



Council Meeting

Monday, 9 May 2022
6.30pm

Agenda



Compliance with social distancing requirements to limit the spread of COVID-19 virus at Council and Committee Meetings:

Amendments have been made to the *Local Government Act 1993* to allow councils to meet remotely to reduce the risk of COVID-19 and ensure compliance with the Public Health Order.

In line with social distancing requirements to limit the spread of the COVID-19 virus Woollahra Council will be holding Council (i.e. Ordinary and Extraordinary) and Committee meetings (i.e. Environmental Planning (EP), Finance, Community & Services (FC&S) and Strategic & Corporate (S&C) remotely using conferencing technology (until further notice).

The Mayor, Councillors and staff will be participating in meetings in person. Meetings will be webcast and member of the public can watch and listen to meetings live (via YouTube) or dial in to listen to the meetings using a telephone.

Members of the public are invited to watch and/or listen to Council meetings live by either using conferencing technology or by teleconference. Public participation online or by phone will be managed in accordance with meeting procedures.

You may also submit late correspondence. Instructions on how to do this are provided below:

- **To watch and/or listen to the meeting live (from 6.30pm)**
Details on how to watch and listen to the meeting live will be available at Council Agendas, Audio Recordings and Minutes.
- **To submit late written correspondence (submit by 12noon on the day of the meeting)**
Members of the public may submit late written correspondence on an agenda item being considered at the Council meeting. If you wish to make a written submission on an item on the agenda, please email your submission to records@woollahra.nsw.gov.au by 12noon on the day of the meeting.

If you are experiencing any issues in joining the meeting please call (02) 9391 7001.

An audio recording of the meeting will be uploaded to Council's website following the meeting by 5.00pm on the next business day.

Disclaimer:

By using conferencing technology or by teleconference, listening and/or speaking at Council or Committee Meeting members of the public consent to their voice and personal information (including name and address) being recorded and publicly available on Council's website. Councillors, staff and members of the public are advised that meeting are being lived streamed, accessible via a link from Council's website.

By addressing and/or listening to a Council or Committee meeting, members of the public consent to their voice and personal information (including name and address) being recorded and publicly available on Council's website.

Accordingly, please ensure your address to Council is respectful and that you use appropriate language and refrain from making any defamatory statements or discriminatory comments.

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Any part of the meeting that is held in closed session will not be recorded.

People connecting to this meeting by conferencing technology or teleconference are reminded that under the *Local Government Act 1993*, the recording of meetings by a member of the public using any electronic recording device including a mobile phone or video camera is not permitted. Any person found recording without the permission of Council may be expelled from the meeting.

The audio recording of each meeting will be retained on Council's website for a minimum period of 6 months. After that period has passed, recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

For further information please visit www.woollahra.nsw.gov.au

Ordinary and Extraordinary Council Meeting Membership: 15 Councillors (including the Mayor)

Quorum: The quorum for Council meeting is 8 Councillors

Woollahra Municipal Council

Notice of Meeting

5 May 2022

To: Her Worship the Mayor, Councillor Susan Wynne ex-officio
Councillors Isabelle Shapiro (Deputy Mayor)
Sean Carmichael
Peter Cavanagh
Luise Elsing
Nicola Grieve
Mary-Lou Jarvis
Harriet Price
Lucinda Regan
Matthew Robertson
Richard Shields
Mark Silcocks
Sarah Swan
Merrill Witt
Toni Zeltzer

Dear Councillors,

Ordinary Council – 9 May 2022

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Ordinary Council** meeting to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Monday 9 May 2022 at 6.30pm.**

Members of the public are invited to watch and listen to the meeting live via Council's website:

- Watch and listen to the meeting live via Council's website:
https://www.woollahra.nsw.gov.au/council/meetings_and_committees/council_meetings/council_agendas_and_minutes.
- submit late correspondence for consideration by Councillors by emailing records@woollahra.nsw.gov.au by **12noon on the day of the meeting.**

A audio recording of the meeting will be uploaded to Council's website following the meeting by 5.00pm on the next business day.

The safety of our community, Councillors and our staff is Council's number one priority and we thank you for your patience and understanding at this time.

If you have any difficulties accessing the meeting please contact (02) 9391 7001.

Regards,

Craig Swift-McNair
General Manager

Council Meeting Agenda

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5. Confirmation of Minutes

Item No:	5.1
Subject:	CONFIRMATION OF MINUTES COUNCIL - 26 APRIL 2022
Author:	Sue O'Connor, Governance Officer
File No:	22/84417
Purpose of the Report:	The Minutes of the Council of 26 April 2022 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program:	Strategy 11.1 Facilitate community led decision-making that is open, honest and ethical and benefits the broader community.

Recommendation:

THAT the Minutes of the Council Meeting of 26 April 2022 be taken as read and confirmed.

Executive Summary:

This report presents the Council Minutes of 26 April 2022 for confirmation by the Council.

The minutes are presented as **Attachment 1**.

Options:

Nil.

Community Engagement and / or Internal Consultation:

Nil.

Policy Implications:

Nil.

Financial Implications:

Nil.

Resourcing Implications:

Nil.

Conclusion:

The minutes are presented for confirmation by the Council.

Attachments

1. Unconfirmed Council Minutes - 26 April 2022 [↓](#) 



Council Meeting

Monday, 26 April 2022
6.30pm

Minutes



Ordinary Council Meeting

Tuesday 26 April 2022

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Unconfirmed

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Items Determined Under Delegated Authority by Council Committees

**The following items were determined under Delegated Authority.
To see the delegated decisions of Council please refer to the individual
Committee Meeting Minutes.**

Environmental Planning Committee

D1 Confirmation of Minutes of Meeting held on 7 March 2022

Finance, Community & Services Committee

D1 Confirmation of Minutes of Meeting held on 7 March 2022

D2 Investments held as at 31 March 2022

D3 Closing and Sale of Part Road Reserve adjoining 30 Wyuna Road Point Piper (SC1015-03)

Unconfirmed

Woollahra Municipal Council
Ordinary Council Meeting Minutes

26 April 2022

Ordinary Council Meeting

Minutes of the Meeting of Woollahra Municipal Council held at the Council Chambers, 536 New South Head Road, Double Bay, on 26 April 2022 at 6.30pm.

Present: Her Worship the Mayor, Councillor Susan Wynne ex-officio

Councillors:	Isabelle Shapiro	(Deputy Mayor)
	Sean Carmichael	(Open to 13.1 (R7))
	Peter Cavanagh	
	Luise Elsing	
	Nicola Grieve	
	Mary-Lou Jarvis	via Zoom
	Harriet Price	
	Lucinda Regan	
	Matthew Robertson	via Zoom
	Richard Shields	
	Sarah Swan	
	Merrill Witt	
	Toni Zeltzer	

Staff:	Ian MacKinlay	(Acting Director – Corporate Performance)
	Tom O'Hanlon	(Acting General Manager)
	Scott Pedder	(Director – Planning & Place) – via Zoom
	Carolyn Nurmi	(Governance Officer)
	Helen Tola	(Manager – Governance & Council Support)

Also in Attendance: Nil

1. Opening

The Mayor declared the Ordinary Council Meeting of 26 April 2022 open and welcomed Councillors, staff and members of the public who are watching and listening to this evenings meeting.

2. Prayer

The Mayor read the Prayer:

Almighty God, you have given us a beautiful place to live in. We pray for your gift of wisdom that the decisions of this Council may benefit those we serve.

Be with us in our deliberations that this Municipality may know your blessing. Amen.

3. Acknowledgement of Country (Gadigal People and Birrabirrigal People)

The Mayor read the following Acknowledgement of Country:

I would like to acknowledge that we are here today on the land of the Gadigal and Birrabirrigal people, the traditional custodians of the land. On behalf of Woollahra Council, I acknowledge Aboriginal or Torres Strait Islander people attending today and I pay my respects to Elders past, present and emerging.

4. Acknowledgement of the Sovereign of the Day (Queen Elizabeth II)

The Mayor read the following Acknowledgement of the Sovereign of the Day (Queen Elizabeth II):

I also acknowledge Queen Elizabeth II.

