



PORT MACQUARIE-HASTINGS  
COUNCIL



# Extraordinary Council

## Business Paper

**date of meeting:** Wednesday 3 March 2021

**location:** Council Chambers  
17 Burrawan Street  
Port Macquarie

**time:** 5:00pm

**Note:** Council is distributing this agenda on the strict understanding that the publication and/or announcement of any material from the Paper before the meeting not be such as to presume the outcome of consideration of the matters thereon.

**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**

- ★ Sustainability
- ★ Excellence in Service Delivery
- ★ Consultation and Communication
- ★ Openness and Accountability
- ★ Community Advocacy

**Community Themes**

- ★ Leadership and Governance
- ★ Your Community Life
- ★ Your Business and Industry
- ★ Your Natural and Built Environment

# Extraordinary Council Meeting

Wednesday, 3 March 2021

## Items of Business

Item	Subject	Page
01	Acknowledgement of Country .....	<u>1</u>
02	Apologies.....	<u>1</u>
03	Disclosures of Interest.....	<u>2</u>
<b>04</b>	<b>Leadership and Governance .....</b>	<b><u>6</u></b>
	04.01 Resignation of Councillor Lee Dixon.....	<u>7</u>
<b>05</b>	<b>Your Community Life</b>	
	Nil	
<b>06</b>	<b>Your Business and Industry</b>	
	Nil	
<b>07</b>	<b>Your Natural and Built Environment .....</b>	<b><u>9</u></b>
	07.01 Ocean Drive Duplication Project.....	<u>10</u>
<b>08</b>	<b>Confidential Matters</b>	
	Nil	

---

**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: APOLOGIES**

---

**RECOMMENDATION**

That the apologies received be accepted.

---

**Item: 03**  
**Subject: DISCLOSURES OF INTEREST**

---

**RECOMMENDATION**

That Disclosures of Interest be presented

**DISCLOSURE OF INTEREST DECLARATION**

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

*(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:
  - (a) your interest, or
  - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
  - (c) 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:
  - (a) Your "relative" is any of the following:
    - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - ii) your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (i)
  - (b) "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)
  - (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
  - (b) 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
  - (c) 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) 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
  - b) 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.
  - c) 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.
  - d) 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
  - e) 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
  - f) 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:
  - a) 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
  - b) 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.*

<b>By</b> <i>[insert full name of councillor]</i>	
<b>In the matter of</b> <i>[insert name of environmental planning instrument]</i>	
<b>Which is to be considered at a meeting of the</b> <i>[insert name of meeting]</i>	
<b>Held on</b> <i>[insert date of meeting]</i>	
<b>PECUNIARY INTEREST</b>	
Address of the affected principal place of residence of the councillor or an associated person, company or body <i>(the <b>identified land</b>)</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.
<b>MATTER GIVING RISE TO PECUNIARY INTEREST<sup>1</sup></b>	
Nature of land that is subject to a change in zone/planning control by proposed LEP <i>(the <b>subject land</b><sup>2</sup>)</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.

---

<sup>1</sup> 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.

<sup>2</sup> 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



# 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 effective 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: 04.01

Subject: RESIGNATION OF COUNCILLOR LEE DIXON

Presented by: Chief Executive Officer, Dr Clare Allen

---

### Alignment with Delivery Program

1.3.1 Provide effective leadership and equity.

### RECOMMENDATION

That Council :

1. Request the Chief Executive Officer write to the Electoral Commissioner, the Chief Executive of the Office of Local Government and the Chief Executive of Local Government NSW advising of Councillor Dixon's resignation as required under Section 285(b) of the Local Government (General) Regulations 2005.
2. Note that Council is not required to apply to the Minister for Local Government The Hon. Shelley Hancock MP, seeking application to dispense with a by-election to replace the casual vacancy left following the recent resignation of Councillor Lee Dixon, in line with Section 294 (2) of the NSW Local Government Act 1993.

