criteria.

- *Financial Impact: The Application must be of reasonable cost when compared to the cost of Council's day labour (or regular contractors) to complete the work and the cost (if any) listed in the Plan's Work Schedule. Attention will also be paid to the financial health of the Plan, both with and without the approval of the Application.*

It has been confirmed that the value of works of the intersection are appropriate in terms of the costings indicated in the Contributions Plan and the cost of construction in today's market. Therefore, satisfying the provisions of this criteria.

In summary, the WIKA is consistent with five of the six criteria of this Policy.

In the Land and Environment Court case law, Beaini Projects Pty Ltd v Cumberland Council [2019] NSWLEC 1547, it was determined that there is a material public benefit that is provided by the construction of the road at the cost of the developer, and it is unreasonable to not have the contributions reduced through an available mechanism. This is calculated by identifying the difference in the cost of constructing the road and subtracting that amount from the amount required to be paid in the contribution.

Whilst the timing of works does not comply with the criteria in this Policy, the circumstances of the case, as well as the material public benefit the intersection works will provide, is considered warranted to support a variation to this Policy.

Options

Council has the options to:

1. Approve the application and endorse the variation to clause 6 of the Works in Kind Policy, to retrospectively approve the works on John Oxley Drive, Thrumster; or
2. Refuse to support the application; or

3. Not adopt the recommendation and resolve in some other manner.

This report recommends Option 1. Approval of the application and endorsement of the variation to clause 6 of the Works in Kind Policy.

Community Engagement and Internal Consultation

No community engagement was undertaken and does not need to be undertaken.

Internal consultation was undertaken with Council's Community Infrastructure Planning and Design and Council's Development Engineering teams.

Planning and Policy Implications

The WIKA proposes a variation to clause 6 of the Works in Kind Policy, to retrospectively approve the intersection works on John Oxley Drive, Thrumster and enable the offset of the value of works of this intersection against the roads contributions.

The proposed circumstances of this WIKA are such that it is envisaged that any risk of future similar situations would be quite low, retaining the integrity of the Policy and having limited implications on the principles of the Policy.



Financial and Economic Implications

The offset of roads contributions does not impact on Council's financial position, as the contributions from the subdivision would have been collected as part of the contributions plan, had the intersection not been construction. Council would have used those contributions to construct the intersection.

The intersection construction has commenced as is being constructed in-line with Council's requirements.

There are no financial and economic implications in relation to this report.

Attachments

1.  Works in Kind Letter
2.  Draft Works in Kind Agreement

Item: 13.07

Subject: **WORKS IN KIND - DEVELOPER WORKS DEED AGREEMENT
DA2014/114**

Presented by: **Community Utilities, Jeffery Sharp**

Alignment with Delivery Program

1.3.2 Build trust and improve Council's reputation through transparency, good decision making and living Council's Values.

RECOMMENDATION

That Council:

1. **Note the sewer works undertaken by Bird in the Hand No. 2 Pty Ltd under and associated with Development Consent DA2014/114 includes works above what is required to solely service the development.**
2. **Note that the works are to provide additional capacity in the sewer pumping station, rising main and trunk gravity main to serve other future development growth in the area and as such constitutes works-in-kind.**
3. **Endorse the exception to Clause 6 of the Works in Kind Policy to retrospectively approve to enter into a Developer Deed Agreement with Bird in the Hand No. 2 Pty Ltd for payment covering the additional sewer works delivered as detailed in this report.**
4. **Note that the Chief Executive Officer, under existing delegations to the General Manager, may enter into a Developer Deed Agreement contract with Bird in the Hand No. 2 Pty Ltd.**
5. **Note that a budget adjustment will be presented to a future Council Meeting as per the current monthly budget adjustment procedure to adjust the 2023-2024 Budget with funds from the Sewer Developer contribution reserves, for the required amount under the deed.**
6. **Note that the cost of additional works provided have been identified in the draft Development Servicing Plan, to be adopted in mid-2024, and therefore are part of the calculation for future developer contribution charges, which will facilitate Council recouping the costs from future development when it occurs.**