Woollahra Municipal Council
Ordinary Council Meeting Minutes

26 April 2022

5. Confirmation of Minutes

Item No: 5.1
Subject: **CONFIRMATION OF COUNCIL MINUTES - 11 APRIL 2022**
Author: Sue O'Connor, Governance Officer
File No: 22/75007
Purpose of the Report: The Minutes of the Council of 11 April 2022 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program: Strategy 11.1 Facilitate community led decision-making that is open, honest and ethical and benefits the broader community

Note: Late correspondence was circulated by Helen Tola, Manager Governance & Council Support.

(Shapiro/Carmichael)

1/22 Resolved:

THAT the Minutes of the Council Meeting of 11 April 2022 be taken as read and confirmed, subject to the amendment outlined in the late correspondence.

Note: *In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.*

For the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Against the Motion

Nil

14/0

6. Declarations of Interest

Councillor Shapiro declared a Non-Significant, Non-Pecuniary interest in 13.1 Item R3 (Planning Proposal - Heritage Listing of 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse) as Councillor Shapiro knows one of the neighbours who have submitted late correspondence. Councillor Shapiro remained in the meeting, participated in debate and voted on the matter.

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Councillor Shapiro declared a Non-Significant, Non-Pecuniary interest in 13.1 Item R7 (Advice of the Woollahra Local Planning Panel - Planning Proposal - Amended planning controls for Riddell Street, Bellevue Hill) as Councillor Shapiro's daughter and her family live in Lennox Street, Bellevue Hill which is a nearby street. Councillor Shapiro does not believe it will affect her vote. Councillor Shapiro remained in the meeting, participated in debate and voted on the matter.

Councillor Carmichael declared a Non-Significant, Non-Pecuniary interest in 13.1 Item R7 (Advice of the Woollahra Local Planning Panel - Planning Proposal - Amended planning controls for Riddell Street, Bellevue Hill) as Councillor Carmichael is a resident of Bradley Avenue which is a nearby street. Councillor Carmichael does not believe it will affect his vote. Councillor Carmichael remained in the meeting, participated in debate and voted on the matter.

The Mayor, Councillor Wynne declared a Non-Significant, Non-Pecuniary interest in 13.2 Item R1 (Closing and Sale of Road Reserve adjoining 2A Wunulla Road, Point Piper (application formerly known as 592 New South Head Road) as the Mayor advised that she does know some staff who work at Fortis and believes that Fortis are developing the property. Councillor Wynne remained in the meeting, participated in debate and voted on the matter.

Councillor Regan declared a Non-Significant, Non-Pecuniary interest in 13.2 item R1 (Closing and Sale of Road Reserve adjoining 2A Wunulla Road, Point Piper (application formerly known as 592 New South Head Road) as Councillor Regan's husband and/or their self-managed superannuation fund have invested in one of the Palace Groups investments products from time to time. Councillor Regan remained in the meeting, participated in debate and voted on the matter.

Councillor Jarvis declared a Non-Significant, Non-Pecuniary interest in Item 13.1 R1 (Post Exhibition Report - Planning Proposal - Bus Shelter Advertising as Exempt Development) as Councillor Jarvis had dealings with AdShel who are bus shelter advertiser and a former client many years ago. Councillor Jarvis remained in the meeting, participated in debate and voted on the matter.

7. Leave of Absence and Apologies

An apology was received and accepted from Councillor Silcocks.

8. Late Correspondence

Note Council resolution of 27 June 2011 to read late correspondence in conjunction with the relevant Agenda Items 5.1, 12.1 & 13.1 Items R1, R3 & R4 and 13.2 Items R1).

9. Petitions Tabled

Nil

10. Public Forum

Nil

11. Mayoral Minutes

Nil

Woollahra Municipal Council
Ordinary Council Meeting Minutes

26 April 2022

12. General Manager and Officer's Report

Item No: 12.1
Subject: **WOOLLAHRA LOCAL PLANNING PANEL (WLPP) - UPDATE FOLLOWING EXPRESSION OF INTEREST PROCESS**
Authors: Helen Tola, Manager - Governance & Council Support
Nick Economou, Manager Development Control
Approvers: Scott Pedder, Director - Planning & Place
Craig Swift-McNair, General Manager
File No: 22/75699
Purpose of the Report: To provide Council with an update on the progress following the recent call for Expressions of Interest for WLPP Community Representatives.
Alignment to Strategy 4.1: Encourage and ensure high quality planning and urban design outcomes.
Delivery Program:
Note: Late correspondence was tabled by Councillor Toni Zeltzer (2 pieces), Councillor Luise Elsing, Helen Tola, Council's Manager Governance Council Support & Nick Economou, Manager Development Control.
Note: The Council amended Part B of the resolution.

(Zeltzer/Shapiro)

2/22 Resolved:

- A. THAT the update on the Expressions of Interest process for the Woollahra Local Planning Panel (WLPP) be received and noted.
- B. THAT in the spirit of being inclusive, so that all councillors have input into the decision and acknowledging the critical role community representatives play on the Local Planning Panel:
 - That senior planning staff present the list of all applicants that have met the eligibility criteria.
 - That the senior planning staff list the applicants in the order they believe to reflect each applicant's efficacy in this role, knowing the requirements go beyond knowledge of the local controls.
 - That the final ordered list, which includes all written applications, be presented to the Committee of the Whole, in closed session, so that a decision is made in regard to the choice of applicant and the number of community representatives.
- C. THAT the current three (3) Community Representatives to the WLPP be in place until 31 May 2022 or until such time as the EOI assessment process and appointment of new Community Representatives has been completed.
- D. THAT a further report be tabled to the 23 May 2022 Ordinary Council meeting recommending the selection and appointment of Community Representatives to the WLPP.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Grieve
Councillor Jarvis
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Swan
Councillor Wynne
Councillor Zeltzer

10/4

Against the Motion

Councillor Elsing
Councillor Price
Councillor Regan
Councillor Witt

Woollahra Municipal Council
Ordinary Council Meeting Minutes

26 April 2022

13.1 Environmental Planning Committee

Items with Recommendations from the Committee Meeting of Monday 4 April 2022 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **POST EXHIBITION REPORT - PLANNING PROPOSAL - BUS SHELTER ADVERTISING AS EXEMPT DEVELOPMENT**
Author: Lyle Tamlyn, Strategic Planner
Approvers: Anne White, Manager - Strategic Planning
Scott Pedder, Director - Planning & Place
File No: 22/54037
Purpose of the Report: To report on the public exhibition of the planning proposal to amend the Woollahra Local Environmental Plan 2014 to include exempt provisions for bus shelter advertising.
Alignment to Delivery Program: Strategy 4.1: Encourage and ensure high quality planning and urban design outcomes.
Note: Late correspondence was tabled by The Paddington Society.
Note: Councillor Jarvis declared a Non-Significant, Non-Pecuniary interest in this Item as Councillor Jarvis had dealings with AdShel who are bus shelter advertiser and a former client many years ago. Councillor Jarvis remained in the meeting, participated in debate and voted on the matter.

Motion moved by Councillor Jarvis Seconded by Councillor Shapiro

- A. THAT Council finalise the planning proposal at **Attachment 1** of the report to the Environmental Planning Committee of 4 April 2022, which seeks to insert exempt provisions for bus shelter advertising into the *Woollahra Local Environmental Plan 2014*.
- B. THAT Council make the local environmental plan as the local plan making authority under section 3.36(2) of the *Environmental Planning and Assessment Act 1979* as authorised by the Gateway Determination issued on **17 December 2021**.

Amendment moved by Councillor Price Seconded by Councillor Robertson

- A. THAT Council finalise the planning proposal at **Attachment 1** of the report to the Environmental Planning Committee of 4 April 2022, which seeks to insert exempt provisions for bus shelter advertising into the *Woollahra Local Environmental Plan 2014*, subject to excluding Oxford Street, Paddington.
- B. THAT Council make the local environmental plan as the local plan making authority under section 3.36(2) of the *Environmental Planning and Assessment Act 1979* as authorised by the Gateway Determination issued on **17 December 2021**.

The Amendment was put and lost.

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Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Amendment

Councillor Elsing
Councillor Grieve
Councillor Price
Councillor Robertson
Councillor Swan
Councillor Witt
Councillor Zeltzer

Against the Amendment

Councillor Carmichael
Councillor Cavanagh
Councillor Jarvis
Councillor Regan
Councillor Shapiro
Councillor Shields
Councillor Wynne

7/7

The Amendment was lost on the casting vote of the Mayor, Councillor Wynne.