### Executive Summary

Councillor Lee Dixon resigned as a Councillor of Port Macquarie-Hastings Council on Friday, 26 February 2021, effective Monday 1 March 2021.

It is noted that Council is not required to apply to the Minister for Local Government The Hon. Shelley Hancock MP in accordance with Section 294 of the NSW Local Government Act 1993 (the Act) following an order issued by the Minister. This order was issued under Section 318B of the Local Government Act 1993 in NSW Government Gazette Number 136 dated 29 June 2020 and states:

*For the avoidance of doubt, the postponement of the ordinary election extends to and suspends an election requirement for a by-election referred to in section 292 of the Act arising between the date of this Order and the date of the ordinary election to be held on 4 September 2021.*

I note that Section 292 of the Act relates to the requirement to hold a by-election following a casual vacancy in the office of a Councillor.

### Discussion

As noted above, Councillor Lee Dixon resigned as a Councillor of Port Macquarie-Hastings Council on Friday, 26 February 2021, effective Monday 1 March 2021.

As per Section 285(b) of the NSW Local Government (General) Regulation 2005 (the Regulation), when a civic office in an area becomes vacant, the Chief Executive Officer of the Council of the area is to give notice of the vacancy within 7 days to the NSW Electoral Commissioner, the Chief Executive of the Office of Local Government (OLG) and the Chief Executive Officer of Local Government NSW.

Further to the above and in line with Section 294 of the Act, Council would usually be required to apply to the Minister to dispense with a by-election as this resignation and resultant casual vacancy falls within 18 months before the expected date for the next ordinary election of the Councillors. It is noted that Council is not required to apply to the Minister for Local Government The Hon. Shelley Hancock MP in accordance with Section 294 of the NSW Local Government Act 1993 following an order issued by the Minister. This order was issued under Section 318B of the Local Government Act 1993 in NSW Government Gazette Number 136 dated 29 June 2020 and states:

*For the avoidance of doubt, the postponement of the ordinary election extends to and suspends an election requirement for a by-election referred to in section 292 of the Act arising between the date of this Order and the date of the ordinary election to be held on 4 September 2021.*

I note that Section 292 of the Act relates to the requirement to hold a by-election following a casual vacancy in the office of a Councillor.

**Options**

Council can resolve in line with the recommendation included in this report or resolve in some other manner.

**Community Engagement & Internal Consultation**

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

Internal consultation has taken place with the Group Manager Governance.

**Planning & Policy Implications**

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

**Financial & Economic Implications**

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

**Attachments**

Nil

# 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: 07.01**

**Subject: OCEAN DRIVE DUPLICATION PROJECT**

**Presented by: Infrastructure, Dan Bylsma**

---

### **Alignment with Delivery Program**

4.4.1 Plan, investigate, design and construct transport assets which address pedestrians, cyclist and vehicular needs to cater for the future growth of the region.

### **RECOMMENDATION**

#### **That Council:**

- 1. Note the current funding gap of \$30 Million for the Ocean Drive Duplication project.**
- 2. Note the at risk nature of the \$60 Million State Government funding for this project should Council not fund the shortfall amount of \$30 Million.**
- 3. Fund the \$30 Million by borrowing \$25 Million and funding \$5 Million from Council Reserves in order to progress the construction tender advertisement as a priority.**
- 4. Note the opportunity costs of prioritising the Ocean Drive Duplication project over current proposed higher priority road network improvements including the Lake Road Duplication projects and John Oxley Drive duplication project.**
- 5. Continue to liaise with the Federal and State Governments for funding assistance to mitigate impact on current proposed projects and work programs.**
- 6. Prior to any recommendation to award the construction contract, confirm significant additional funding assistance from the Federal or State Governments for either the Ocean Drive Duplication project, Lake Road Duplication projects or John Oxley Drive Duplication project.**
- 7. Incorporate the Ocean Drive Duplication project and funding into the draft 2021/2022 Operational Plan and the Long Term Financial Plan.**

### **Executive Summary**

A \$30 Million funding gap exists for the construction phase of the Ocean Drive Duplication project. There is currently a \$60 Million commitment from the State Government to construct the project, which may be withdrawn without further commitment from Council to commence construction of the full design scope.