Executive Summary

Negotiations with Bird in the Hand No. 2 Pty Ltd have been underway since 2022 regarding the provision of larger centralised sewer infrastructure, being a sewer pump station, rising main and gravity trunk mains, to service a significant portion of the eastern Thrumster Urban Release Area, delivered as part of the new Sanctuary Estate, off John Oxley Drive. These negotiations culminated in an in-principle agreement for the cost apportionment of the works that could be covered off via a Developer Works Deed that is aligned to Council's Works-in-Kind Policy. Assessment of the information provided regarding the works have confirmed that the costs

incurred to deliver the sewer infrastructure are accurate and are in line with what Council would have incurred if delivered as a Council project.

It is therefore recommended that a Developer Works Deed, aligned to Council's Works in Kind Policy, is entered into with Bird in the Hand No. 2 Pty Ltd to facilitate the repayment of costs determined to be the portion associated with sewer infrastructure providing capacity beyond the Sanctuary Estate requirements, totalling \$2,659,367.88 (ex GST).

Discussion

Development is continuing in the Thrumster growth area, with Sanctuary Estate, off John Oxley Drive, being one of the many new housing estates currently under construction in the area. This sub-division is being delivered under DA2014/114.1 (as amended) and is delivering among other things, 236 new housing lots. To service this development and in line with the Thrumster growth area sewer servicing plan, a new sewer pump station, rising main and gravity trunk main needed to be constructed. This sewer infrastructure, approved under the DA, has been designed to cater for a larger development area than just the Sanctuary Estate. This will ensure that centralised infrastructure is constructed that is more efficient to operate, and therefore at a reduced operational and maintenance cost to the community. Ideally this larger, centralised infrastructure is outlined in a Development Servicing Plan (DSP), which calculates the developer contribution charge a Developer would pay per Equivalent Tenement (ET). This allows Council to collect the required funds to build this infrastructure to support the growth, or allows a Developer to forward build the infrastructure and receive contribution off-sets for the work. Unfortunately, the required sewer infrastructure to service the eastern areas of the Thrumster growth area are currently not in Council's DSP. Council staff are currently working on updating the DSP, with the new DSP containing the required centralised sewer infrastructure to service the expected growth.

Acknowledging Council's preference to have larger centralised sewer infrastructure to service the growth area, the developer delivering the Sanctuary Estate, Bird in the Hand No. 2 Pty Ltd, negotiated and gave in-principle agreement to provide the larger infrastructure as part of the subdivision, on the understanding that Council would update and have a new DSP by mid-2022 to allow a Works-in-Kind agreement to proceed. Due to staff changes and other operational priorities, the updated DSP wasn't able to be delivered, however Council staff advised the Developer that the works would be included and that an agreement could be made, subject to a Council resolution, to refund any reasonable costs above just servicing the development.

The sewer works delivered under the Development Application include a new centralised sewer pump station, a 2.33km rising main and approximately 1km of trunk gravity main ranging in size from 225mm to 450mm.

The total cost of the construction works was \$3,960,939.53 with a further \$321,763.74 of design, survey and project management costs associated with the works, totalling \$4,282,703.27. As detailed in the Financial Implications section of this report, it has been assessed that \$2,659,367.88 (62%) of the cost can be apportioned to other developments and is therefore proposed to be forward funded by Council from the Sewer development contributions reserves.

Following advice from Council to the Developer in November 2023 that a Planning Agreement under the Environmental Planning and Assessment Act wasn't appropriate for dealing with the sewer works cost sharing, and instead that a Developer Works Deed to cover the payment for the works-in-kind is the appropriate legal instrument, a meeting was held on 17 January 2024 to discuss the potential agreement terms. As an outcome of the January 2024 meeting, Council received the formal Letter of Offer to enter into a Works Deed, enclosed at Attachment 1. The letter outlined the total cost for the works, with supporting evidence, the basis for the cost apportionment and details regarding the alignment to Council's Works-in-Kind Policy.