The Motion was put and carried.

(Jarvis/Shapiro)

3/22 Resolved:

- A. THAT Council finalise the planning proposal at **Attachment 1** of the report to the Environmental Planning Committee of 4 April 2022, which seeks to insert exempt provisions for bus shelter advertising into the *Woollahra Local Environmental Plan 2014*.
- B. THAT Council make the local environmental plan as the local plan making authority under section 3.36(2) of the *Environmental Planning and Assessment Act 1979* as authorised by the Gateway Determination issued on **17 December 2021**.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Jarvis
Councillor Regan
Councillor Shapiro
Councillor Shields
Councillor Wynne

Against the Motion

Councillor Elsing
Councillor Grieve
Councillor Price
Councillor Robertson
Councillor Swan
Councillor Witt
Councillor Zeltzer

7/7

The Motion was carried on the casting vote of the Mayor, Councillor Wynne.

Woollahra Municipal Council
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26 April 2022

Item No: R2 Recommendation to Council
Subject: **POST EXHIBITION REPORT- PLANNING PROPOSAL FOR
ENHANCED PROVISIONS FOR EARTHWORKS AND DEWATERING**
Author: Lyle Tamlyn, Strategic Planner
Approvers: Anne White, Manager - Strategic Planning
Scott Pedder, Director - Planning & Place
File No: 22/52590
Purpose of the Report: To report on the public exhibition of the planning proposal to amend the
Woollahra Local Environmental Plan 2014 to enhance provisions for
earthworks and dewatering.
Alignment to Delivery Program: Strategy 4.1: Encourage and ensure high quality planning and urban
design outcomes.

(Jarvis/Regan)

4/22 Resolved without debate:

- A. THAT Council finalise the planning proposal at **Attachment 1** of the report to the Environmental Planning Committee of 4 April 2022, which seeks to insert enhanced provisions for earthworks and dewatering into the *Woollahra Local Environmental Plan 2014*.
- B. THAT Council requests the Planning Secretary to make the local environmental plan under section 3.36(1) of the *Environmental Planning and Assessment Act 1979*.

Note: *In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.*

For the Motion

Against the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Nil

14/0

Woollahra Municipal Council
Ordinary Council Meeting Minutes

26 April 2022

- Item No:** R3 Recommendation to Council
Subject: **PLANNING PROPOSAL - HERITAGE LISTING OF 'SUNNY BRAE, INCLUDING INTERIORS' AT 40 FITZWILLIAM ROAD, VAUCLUSE**
- Authors:** Flavia Scardamaglia, Strategic Heritage Officer
Anne White, Manager - Strategic Planning
- Approver:** Scott Pedder, Director - Planning & Place
- File No:** 22/39605
- Purpose of the Report:** To update Council on the site visit which was conducted on 7 March 2022.
To obtain Council's approval to proceed with the planning proposal to list 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse as a local heritage item in Schedule 5 and on the Heritage Map of Woollahra Local Environmental Plan 2014.
- Alignment to Delivery Program:** Strategy 4.3: Protect our heritage, including significant architecture and the natural environment.
- Note:** Late correspondence was tabled by Graham Brooks of GBA Heritage, Stephen Davies of Urbis.
- Note:** Councillor Shapiro declared a Non-Significant, Non-Pecuniary interest in this Item as Councillor Shapiro knows one of the neighbours who have submitted late correspondence. Councillor Shapiro remained in the meeting, participated in debate and voted on the matter.

Motion moved by Councillor Shapiro
Seconded by Councillor Carmichael

- A. THAT the planning proposal, as contained in **Attachment 1** of the report to the Environmental Planning Committee meeting of 4 April 2022 be forwarded to the Department of Planning and Environment with a request for a gateway determination to allow public exhibition, subject to adopting the inventory listing proposed by the late correspondence submitted by Stephen Davies of Urbis (i.e. page 17 to 23 deleting any reference to views from the property).
- B. THAT Council request the Minister for Planning and Public Spaces (or delegate) authorise Council as the local plan-making authority in relation to the planning proposal, to make the local environmental plan under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

Amendment moved by Councillor Grieve
Seconded by Councillor Zeltzer

- A. THAT the planning proposal, as contained in **Attachment 1** of the report to the Environmental Planning Committee meeting of 4 April 2022 be forwarded to the Department of Planning and Environment with a request for a gateway determination to allow public exhibition.
- B. THAT Council request the Minister for Planning and Public Spaces (or delegate) authorise Council as the local plan-making authority in relation to the planning proposal, to make the local environmental plan under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

The Amendment was put and carried.

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26 April 2022

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Amendment

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Against the Amendment

Councillor Carmichael
Councillor Shapiro
Councillor Shields

11/3

**The Amendment became the Motion.
The Motion was put and carried.**

(Grieve/Zeltzer)

5/22 Resolved:

- A. THAT the planning proposal, as contained in **Attachment 1** of the report to the Environmental Planning Committee meeting of 4 April 2022 be forwarded to the Department of Planning and Environment with a request for a gateway determination to allow public exhibition.
- B. THAT Council request the Minister for Planning and Public Spaces (or delegate) authorise Council as the local plan-making authority in relation to the planning proposal, to make the local environmental plan under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Against the Motion

Nil

14/0

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Item No: R4 Recommendation to Council
Subject: **COMPLIANCE AND ENFORCEMENT OF UNAUTHORISED WORK, INCLUDING A REVIEW OF COUNCIL'S ENFORCEMENT POLICY 2007**
Author: Jacquelyne Della Bosca, Executive Planner
Approvers: Tim Tuxford, Manager - Compliance
Scott Pedder, Director - Planning & Place
File No: 22/42564
Purpose of the Report: To respond to a Notice of Motion requesting a review of Council's Enforcement Policy including options to better protect heritage items. To respond to a NOM requesting ways to make private certifiers more accountable for addressing unauthorised work. To obtain Council's approval to exhibit Draft Woollahra Enforcement Policy 2022.
Alignment to Delivery Program: Strategy 4.6: Ensure that planning and building requirements are complied with.
Note: Late correspondence was tabled by Council's Executive Planner, Jacquelyne Della Bosca.
Note: The Council amended part B of the Resolution.

(Jarvis/Regan)

6/22 Resolved without debate:

THAT Council:

- A. Receive and note the report on the review of Council's Enforcement Policy and approach to unauthorised work on heritage items, and private certifiers.
- B. Endorse exhibition of the Draft Woollahra Enforcement Policy 2022 as contained at Attachment 2 of the report to the Environmental Planning Committee of 4 April 2022 for a period of 28 days **subject to:**
 - a. amending the Draft Policy, section 9 "Role of the Principal Certifier" by inserting the following at the end of paragraph 1: "*Complaints received by Council will be referred to the Principal Certifier to consider and investigate. Council will notify the complainant of this action and provide the complainant with the Principal Certifier's contact details.*"
- C. Note that a further report be submitted to Council following the conclusion of the exhibition period for final consideration and adoption of a new Enforcement Policy.

Note: *In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.*

For the Motion

Against the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer
14/0

Nil

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Item No: R5 Recommendation to Council
Subject: **SMOKE-FREE ENVIRONMENT LEGISLATION AND SMOKING IN LICENSED PREMISES**
Author: Jacquelyne Della Bosca, Executive Planner
Approvers: Anne White, Manager - Strategic Planning
Scott Pedder, Director - Planning & Place
File No: 22/48619
Purpose of the Report: To respond to Council resolutions seeking options to address second-hand smoke in relation to licensed premises and dwelling houses.
Alignment to Delivery Program: Strategy 4.1: Encourage and ensure high quality planning and urban design outcomes.

(Jarvis/Shapiro)

7/22 Resolved without debate:

- A. THAT the report on the smoke-free environment legislation and planning options for addressing smoking in licensed premises be received and noted.
- B. THAT Council writes to the Minister for Health requesting the State Government strengthen the smoke-free environment legislation to address matters identified in the report to the Environmental Planning Committee of 4 April 2022.
- C. THAT Council continues to identify opportunities to advocate for improvements to the *Smoke-free Environment Act 2000* to achieve genuine smoke-free environments.