Noting the \$60 Million State Government contribution is at risk if the project does not progress to tender, an opportunity exists for Council to fund the current funding gap of \$30 Million. The opportunity cost of this approach is the progression of current proposed higher priority transport projects and works programs of Council, and as such, Council would need to continue liaising with the Federal and State



Governments for funding assistance to complete these higher priority projects in a timeframe that does not constrain growth across the Local Government Area.

**Discussion**

The Ocean Drive Duplication project is a key project that was initiated with a State Government Special Grant of \$10 Million following an election commitment in 2011.

This project will deliver the duplication of Ocean Drive between Matthew Flinders Drive and Greenmeadows Drive (south). The project aims to alleviate congestion and travel time along this 3.4km key transport route by providing a 4-lane thoroughfare to cater for the expected 35% increase in traffic by 2036. The project includes the upgrade of three roundabouts to signalised intersections, a shared path along the length of the project, provision for on-road cyclists, koala fauna fencing and significant retaining structures to achieve the desired geometry. A section of new water main creating a connection to an existing water trunk main via Maher Road is also proposed to improve redundancy of Council's water supply network.

Project benefits include the contribution of \$60 Million from the State Government towards the project, and the fact that it will assist with reducing congestion and travel time particularly as we head towards 'inevitable population growth'. In addition, the potential partnership between Local, State and Federal Government, will provide a strong whole of Government approach to infrastructure across the Port Macquarie-Hastings Local Government Area. If we do not proceed with this project and the State Government funding support is withdrawn, the implications from delays will be higher costs, and the need to source new funding in the future.

As Ocean Drive is a Regional Road, Council partnered with Transport for NSW (TfNSW) via a Joint Steering Group to develop and govern this project. All project decisions were overseen and managed by the Joint Steering Group leading to all preconstruction works, including environmental approvals, being completed in 2019, making the project substantially 'shovel ready' for construction.

In 2017 a detailed design cost estimate of \$62.1 Million was produced by a specialist consultant. The detailed designs and associated cost estimate were reviewed by TfNSW and subsequently endorsed by the Joint Steering Group.

Through the development of a Business Case, at the request of TfNSW in 2018, the total project cost was highlighted as being \$73.2 Million, accounting for escalation costs.

Council has already allocated \$5.5 Million towards this project and the State Government made a further \$50 Million election commitment in the 2019 State Election, bringing the total project allocation to \$65.5 Million.

Noting the potential funding gap of \$7.7 Million, TfNSW reviewed the project in 2019 to see if it could be internally delivered by the Regional Maintenance Delivery section of TfNSW Northern Region and potentially close the initial funding gap. This review has unfortunately resulted in a construction cost estimate of between \$81 Million and \$95 Million, when they considered the construction approach they would apply to the job. There is now a potential \$30 Million funding gap to mitigate prior to calling construction tenders.

For comparison, the previous section of Ocean Drive to be duplicated was the 'Link Road' in 2008. This 1.8km section of road upgrades cost approximately \$28.6 Million (2008 dollars). Using the Roads and Bridges ABS Producer Price index of 41% to adjust to 2020 dollars, equates to \$40.33 Million or \$22.4 Million/km. For the current Ocean Drive Duplication project, this rate would equate to approximately \$76.2 Million. Adding a further escalation figure of 6% for future delivery over 2022-2024 equates to \$80.75 Million. This is in-line with the TfNSW estimate of \$81 Million to \$95 Million, noting that the entire length of this project is 'brownfield' conditions with live traffic.

In April 2020, TfNSW confirmed the State Government's funding commitment is capped at \$60 Million and they are no longer interested in managing the delivery of this project, advising that Council will need to deliver the project and be solely responsible for any project cost overruns. It is unclear what led to the decision by TfNSW to no longer want to deliver this project, however, TfNSW have undergone significant reform in the last 12 months and had never fully committed to the delivery of this project.