Following further information requests and assessments of the information by Council staff, an in-principle agreement has been reached as detailed in the Financial Implications Section of this report.

It is therefore recommended that a Developer Works Deed, aligned to Council's Works in Kind Policy, is entered into with Bird in the Hand No. 2 Pty Ltd to facilitate the repayment of costs determined to be the portion associated with sewer capacity beyond the Sanctuary Estate requirement, totalling \$2,659,367.88 (ex GST).

Options

Council has the following options:

- Resolve in line with the recommendation
- Resolve not to enter into a Works Developer Deed Contract with the Developer, meaning the Developer would cover the full cost of the works - not recommended.

Community Engagement and Internal Consultation

No community engagement has been undertaken in relation to this report.

Internal consultation was undertaken with the following Council staff in development of this report:

- Director Community Utilities
- Group Manager Utilities Planning and Design
- Utilities Design and Development Manager
- Utilities Network Planning Coordinator

External consultation has occurred with:

- Bird in the Hand No. 2 Pty Ltd (Director) - Developer
- **King and Campbell Pty Ltd - Developer's planning consultant**

Planning and Policy Implications

The works in kind agreement process for these works generally adheres to Council's Work in Kind Policy. The works have been assessed as qualifying as works-in-kind in accordance with the Policy by Council's Group Manager Utilities Planning and Design, noting the allocation in the soon to be adopted update to the Development Servicing Plan.

It is noted that Council's Work in Kind Policy stipulates that an agreement will not be entered into for works that have already commenced. Negotiations for the works did commence in February 2022, however due to Council staff changes and other

operational priorities, it was not finalised. The Developer commenced the sewer works following the issue of the Subdivision Works Certificate for the sewer pump station on 19 August 2022. The Developer made an offer on 23 August 2022 and again on 3 August 2023 to negotiate a Planning Agreement with Council in relation to the sewer works, following advice from Council at the time that the planning agreement approach was the preferred agreement format for contribution offsets and/or repayment of forward funded works. The Planning Agreement offer was ultimately not accepted by Council in November 2023, with negotiations commencing for a Developer Works Deed instead. It is recommended that Council enter into a Developer Works Deed for the works-in-kind, noting the developer has acted in good faith and provided sewer infrastructure that does cater for a larger development area in accordance with Thrumster growth area plans.

The provision of the additional sewer capacity is in line with the strategic sewer planning for the Thrumster growth area.

Financial and Economic Implications

The total cost of the of sewer works that have been delivered is \$4,226,913.53 (ex-GST), being \$3,136,779.33 for the sewer pump station and rising main works and \$1,090,134.20 for the gravity trunk main works.

Council staff have assessed the cost apportionment for the pump station and rising main works that was put forward by the Developer, being 14.255% to the Developer and 85.745% to others forward funded by Council, determining that the methodology was slightly incorrect due to an over assessment of the total capacity provided. The assessment also identified that there is another development currently underway in the area that will benefit from the works and as such Council will not be able to recoup any costs via contribution under a new DSP as the sewer contributions to be paid by that development will be under the existing DSP rates, which doesn't include this new infrastructure. This, along with the revised calculation methodology, has adjusted the apportionment to 22.41% to the Developer and 77.59% to others forward funded by Council. While the Developer disagrees with the apportionment calculation by Council staff, they are wanting to resolve the matter in a timely manner, therefore has accepted Council's position.

This apportionment equates to Council forward funding \$2,433,827.08 (ex GST) for the sewer pump station and rising main works.