Note: *In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.*

For the Motion

Against the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Nil

14/0

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Item No: R6 Recommendation to Council
Subject: **ADVICE OF THE LOCAL PLANNING PANEL - HERITAGE LISTING OF EIGHTEEN AUSGRID SUBSTATIONS**
Author: Kristy Wellfare, Strategic Heritage Officer
Approvers: Anne White, Manager - Strategic Planning
Scott Pedder, Director - Planning & Place
File No: 22/55781
Purpose of the Report: To provide Council with the advice of the Woollahra Local Planning Panel
To obtain Council's approval to proceed with the planning proposal to list eighteen (18) Ausgrid substations as local heritage items in Schedule 5 and on the heritage maps of the Woollahra Local Environmental Plan 2014.
Alignment to Delivery Program: Strategy 4.3: Protect our heritage, including significant architecture and the natural environment.
(Jarvis/Shapiro)

8/22 Resolved without debate:

- A. THAT Council note the advice provided by the Woollahra Local Planning Panel on 17 March 2022 for the planning proposal to list eighteen Ausgrid electricity substations as local heritage items in Schedule 5 and the Heritage Maps of the Woollahra Local Environmental Plan 2014.
- i. 'Electricity Substation No.94' at 73A Dover Road, Rose Bay (Lot 1 in DP 121861)
 - ii. 'Electricity Substation No.99' at Wyuna Road, Point Piper (Road reserve)
 - iii. 'Electricity Substation No.135, including moveable content' at 65 William Street, Double Bay (Lot 1 in DP 172768)
 - iv. 'Electricity Substation No.160' at James Street, Woollahra (Lot 1 in DP 587872)
 - v. 'Electricity Substation No. 173, including moveable content' at 582 New South Head Road, Point Piper (Lot 1 in DP 1103924)
 - vi. 'Electricity Substation No.185, including moveable content and brick fence' at 116 Birriga Road, Bellevue Hill (Lot Y in DP 415489)
 - vii. 'Electricity Substation No.189, including moveable content' at 33 Hoddle Street, Paddington (Lot 1 in DP 187153)
 - viii. 'Electricity Substation No.193' at 29A Olphert Avenue, Vaucluse (Lot 28 in DP 666593)
 - ix. 'Electricity Substation No.199' at 2A Marathon Road, Darling Point (Lot 1 in DP 315729 and Lot A in DP 415567)
 - x. 'Electricity Substation No.299 including moveable content and brick fence' at 101 Drumalbyn Road, Bellevue Hill Lot A in DP 320729
 - xi. 'Electricity Substation No.314 including moveable content and front fence' at 1 Dalley Avenue, Vaucluse (Lot 35 in DP 1108999)
 - xii. 'Electricity Substation No.315 including moveable content and brick fence' at 7 Plumer Road, Rose Bay (Lot 1 in DP 1079372)
 - xiii. 'Electricity Substation No.318 at 13 Drumalbyn Road, Bellevue Hill (Lot 1 in DP 328329)
 - xiv. 'Electricity Substation No.357 including front and side stone walls' at 2A March Street, Bellevue Hill (Lot 1 in DP 607315)
 - xv. 'Electricity Substation No.361, including front fence and side stone wall' at 29 Boronia Road, Bellevue Hill (Lot O in DP 17114)
 - xvi. 'Electricity Substation No.364' at 1A Rupertswood Avenue, Bellevue Hill (Lot 1 in DP 184315)
 - xvii. 'Electricity Substation No. 592, including moveable content' at 14 Robertson Place, Watsons Bay (Lot 1 in DP 231114)
 - xviii. 'Electricity Substation No. 622, including movable content' 148 Boundary Street, Paddington (Lot 1 in DP 231114).

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- B. THAT Council endorse the planning proposal as contained in **Attachment 3**, and resolve to forward this to the Department of Planning and Environment with a request for Gateway determination to allow public exhibition.
- C. THAT Council request the Minister for Planning and Public Spaces (or delegate) authorise Council as the local plan-making authority in relation to the planning proposal, to make the local environment plan under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Against the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Nil

14/0

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- Item No:** R7 Recommendation to Council
Subject: **ADVICE OF THE WOOLLAHRA LOCAL PLANNING PANEL - PLANNING PROPOSAL - AMENDED PLANNING CONTROLS FOR RIDDELL STREET, BELLEVUE HILL**
- Author:** Lyle Tamlyn, Strategic Planner
Approvers: Anne White, Manager - Strategic Planning
Scott Pedder, Director - Planning & Place
File No: 22/54048
Purpose of the Report: To provide Council with the advice of the Woollahra Local Planning Panel and obtain Council's approval to proceed with the planning proposal to amend the controls for 13-27 Riddell Street and 14-15 Buller Street under the Woollahra Local Environmental Plan 2014.
Alignment to Delivery Program: Strategy 4.1: Encourage and ensure high quality planning and urban design outcomes.
- Note:** Councillor Shapiro declared a Non-Significant, Non-Pecuniary interest in this Item as Councillor Shapiro's daughter and her family live in Lennox Street, Bellevue Hill which is a nearby street. Councillor Shapiro does not believe it will affect her vote. Councillor Shapiro remained in the meeting, participated in debate and voted on the matter.
- Note:** Councillor Carmichael declared a Non-Significant, Non-Pecuniary interest in this Item as Councillor Carmichael is a resident of Bradley Avenue which is a nearby street. Councillor Carmichael does not believe it will affect his vote. Councillor Carmichael remained in the meeting, participated in debate and voted on the matter.

(Jarvis/Shapiro)

9/22 Resolved without debate:

- A. THAT Council note the advice provided by the Woollahra Local Planning Panel on 24 March 2022, supporting a planning proposal to amend the controls for 13-27 Riddell Street and 14-15 Buller Street, Bellevue Hill under the *Woollahra Local Environmental Plan 2014* and that Council note that the Panel:
- (i) *Appreciated the comprehensive analysis of the proposed zoning changes as being appropriate and thoughtful for the future planning of Riddell Street and surrounding areas.*
 - (ii) *Noted that such planning proposals can take around a year for approval and encourage early engagement with the Department of Planning and Environment to facilitate approval.*
 - (iii) *Noted the quality and logical outcome of the Independent Planning and Urban Design Review completed by Studio GL and that the subsequent modest reduction in the total dwelling targets has been robustly justified against Ministerial Direction 6.1.*
 - (iv) *Notes the zoning changes will promote retention of the existing substantial tree canopy.*
- B. THAT the planning proposal, as contained in **Attachment 1** of the report to the Environmental Planning Committee of 4 April 2022, be forwarded to the Department of Planning and Environment with a request for:
- i. a Gateway determination to allow public exhibition
 - ii. it to be categorised as 'standard' as per the *Local Environmental Plan Making Guidelines 2021*
 - iii. no inclusion of savings or transitional provisions

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- C. THAT Council request the Minister for Planning and Homes (or delegate) authorise Council as the local plan-making authority, to make the local environmental plan under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Against the Motion

Councillor Carmichael
Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Nil

14/0

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13.2 Finance, Community & Services Committee

Items with Recommendations from the Committee Meeting of Monday 4 April 2022 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **CLOSING AND SALE OF ROAD RESERVE ADJOINING 2A WUNULLA ROAD, POINT PIPER (APPLICATION FORMERLY KNOWN AS 592 NEW SOUTH HEAD ROAD) (SC6816).**
Author: Anthony Sheedy, Senior Property Officer
Approver: Tom O'Hanlon, Director - Infrastructure & Sustainability
File No: 22/45673
Purpose of the Report: To consider a proposal for the closing and sale of Wunulla Road reserve portion adjoining 2A Wunulla Road, Point Piper
Alignment to Delivery Program: Strategy 11.4: Maintain Council's strong financial position.

Note: Late correspondence was tabled by Nick Economou, Manager Development Control.

Note: The Mayor, Councillor Wynne declared a Non-Significant, Non-Pecuniary interest in this Item, as the Mayor advised that she does know some staff who work at Fortis and believes that Fortis are developing the property. Councillor Wynne remained in the meeting, participated in debate and voted on the matter.

Note: Councillor Regan declared a Non-Significant, Non-Pecuniary interest in this Item as Councillor Regan's husband and/or their self-managed superannuation fund have invested in one of the Palace Groups investments products from time to time. Councillor Regan remained in the meeting, participated in debate and voted on the matter.