In line with the resolution of the 12 August 2020 Ordinary Council meeting, tender documentation is being developed. The design development, estimated delivery cost and environmental approvals for this project have been developed collaboratively between Council and TfNSW since 2011. The preferred delivery model for the construction phase of the project is a continuation of this collaboration between Council and TfNSW.

Under the co-project sponsorship of Council and TfNSW, through the Joint Steering Group, the specifics of the construction phase project management approach will be developed and agreed. Council does not presently have the resource to project manage the construction phase but does consider the scale and complexity of the project to be within the capacity of the Infrastructure Division in cooperation with, and leveraging the expertise, guidance and experience of TfNSW through the Joint Steering Group. A 6-9 month construction phase planning and establishment period will be required following any Council commitment to proceed to advertise the construction tender during which the Joint Steering Group will clarify the specifics of the project management arrangements and resourcing, ahead of the tender advertisement.

Following a meeting between Council and the Federal Member for Cowper, Mr Pat Conaghan MP, and a subsequent meeting between the Mayor and the Minister for Infrastructure, Transport and Regional Development, The Hon Michael McCormack MP, Council received correspondence from Mr McCormack. The letter outlined that *"Given the project will need to go through further detailed planning, including the development of procurement documentation, it would be premature for the Australian Government to consider a funding contribution at this time. I would be happy to continue discussions once the project costs and scope have been further developed and delivery risks have been quantified."*

A Councillor briefing was held on 10 February 2021 outlining the position of the Federal Government in relation to funding support and Councillors requested the CEO make further representations to the Federal Member for Cowper on funding support prior to tender advertisement.

Council received advice back from the Federal Member for Cowper on 15 February 2021 stating: *"I am of the understanding that project costs and scope have still not been undertaken. Whilst I appreciate by doing so council will expose itself to a 'potential' risk, I note that during our discussions there were other options open to Council to cover any exposure. Accordingly, Federal Government is unable to provide any assistance at this time towards the project. Should council make a decision to proceed, I note the Deputy Prime Minister has left the door open for further discussions."*

It should be noted that the project scope is fully developed, with detailed construction plans which have informed the construction estimates developed by TfNSW, therefore no further scope development is necessary with the only preconstruction activity required being utility certification and contract development prior to tender release.

The Ocean Drive Duplication project ranks below a number of currently unfunded transport projects across the Local Government Area. These include three high priority transport projects that will improve East/West traffic flow across the existing network being;

- Lake Road Duplication Stage 2 (Fernhill / Jindalee Road intersection upgrade) - \$8 Million
- Lake Road Duplication Stage 3 (Chestnut Road to Ocean Drive) - \$12 Million
- John Oxley Drive Duplication (Kingfisher Road to The Ruins Way) - \$20 Million

However, the risk of forgoing the \$60 Million funding contribution from the State Government if Council decide not to proceed with the Ocean Drive Duplication project at this point, presents reason to consider the reprioritisation of these projects.

### **Options**

Council has the following options:

- Adopt the recommendation of the report
- Decline to fund/borrow any or part of the current \$30 Million funding gap, acknowledging the risk that State Government funding of \$60 Million for this project may be withdrawn
- Resolve in some other manner.

### **Community Engagement and Internal Consultation**

Internal consultation has occurred with the following:

- Chief Executive Officer
- Director Corporate Performance
- Director Strategy and Growth
- Director Development and Environment
- Director Infrastructure
- Group Manager Infrastructure Planning
- Group Manager Infrastructure Project Delivery



**Planning and Policy Implications**

If Council resolve in line with the above recommendation, this project will need to be included in the Draft 2021-2022 Operational Plan. Commencement of the construction phase in 2021-2022 will have planning implications on other capital works projects, as Council resources have been fully assigned to the projects currently included in the Draft Operational Plan, including additional COVID-19 stimulus funding projects.