The Developer had calculated the cost of the gravity trunk sewer works that they would have incurred had they not provide the capacity and connections for other development as being \$742,077.40. Therefore, the difference from the total of \$1,090,134.20 would be apportioned to others and forward funded by Council, being \$348,056.80 plus 8% consultancy and design fees of \$27,844.54, totalling \$375,901.34. Again, Council staff assessed this methodology and determined it was generally acceptable for cost apportionment overall, however the same (other) development that is currently underway benefits from the gravity trunk main therefore

was removed from the Council's forward funded portion, being 40%. This reduced the amount to be forward funded by Council to \$225,540.80 (ex GST).

The total amount that Council will be forward funding for the additional sewer works and thus paying the developer under a Developer Works Deed is \$2,659,367.88 (ex GST), payable from Sewer development contribution reserves.

Council staff have assessed the rates and costs of the works being proposed, along with the necessary evidence that the costs have been incurred by the developer and consider them to be comparable to costs Council would have incurred if undertaking the works.

Attachments

1.  Letter of offer to enter a Works Deed for Sewerage Infrastructure Works in respect to DA2014/114.1 (as amended) and DA 2022/822 (pending) at 344 John Oxley Drive

Item: 13.08

**Subject: DRAFT INTEGRATED WATER CYCLE MANAGEMENT STRATEGY
- PUBLIC EXHIBITION**

Presented by: Community Utilities, Jeffery Sharp

Alignment with Delivery Program

4.1.1 Plan, investigate, design and construct water supply assets ensuring health, safety, environmental protection and security of supply for the future growth of the region.

RECOMMENDATION

That Council:

- 1. Place on public exhibition the Draft Integrated Water Cycle Management Strategy, commencing Wednesday 27 March 2024 for a minimum of 28 days.**
- 2. Note that active engagement with the community on the Draft Integrated Water Cycle Management Strategy development has commenced, and will continue through the exhibition period.**
- 3. Note that a further report will be tabled at the June 2024 Ordinary Council meeting, detailing the submissions received from the public during the exhibition and engagement sessions and presenting the final Integrated Water Cycle Management Strategy for adoption.**

Executive Summary

Council is working to deliver an Integrated Water Cycle Management (IWCM) Strategy with the purpose of providing strategic direction for Council's future water needs for the community across water supply, wastewater management and stormwater management in an integrated and sustainable manner, for now and into the future.

This strategic work is part of Council's continued and enhanced strategic planning across all areas of service delivery for the community, underpinned by the Community Strategic Plan Imagine2050, which outlines the community's vision of being "the most liveable, sustainable and innovative place in Australia".

The development of the IWCM Strategy is now at a point where community input is required to fully develop the Strategy, to ensure it is fit for purpose and aligns to the community's expectations and meets their needs.

The draft Strategy is centred around a leading principle, being:
"Water is essential for life. We manage the water cycle holistically to embrace sustainable solutions for all water services".

This principle is supported by objectives across six theme areas, being Water Security, Drinking Water Quality, The Environment, Assets & Infrastructure, Our Customers and Financial Sustainability.

Discussion

Council is continuing to enhance strategic planning across all areas of service delivery for the community and is underpinned by the Community Strategic Plan Imagine2050 which outlines the community's vision of being "the most liveable, sustainable and innovative place in Australia".

This enhanced strategic planning delivered the first ever Infrastructure Strategy for our community, which was adopted in 2022. The strategic objectives outlined in the Infrastructure Strategy are:

- Maximise Wellbeing and Liveability for Our Communities
- Support A Strong, Resilient & Diversified Economy
- Protect and Enhance Our Natural Environment
- Deliver Value for Our Community

A key element of infrastructure-based service delivery needed for achieving these objectives for the community is a well co-ordinated and integrated management of the water cycle across water supply, management of wastewater and stormwater management.

This co-ordinated and integrated approach will be achieved through an Integrated Water Cycle Management (IWCM) Strategy. The purpose of this Strategy is to provide strategic direction for Council's future water needs for the community in an integrated and sustainable manner, for now and into the future.