Note: The Council amended Part C and added new Part D to the resolution.

(Grieve/Wynne)

10/22 Resolved:

- A. THAT Council resolve not to close and sell the subject road reserve adjacent to 2A Wunulla Road, Point Piper on the basis that this area serves as a green space gateway to Point Piper and provides valuable sight lines for motor vehicles and pedestrians.
- B. THAT the applicant be advised of Council's resolution.
- C. THAT Council notes the late correspondence prepared by staff to clarify the approval conditions of consent granted by the Land & Environment Court, specifically as to why consent was granted and how two Development Applications (i.e. DA13/2019 and DA396/2021) are in play and why both are in operation.
- D. THAT further information is provided to Councillors to better understand the process used in the past and to understand what happens in the future with regards to the development application.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this planning matter.

For the Motion

Against the Motion

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Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer
13/0

Nil

Item No: R2 Recommendation to Council
Subject: **OWNERS CONSENT - DEVELOPMENT APPLICATION - CAMP COVE KIOSK WATSONS BAY - LICENSEE WORKS**
Author: Caroline Tunney, Senior Property Officer
Approver: Tom O'Hanlon, Director - Infrastructure & Sustainability
File No: 22/53889
Purpose of the Report: To obtain Landowner's Consent for the purpose of lodging a Development Application (DA) consistent with the Licensee's Works - Tender SC5403
Alignment to Delivery Program: Strategy 11.4: Maintain Council's strong financial position.

(Zeltzer/Witt)

11/22 Resolved without debate:

THAT Council, in its capacity as Landowner, grants landowner consent to enable the Licensee, Denim Collaborations Pty Ltd, to lodge a Development Application (DA) for the alterations and additions to Camp Cove Kiosk and outdoor seating area, consistent with the Plans attached as Attachment 2 to this report.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this planning matter.

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Nil

13/0

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15. Councillor Reports/Councillor Updates (Section 8.4)

Note: Councillor Reports/Councillor Updates are to be confined to condolences, congratulations, presentations and matters ruled by the Chair to be of extreme urgency (in accordance with Section 8.4 of Council's Code of Meeting Practice).

General Item No: 15.1 Anzac Day - Emanuel Synagogue
Tabled by: Councillor Regan

Councillor Regan advised:

Thank you Madam Mayor. I just wanted to note and to thank the Rabbi Kamins, Rabbi Ninio, Rabbi Kaiserblueth, Rabbi Mordecai and Rabbi Triguboff for their welcome at the Emanuel Synagogue for the Anzac Day Shabbat Service last Friday that I attended with Councillor Price, Councillor Elsing and Councillor Shields (who is a member of the congregation there or should I say a Member of the Shule).

As usual it was a very warm and compassionate service recognising the contribution of our defence personnel defending our country and liberties and an address was provided by the Hon. Dr Mike Kelly (himself a veteran of war) which was quite moving and contemplated. It was a very fitting way to start the memorial of the Anzac Day Service and I just wanted to thank the Rabbis again for their welcome. Thank you.

The Mayor, Councillor Wynne in response:

Thank you Councillor Regan.

General Item No: 15.2 Anzac Day - Paddington RSL Memorial
Tabled by: Councillor Cavanagh

Councillor Cavanagh advised:

Thank you Your Worship. On Sunday I represented you at the Paddington RSL Memorial for Anzac Day. It was a beautiful sunny day, much to our relief, so they could do the Memorial Service at the Memorial on the opposite side of Victoria Barracks.

It was very very well attended I must say and of course as it is an election year, and politicians turn up, we had Dave Sharma MP there as well so that was a plus. I would particularly like to thank Her Worship for the use of the car because for over the 14 years that I have done this, the hill is getting steeper and the wreaths are getting heavier, so thank you.

The Mayor, Councillor Wynne in response:

Thank you Councillor Cavanagh. I really appreciate it. I know it's the 14th year you have done that and the wreaths are exceptionally heavy.

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General Item No: 15.3 Plea from Daisy Turnbull for Volunteers - Lifeline Centre at Bondi Junction
Tabled by: Councillor Witt

Councillor Witt advised:

Thank you Madam Mayor. I would just like to thank the Mayor and staff for responding so quickly to something I brought to the Mayors attention, a Plea from Daisy Turnbull for volunteers for a new Lifeline centre at Bondi Junction. I would also like to commend the Council for its commitment to mental health issues.

The Mayor, Councillor Wynne in response:

Thank you Councillor Witt. I would like to thank you for bringing that to my attention for what can be done and I forwarded that to staff over the weekend who instantly put something on our Facebook and Instagram stories. Please share that and have a look that Lifeline are calling for volunteers. I think it closes on the 28 April 2022 as there is training involved. They are quite desperate, so thank you so much for alerting me to that.

General Item No: 15.4 Anzac Day Commemorations
Tabled by: Councillor Shapiro

Councillor Shapiro advised:

Thank you, Madam Mayor. Firstly, I would like to congratulate you on yesterday's very moving Anzac Day commemoration. I thought it was a particularly lovely, warm and encompassing service/commemorative service. You spoke beautifully, very moving, it was well attended and the sun was shining which was wonderful and also I extend thanks to staff involved in particular Patricia Vella (who I know is always behind this) and Justine Henderson and others. It was particularly moving and wonderful to have everybody back after 2 years of COVID. Well done to all. Please pass thanks to those involved.

Also I was able to represent you and Council at the Annual NAJEX Ceremony on Sunday (the day before Anzac Day) which is the NSW Association of Jewish Service & Ex-Service Men & Women. That was so well represented and as Councillor Cavanagh's said there is an election on so we had Politicians from all sides from both local Councils, Waverley and myself on behalf of Woollahra. There were wonderful speakers and I laid a floral tribute together with my 2 granddaughters who attended with me and that was very moving, so thank you.

The Mayor, Councillor Wynne in response:

Thank you Councillor Shapiro.

General Item No: 15.5 Anzac Day Commemorations
Tabled by: Councillor Jarvis

Councillor Jarvis advised:

Thank you Madam Mayor. I would also like to congratulate you, the Council and the staff on the various Anzac Day commemorations that I attended with you. I don't think our community does anything better than the Anzac Day events and it is always special to be attendance and particularly this morning as I walked past Steyne Park the wreath still laying freshly below the Solider at the centre of that garden.

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Of course, Anzac Day is about those who have served our country and I just want to point out and commend a couple people that I met during the commemorations Retired Seaman John Unicom who had gone to HMAS Rushcutters at the age of 17, former Mayor Chris Dawson, who laid (as I suspect for the last 20 years) a wreath and over at Mark Moran that you and I attended Madam Mayor, Catherine Remond who I was surprised to realise that she was wearing over her left chest the Military Cross which is of course the second most highest honour at that time you can be awarded second only to the Victoria Cross.

So to all of those people that gave service to our community and our country, thank you for your service.

The Mayor, Councillor Wynne in response:

Thank you Councillor Jarvis.

General Item No: 15.6 O'Sullivan Road, Bellevue Hill
Tabled by: Councillor Grieve

Councillor Grieve advised:

Thank you Madam Mayor. I would like the Acting General Manager, Mr O'Hanlon to thank his staff for their very rapid response to all of my water gushing reports that I have been ringing in rapid rates as I have been travelling around the Municipality, they have been fast, responsive and O'Sullivan Road, Bellevue Hill is currently in the middle of a massive sink hole with a major sewerage pipe and also we had a major water collapse. Staff have been really fantastic in that area and also down in other areas that I have reported that staff have been very fast and rapid in their responses. I would like to commend the staff for their responses in this deluge we have been having of late.

The Mayor, Councillor Wynne in response:

Thank you Councillor Grieve.

General Item No: 15.7 Fig Tree - 23 Royston Street, Paddington
Tabled by: Councillor Robertson

Councillor Robertson advised:

Thank you Madam Mayor. I also wanted to extend my thanks to staff and to those in Mr O'Hanlon's team for the way in which they dealt with the emergency situation last Friday night pertaining the enormous fig tree at 23 Royston Street, Paddington which I understand, inevitably put so much pressure on the wires that it had to be removed in an emergency situation, notwithstanding staff had been advocating with AUSGRID for the timely removal of this tree.