**Financial and Economic Implications**

Notwithstanding this projects affordability and the opportunity costs of funding it ahead of higher priority road network projects, the delivery of this project has the potential to have significant positive economic implications for the region which, given the current economic situation caused by COVID-19, should be given consideration. Council has not delivered a project of this magnitude before and as such, financial implications surrounding any funding gap risk should also be considered.

Council has currently allocated \$5.5 Million towards the project and these funds are being held in reserve, however a \$30 Million funding gap remains.

The Executive, as part of development of the Draft 2021-2022 Operational Plan, have reviewed all Council reserves. Through this process, it has been determined during that \$5 Million of reserves are currently uncommitted and could be used towards funding this project. These are predominantly from the sale of Innes Gardens Crematorium and the Strategic Projects reserve.

Reserves held in Other External Restrictions (Developer Contributions) have also been reviewed. Whilst work on Ocean Drive had been identified in the relevant Contribution Plan, on review, all identified funds in the Plan have been spent previously on the Link Road upgrade. Hence, remaining funds held in that restricted reserve are reserved for other projects.

The balance of \$25 Million would need to be funded by loan borrowings. Depending on interest rates but assuming a term of 20 years, this would have an impact on available cash of \$1.5 Million to \$1.8 Million per year.

Other considerationsCapacity to Borrow

Capacity to borrow refers to the amount of money available for Council to borrow based on its current financial status. Ultimately were Council to proceed with the decision to borrow, the capacity to borrow would be determined by the lenders, the outcome of which would determine whether Council could borrow the proposed funds.

The debt service cover ratio (which measures the affordability of debt), may however provide an indicator of capacity to borrow. Council's long term financial planning currently projects debt service cover ratios above the Office of Local Government's benchmark of 2x on both a consolidated and general fund basis and would still be

projected to remain above benchmark on a consolidated and general fund basis with the additional borrowings taken into account.

### Commercial Terms

Previous approaches to commercial lenders have indicated that Council could borrow funds on commercial terms, with exact terms not known until finalisation of an application process, although interest rates are low in the current environment.

### Cash Flow to Repay Borrowings (and budget position)

Funding the project through borrowings will impact future cash flows with additional interest and principal repayments not currently included in Council's long term financial planning.

Loan repayments, depending on terms, would place pressure on current predicted cash flows requiring mitigation.

### Impacts

In terms of funding, any internal reserves used for the project will not be available to use for any other project, activity or operation. Any borrowings will require annual funding for the duration of the loans, to repay principal and interest. This will impact negatively on Council's operating performing ratio, unless offset by cuts in operational expenditure. Once the final borrowing levels are determined, the annual cash repayment of the principal and interest of the loans will need to be funded from existing allocations, and this will be required for the length of the loan. Existing allocations will need to be reduced from either operational expenditure and general funded programs/projects unless additional grant funding is provided.

If Federal Government or further State Government funding assistance does not eventuate following Council's commitment to proceed to tender, unfunded projects identified in future works programs may need to be deferred. These include three higher priority transport projects providing improved East/West traffic flow across the existing network being;

- Lake Road Duplication Stage 2 (Fernhill / Jindalee Road intersection upgrade) - \$8 Million
- Lake Road Duplication Stage 3 (Chestnut Road to Ocean Drive) - \$12 Million
- John Oxley Drive Duplication (Kingfisher Road to The Ruins Way) - \$20 Million

Committing to loan borrowings for the Ocean Drive Duplication project will also reduce capacity to undertake additional borrowings to deliver other major projects into the future, such as Boundary Street upgrade and Bril Bril Road sealing and upgrade.

Should Council resolve to proceed, it would be proposed to incorporate the project and the funding implications into the Draft 2021-2022 Operational Plan (due to be presented at the March 2021 Ordinary Council Meeting), and incorporated into the Long Term Financial Plan.

## AGENDA

EXTRAORDINARY COUNCIL  
03/03/2021

### Attachments

Nil

YOUR NATURAL AND  
BUILT ENVIRONMENT