Integrated Water Cycle Management in the context for Council is defined as the integrated management of water supply, wastewater, and stormwater services within a strategic framework. IWCM helps to identify water management strengths and problems; ways and directions to address these problems; sets the framework to determine the appropriate management responses; and to manage the impacts so that social, environmental, and economic objectives are met.

As a Local Water Utility, Council is also required to align to the NSW Government's Regulatory and Assurance Framework for Local Water Utilities. The Regulatory and Assurance Framework is designed to make sure that local water utilities can manage risks and service needs effectively and strategically. The framework requires Council to demonstrate that sound and evidence based strategic planning is in place covering 12 key areas. The development of the draft IWCM has incorporated this requirement to ensure alignment.

The draft Strategy is centred around a leading principle, being:

"Water is essential for life. We manage the water cycle holistically to embrace sustainable solutions for all water services".

This principle is supported by objectives across six theme areas.

The draft objectives, which community input and feedback is being sought on are:

- **Water Security**
 - Safeguard our water supply for future generations.
 - Diversify our water supply to reduce our reliance on rainfall.
 - Drive initiatives and support our community to increase value in water and reduce water demand.
- **Drinking Water Quality**
 - Uphold our drinking water quality to ensure safe drinking water for all.
 - Continue to meet the Australian Drinking Water Guidelines and ensure we can adapt to changing standards in the future.
- **The Environment**
 - Enhance and regenerate the environment we operate in now, and into the future
 - Efficiently use and manage our finite, natural resources to reduce our ecological footprint.
 - Manage pollution to reduce the threat to the environment.
- **Assets & Infrastructure**
 - Renew and enhance our infrastructure to improve resilience and support sustainable growth.
 - Encourage the development of innovative, smart, sustainable, and efficient water services infrastructure.
 - Align with priorities in the Infrastructure Strategy, Resourcing Strategy and Asset Management Strategy for water services.
- **Our Customers**
 - Provide environmentally and financially sustainable water services that meet our communities' expectations.
 - Engage with our community to foster water literacy, innovation and collaboration across all water services.
- **Financial Sustainability**
 - Integrate and align with Council's Resourcing Strategy and Long Term Financial Plan priorities for water services.
 - We engage with our community to provide financially sustainable water services.

An important step in delivering this Strategy is to ensure the community is actively involved in its development. This will be achieved by undertaking active engagement with the community.

Options

Council has the option to resolve in line with the recommendations and place the draft Strategy on public exhibition, supported by other engagement activities. Alternately, Council can resolve not to place the draft Strategy on exhibition and

request further information or amendments. Any delay to placing the draft Strategy on public exhibition will delay the adoption of the final Strategy.

Community Engagement and Internal Consultation

The development of the initial draft of the Strategy has involved internal consultation with Council staff across several sections within the Community Utilities, Community Infrastructure and the Community, Planning and Environment Divisions. This engagement culminated with an all-day workshop with staff held on 11 October 2023.

To further develop the key principle and objectives of the Strategy, a workshop was held with the Mayor and Councillors and Council Executive Staff on 7 December 2023.

Initial community consultation on the draft leading principle and objectives for the Strategy has commenced in early March 2024 with 'pop up' information sessions being held in Wauchope, Laurieton, Lake Cathie and Thrumster and two information sessions being held at the Glasshouse. Once the draft Strategy document is placed on public exhibition, further information sessions will be held in April 2024.

Consultation will also occur with staff from the NSW Water Branch within the Department of Climate Change, Energy, the Environment and Water.

Planning and Policy Implications


There are no policy implications in relation to this report.

While there are no direct planning implications in relation to this report, the IWCM Strategy is a primary theme strategy within Council's Strategic Hierarchy and will be a key planning document setting the strategy direction for the community on water, wastewater and stormwater management services.

Financial and Economic Implications

There are no financial and economic implications in relation to this report.

Attachments

1.  Draft Integrated Water Cycle Management Strategy