I understand that staff were on site into the evening to work with our local residents to explain to them that the nature of the situation and that the work that was being carried out. That was well received and I am pleased to report that to Council and my thanks to all involved.

The Mayor, Councillor Wynne in response:

Thank you Councillor Robertson.

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General Item No: 15.8 Anzac Day - Thank you to Staff
Tabled by: The Mayor, Councillor Wynne

The Mayor, Councillor Wynne advised:

I would also like to extend my thanks to staff for yesterday, Anzac Day, they were here very early in the morning putting the flags at half mast, the work particularly Patricia Vella, Justine Henderson, Troy Guyatt and everyone else involved and also thank you to all the staff who made the whole area beautiful and ready. It was a very special day for me and I just love seeing everyone come out as well. I find it very sad also thinking about my father and where he fought and it is just so wonderful to see the tradition and the memories being handed to the next generation who take it really seriously. I had a good chat with some of the youngsters afterwards and they were just so lovely, but the staff make it all happen and I thank all the Councillors that attended as well yesterday.

Unconfirmed

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16. Notices of Motion

Item No: 16.1
Subject: **NOTICE OF MOTION - RESCIND RUSSIAN CONSULAR PARKING IN FULLERTON STREET, WOOLLAHRA**
From: Councillors Sarah Swan and Luise Elsing
Date: 20 April 2022
File No: 22/76284

(Swan/Grieve)

12/22 Resolved:

THAT Council undertake the necessary committee processes, with a view to altering the parking restrictions which permit use only by the Russian Consulate on Fullerton Street, Woollahra such that the parking spaces be returned to use for the general public.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this planning matter.

For the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Against the Motion

Nil

13/0

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17. Questions With Notice

(Zeltzer/Shapiro)

13/22 Resolved:

THAT the Questions with Notice be received and noted.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this planning matter.

For the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Regan
Councillor Robertson
Councillor Shapiro
Councillor Shields
Councillor Swan
Councillor Witt
Councillor Wynne
Councillor Zeltzer

Against the Motion

Nil

13/0

QWN: 17.1
From: Councillor Elsing
Subject: Questions with Notice - Female Toilets Eastern Suburbs District Rugby Union Football Club (Easts)

Councillor Elsing asking:

Questions

1. Is it right that Woollahra Council as landowner is required to give consent to any DA on public property?
2. It is understood that the DA application has been referred to the NSW Licensing Police. Is it anticipated that service of alcohol will be tied up with this development and affect delivery of the female toilets?
3. Why is the service of alcohol relevant to the delivery of the female toilets?
4. It is noted that there are over 10 objections from the community in relation to the DA. Do these objections relate to the female toilets (Stage One) or do they relate to expanded works including rooftop terrace, function space and expanded gym area (Stage Two)?
5. Because Woollahra Council is the landowner the matter would need to be considered by the Woollahra Local Planning Panel (WLPP)?
6. Given that there are over 10 objections, is this the reason why the DA will go before the WLPP?
7. Could the DA have been dealt with more quickly if there were no objections from the community to the DA, for example could it have been dealt with other than through the WLPP?
8. Has there been a delay in the determination of the DA and if so, what has caused any delay in determination of the DA?
9. Could a DA have been lodged just for Stage One of the works in 2020 and how long would it have taken to assess and grant the DA?

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10. If there are objections to Stage Two of the works, can the female toilet facilities (Stage One) still be delivered separately as a stand-alone project?
11. Can Easts just proceed with Stage One of the works now, when funding is currently available for this?
12. Are you not aware of any time constraints on expenditure of the grant of \$1.8m given that it was allocated in January 2020?

Background

In the Daily Telegraph article dated 5 April 2022 it was reported that Easts Board member Mr John Murray said that delivery of female toilets at Easts was delayed by the heritage listing of Grimley Pavilion and the time taken by Woollahra Council in providing consent.

"Club board member John Murray said what was expected to be a straightforward development process has turned into a costly and time consuming ordeal for the volunteer-run club. He said the planning process had been complicated by Woollahra Council's decision to list George S. Grimley Pavilion, located next to the club, as a heritage item last year".

The community is keen to see increased female involvement in sport supported by adequate facilities and are concerned if the objective of equitable access is being frustrated by red tape, as suggested by Mr Murray. Since the grant funding, female players have still been without facilities for over 2 years.

In response to a Question with Notice in relation to the matter in the minutes of meeting dated 14 March 2022, the timeline of events is as follows:

2019	Grant Funding for Female Toilets at Easts announced	
2020	17 Jan 2000	Easts received grant funding of \$1.8m from the NSW Government Office of Sport for the development of change room facilities for female members to provide a safe and private location for those members to change and prepare for sporting events (female toilets).
	Early 2020	Woollahra Council informed Easts of the proposal to heritage list Grimley Pavilion.
	14 May 2020	Heritage listing of Grimley Pavilion.
2021	22 Mar 2021	Easts sought, and was granted, approval from Council as landowner of Woollahra Park for architectural plans detailing the following building works: Stage One (funding available)
		<ul style="list-style-type: none"> • New female and male changing rooms with shower and toilet facilities • New accessible public toilets, team lockers, first aid room, storage space and umpire room • New grandstand structure to the north of the proposed building • Demolition of storage sheds and trees and replacement storage and planting
		Stage Two (for which funding was not then available)
		<ul style="list-style-type: none"> • Expanded gym area • Rooftop terrace on first floor • New passenger lift • New grandstand with screening • New community function space.
		Council was advised that Stage 1 could be undertaken as a stand-alone project, given that funding was already available for construction.
	30 April 2021	DA 177/2021 lodged which includes the full development above (\$3.65m). That is, the installation of female toilets (Stage 1) was wrapped into an application for (Stage 2) other improvements including building a roof top terrace. During the assessment of this application there were issues raised by Council's Planning staff that needed to be addressed.
	23 Nov 2021	The applicant and the Planning staff met to resolve these issues (including impacts on heritage) and a response from the Club is expected shortly
2022	14 Mar 2022	In response to a Question with Notice, Council was informed that progress is with the DA (including Stage 1 for the female toilets) is ongoing.

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	24 Mar 2022	Replacement information for DA 177/2021 (decision has yet to be made about whether the new information will require re notification – update required)
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Manager Development Control in response (*In Italics*):

1. Is it right that Woollahra Council as landowner is required to give consent to any DA on public property?

Yes, this is correct. Landowner's consent is required from Woollahra Council for any DA on publicly owned (Council) land.
2. It is understood that the DA application has been referred to the NSW Licensing Police. Is it anticipated that service of alcohol will be tied up with this development and affect delivery of the female toilets?

It is understood from the DA documents that the existing Club Liquor License will continue to apply to facilities on the site, including the new community room. The DA has already been referred to the NSW Licensing Police, who have provided a referral comment to Council.
3. Why is the service of alcohol relevant to the delivery of the female toilets?

The service of alcohol is not relevant to the delivery of the female toilets. It is relevant only insofar as the female change rooms/toilets have been included in a Development Application that also encompasses an expansion to the licensed areas of the Club.
4. It is noted that there are over 10 objections from the community in relation to the DA. Do these objections relate to the female toilets (Stage One) or do they relate to expanded works including rooftop terrace, function space and expanded gym area (Stage Two)?

All received objections have been reviewed and it is confirmed that none of them relate specifically to the toilet/change room facilities at the ground floor of the proposed development. Issues raised in the objections include but are not limited to, the increased function space/licensed premises, the proposed roof terrace, noise pollution and increased traffic impacts.
5. Because Woollahra Council is the landowner the matter would need to be considered by the Woollahra Local Planning Panel (WLPP)?

This is correct. The application would also need to be determined by the WLPP as it has received over 10 objections.
6. Given that there are over 10 objections, is this the reason why the DA will go before the WLPP?

This is correct. The application would also need to be determined by the WLPP as it relates to land that is owned by the Council.
7. Could the DA have been dealt with more quickly if there were no objections from the community to the DA, for example could it have been dealt with other than through the WLPP?

Irrespective of the number of submissions, the application would still need to be determined by the WLPP as it relates to land owned by the Council. It is however acknowledged that the number of submissions, the overall scope of the proposed development and the applicant's delay in responding to key heritage issues contribute to the delay in the assessment/finalisation of this DA.

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8. Has there been a delay in the determination of the DA and if so, what has caused any delay in determination of the DA?

This application has been delayed primarily due to the long delay in receiving a response from the Applicant to issues that were initially raised by Council's Heritage and Trees & Landscape sections in August 2021 and September 2021, respectively. Council is still awaiting the formal submission of a Replacement Application to accompany the additional information provided to Council in March 2022.

9. Could a DA have been lodged just for Stage One of the works in 2020 and how long would it have taken to assess and grant the DA?

It is understood that Stage One refers to the proposed works at ground floor including the female and male changing rooms, showers and toilets, team storage lockers and associated facilities. It is difficult to speculate how long it would take to assess and determine a DA for only these works if they were lodged as a separate application. It could be reasonably expected that the heritage assessment would be different, as one of the main issues raised in the heritage assessment was the connection of the first floor element of the proposed development to the George S. Grimley Pavillion building.

10. If there are objections to Stage Two of the works, can the female toilet facilities (Stage One) still be delivered separately as a stand-alone project?

It is open to the applicant to lodge a new application relating only to 'Stage One' - the ground floor of the proposed development and including the changing rooms. This is a substantially different project to that which is currently proposed and it would be anticipated that the current DA would need to be withdrawn if the applicant wanted to pursue this approach.

11. Can Easts just proceed with Stage One of the works now, when funding is currently available for this?

The applicant cannot proceed with Stage One without a valid development consent. Once a development consent has been issued, works may commence once a construction certificate has been issued and any pre-construction/demolition conditions have been satisfied.

12. Are you aware of any time constraints on expenditure of the grant of \$1.8m given that it was allocated in January 2020?

Council's Development Control section is not aware or privy to any details relating to funding.

There being no further business the meeting concluded at 8.17pm.

We certify that the pages numbered 1 to 30 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 26 April 2022 and confirmed by the Ordinary Meeting of Council on 9 May 2022 as correct.

General Manager

Mayor

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10. Mayoral Minute

Item No: 10.1
Subject: UPDATE HOME INDIAN DINER
Author: Susan Wynne, Mayor
File No: 22/83210
Purpose of the Report: To update Councillors on this matter.

Recommendation:

THAT Council note the update.

Discussion:

Councillors would be aware that there has been a significant amount of public interest and direct representation from the community on the decision made under delegated authority to refuse the Indian Home Diner's most recent Development Application (86 Oxford Street, Paddington), which sought to extend trading hours to 3.00am on Fridays and Saturdays (beyond the 12 month trial granted from March 2020 to March 2021). The Development Application was refused in March 2022.

As previously advised this Application has a long history and its refusal under delegated authority was a result of a failure to address concerns about crowd and litter management, noise and amenity.

It is important to stress that Councillors no longer have a role to play in the determination of DAs. Planning determinations/decisions made under staff delegated authority are not considered or reviewed by the Council or a Local Planning Panel. Further, Council or Councillors have no power to amend planning decisions made.

Council is aware of a Change.org petition titled "Keep Indian Home Diner Open until 3.00am" which had approximately 4,300 signatures at the time of writing this Mayoral Minute. Council has also received letters of representation from Dave Sharma, Member for Wentworth and Alex Greenwich, Member for Sydney, as well as a number of calls and emails about this matter, all seeking Council's further consideration and an amendment to the decision made under delegated authority.

Council Officers have has advised the applicant of the available options available to them, which are:

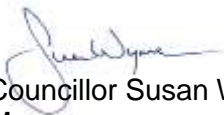
- 1) Request a Review of the decision under, s8.2 of the *Environmental Planning and Assessment Act 1979*, or
- 2) Lodge a Class 1 Appeal in the Land and Environment Court.

The Applicant has confirmed that they have engaged a planning consultant to review Council's initial decision and that a Review of Determination Application is likely to be submitted. If a Review of Determination Application is lodged, it would be assessed by a Senior Planning Officer and determined via Council's Application Assessment Panel which comprises of 3 Senior Management Officers. The expected time frame for the Review of Determination Application to be considered would be approximately 8-10 weeks from the time of lodgement.

Conclusion:

Council notes the public opposition to the decision made on this Development Application.

Council expects the applicant to request a Review of the decision and that more information will be provided by the applicant at the time of the Review to address issues of concern that prompted the refusal.



Councillor Susan Wynne
Mayor

Attachments

Nil

12. General Manager and Officer's Report

Item No:	12.1
Subject:	FINDINGS FROM THE CENTRAL COAST COUNCIL INQUIRY 2022
Author:	Craig Swift-McNair, General Manager
File No:	22/59487
Purpose of the Report:	The purpose of this report is to detail findings of relevance to Woollahra Council that have come from the recent independent inquiry into Central Coast Council.
Alignment to Delivery Program:	Strategy 11.4: Maintain Council's strong financial position.

Recommendation:

THAT Council:

- A. Note this report titled Findings from the Central Coast Council Inquiry 2022.
- B. Request the General Manager ensure that all future Monthly Financial reports as tabled at the Finance, Community & Services Committee meetings, are to be tabled as Recommended matters to be referred to full Council for consideration.
- C. Note that the revised Code of Meeting Practice (to be placed on public exhibition from May 2022), will include proposed relevant clauses around Notices of Motion (NOM) that require the mover of the NOM to detail and include the funding source for the works or services that are the subject of the NOM.
- D. Note that the General Manager will investigate appropriate training programs and or courses for Councillors on local government finances.

Executive Summary:

At the 28 March 2022 Council meeting, following the tabling of a Notice of Motion (NOM), Council resolved that the General Manager table a report on the findings from the recent Inquiry into Central Coast Council, highlighting any areas of relevance to Woollahra Council. This report provides a high-level summary of the key findings and recommendations from the report and any potential implications for Woollahra Council.

Discussion:

By way of background, at the Council meeting held on 22 February 2021, a report was tabled in response to a previous NOM that detailed information relating to the financial situation at Central Coast Council (CCC). That report included information relating to mechanisms in place at Woollahra Council to counter some of the issues that had been raised by the CCC Administrator in his various reports.

A copy of the report tabled at the 22 February 2021 Council meeting can be found at **Attachment 1** (titled: *Council Report - Response to Notice of Motion - Financials (Central Coast Council - 22 February 2021)*). At **Attachment 2** (titled: *Attachment to Report 21 26860 (Central Coast Council Administrators Interim Reports Overview)*), is a copy of an overview of the CCC Administrator's interim reports, which formed an attachment to the Council report of 22 February 2021.

It is important to note that information included in the previous Council report at Attachment 1 is still very relevant today and will not be specifically covered again in this report. In addition to this, included in the above-mentioned Attachment 2 is a comparison table between the situation at CCC and Woollahra Council. The information and the comparison made in that table (titled: *High Level Points on CCC Issues*) is also still very relevant today, with those specific issues not necessarily repeated in this report.

It is acknowledged at the outset that there is a large amount of information included in this report; however, this level of detail has been included here to provide more background and greater context, in relation to the matters before the Commissioner at the Inquiry into CCC. This level of information has also been included to assist in identifying matters that may have relevance to Woollahra Council, in line with the intent of the NOM that this report is responding to.

Moving forward from the February 2021 Council report, following is an extract from the CCC Public Inquiry Report from Commissioner Roslyn McCulloch dated 10 February 2022, which provides a brief overview of the situation that led to the CCC Inquiry:

On 30 October 2020 the then Minister for Local Government, the Hon Shelley Hancock MP, suspended the Councillors of Central Coast Council (CCC) and appointed an Administrator to Council. At the time the Council was suspended by the Minister, there were thirteen elected Councillors, two having resigned a short time prior. The decision to suspend the Council was taken after CCC had, on 6 October 2020, informed the Office of Local Government (OLG) of a significant deterioration in its budgetary position and the possible use of restricted funds for purposes other than those for which they were restricted. The Administrator issued his final report on 15 April 2021.

Following the tabling of the Administrators final report, on 26 April 2021 the then Minister for Local Government, the Hon. Shelley Hancock MP announced a formal Public Inquiry into CCC and a continuation of the suspension of the Councillors. On this same day, the Minister appointed Roslyn McCulloch as Commissioner to hold a Public Inquiry under section 438U of the NSW Local Government Act 1993 (the Act) into CCC. Public hearings commenced in early October 2021.

On 17 March 2022, the current Minister for Local Government the Hon. Wendy Tuckerman MP tabled the report into the public inquiry into the CCC and took action to terminate all current Councillors, effective immediately.

Commissioner McCulloch's report makes eight recommendations, including that an Administrator be appointed to serve until the CCC election, the date of which will be determined in consultation with the NSW Electoral Commission. Minister Tuckerman said at the time that the Government accepts the Commissioner's remaining recommendations in-principle and stated that "*The community rightly expects that its elected Council officials adhere to the highest standards and this report makes strong recommendations to help improve the Council's performance moving forward.*" The Minister went on to say that "*The Commissioner's report raised concerns about the financial management of CCC and makes practical recommendations to improve accountability.*"

A full copy of the CCC Public Inquiry Report (10 February 2022) is included as **Attachment 3** to this report. In addition, a range of further, previous independent reports relating to the CCC is available for your interest from the CCC web site at this link:

<https://www.centralcoast.nsw.gov.au/council/about-council/public-inquiry>

The Terms of Reference (ToR) for the above-mentioned Public Inquiry were as follows:

To inquire and report to the Minister for Local Government with respect to whether:

1. *In exercising its functions pursuant to sections 21, 22, 23, 23A and 24 of the LG Act, the governing body met its obligations in a manner consistent with sections 8A(1)(b), 8B(a), 8B(c) and 8B(d) of the LG Act, particularly in relation to:*
 - a) *Whether the governing body acted in a manner that maximised the success of gaining efficiencies and financial savings from the merger process,*
 - b) *Whether the governing body disregarded the financial consequences of its decisions, and*
 - c) *Whether the governing body's decisions since 2017 contributed to the financial position which the Council now finds itself in.*
2. *In exercising its functions pursuant to section 223 of the LG Act, the governing body ensured:*
 - a) *As far as possible, that decisions taken by it had regard to the financial sustainability of the council, and*
 - b) *That it kept under review the performance of the council, including that council spending was responsible and sustainable by aligning general revenue and expenses.*
3. *Any other matter that warrants mention, particularly those that may impact on the effective administration of Council's functions and responsibilities or the community's confidence in the Council being able to do so.*

The Commissioner may make recommendations as the Commissioner sees fit having regard to the outcomes of the Inquiry, including whether all civic offices at Central Coast Council should be declared vacant.

According to Commissioner McCulloch's report, the ToR were drafted with particular provisions of the NSW Local Government Act 1993 (the Act) referred to in the ToR. Of relevance to all Councils in NSW and in relation to financial management, Part 8B of the Act reads as follows:

8B Principles of sound financial management

The following principles of sound financial management apply to Councils:

- (a) *Council spending should be responsible and sustainable, aligning general revenue and expenses.*
- (b) *Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.*
- (c) *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.*
- (d) *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.*

The Commissioners Inquiry report details a range of earlier reports on a range of matters that are not all necessarily specific to CCC, but are relevant to the matters relating to CCC. As such, following is a brief synopsis of some of these earlier reports, which have been included here purely to provide more background and greater context to the findings of the CCC Inquiry. In addition to this, further below are extracts from the Commissioners findings and recommendations from the Inquiry, which have some relevance to Woollahra Council.

Previous Reports relating to CCC:

In April 2013, the NSW Treasury Corporation (TCorp) published its report "Financial Sustainability of the New South Wales Local Government Sector". For the purpose of the report, TCorp developed a definition of financial sustainability for local government being:

A local government will be financially sustainable over the long term when it is able to generate sufficient funds to provide the levels of service and infrastructure agreed with its community.

The TCorp report made seven key recommendations for consideration, many of which are considered relevant to all Councils in NSW, with more explanation around each of these recommendations available at **Attachment 4**:

- 1) *At least breakeven operating positions are essential.*
- 2) *Pricing paths are needed for the medium term.*
- 3) *Rate increases must meet underlying costs.*
- 4) *Asset management planning must be prioritised.*
- 5) *Councillor and management capacity must be developed.*
- 6) *Improved use of restricted funds.*
- 7) *Increased use of debt.*

With regard to more specific issues relevant to CCC, following are some extracts from a range of reports commissioned by CCC during 2019 and 2020 (that are referenced in the Commissioners Inquiry report), some of which have findings that are relevant to Woollahra Council:

- In April 2019 the CCC General Manager (GM) engaged PricewaterhouseCoopers (PWC) to carry out a financial strategic review with the aim of developing a long-term financial strategy for the Council. Whilst that report covered many issues, one key point made by the report was that *expenses were the area where Council had greater control to impact on overall financial health.*
- In August 2020, the CCC GM was provided with a report from Grant Thornton Australia Ltd titled Grant Thornton Draft (V2) Phase 2 Report. This report contained a number of observations such as:
 - o Culturally, there lacks significant emphasis on the importance of the financial position and performance of Council. There are too many competing priorities that overshadow the need for a financially sustainable organisation. As a result, Council has reported deficits for the past three years and has severe cash constraints.
 - o Given the past historical operational performance of Council and the lack of unrestricted cash reserves, there needs to be an immediate restructure of the cost base and a shift in culture to ensure Council is financially responsible and sustainable.
- In October 2020 a report was provided to the CCC GM from DMB Consulting Pty Ltd whom had been engaged by the GM to investigate the use of restricted Council funds. The report suggested that the following factors may have contributed to the position:
 - o No minimum liquidity levels.
 - o No effective monitoring or reporting of liquidity.
 - o No effective control to prevent restricted monies from being accessed for the wrong purposes.
 - o No early warning mechanism for deteriorating liquidity or compromise of restricted funds.

- No liquidity contingency plan.
- No contingency funding.
- A large budget deficit in the 2019-20 financial year.
- On 24 February 2021 Clayton Utz published its Legal and Financial Forensic Analysis relating to the CCC's liquidity crisis and the use of restricted funds. As a result of its investigations, Clayton Utz found there were no reasonable grounds to suspect that the crisis or the use of restricted funds was the result of corrupt conduct, but rather it was due to:
 - Lack of control and transparency in the inherited financial system of the former Gosford City Council (GCC).
 - Delays and problems integrating the financial systems of GCC and Wyong Shire Council (WSC) into a single system.
 - A long-standing practice of reallocating funds between the General Fund and restricted funds.
 - Mismanagement of the bank account, general poor financial management and lack of early warning systems.
- On 11 May 2021 the NSW Auditor-General wrote to the Minister for Local Government following completion of the audit of CCC's financial statements for the year ended June 2020 by the Audit Office of NSW. That letter raised matters identified by the Auditor-General as being of significance, including a breach of the Local Government (General) Regulation 2005 (the Regulation) of concern to the Auditor-General, which related to clause 212 of the Regulation. Clause 212 of the Regulation requires the responsible accounting officer to provide a written report to Council each month, setting out details of all monies invested. The Investment Report was not presented within time for November 2019 and February, April, July and September 2020, resulting in a breach of the Regulation.
- Adjunct Professor Graham Sansom published a research paper entitled *"Not so Simple: the origins and implications of Central Coast Council's 'financial calamity'"* on 21 September 2021. Professor Sansom had chaired the Independent Local Government Review Panel (ILGRP) which published its report *Revitalising Local Government* in April 2012. Amongst many observations, Professor Sansom noted that a case can be made that during 2019-20 and in setting its 2020-21 budget CCC was *slow to respond to signs that its financial position was weakening*.
- With regard to Councillor relationships and behaviours, in late 2019 the CCC GM engaged an industrial psychologist firm, Elton Consulting, to try to improve the relationships between the Councillors themselves and between the Councillors and the Executive Leadership Team (ELT). A report was published by Elton Consulting in January 2020 and the findings (in part) are included here:
 - A key issue for Councillors was the lack of respectful and collaborative efforts between Councillors. Greater enforcement of behavioural and procedural expectations between Councillors was suggested, however most Councillors had no confidence that relationships between Councillors could be improved.
 - In regard to relationships, management and confidence most Councillors identified their experience in being part of a Council as largely negative. Some Councillors and ELT members felt disrespected and personally attacked in formal meetings and briefings and were frustrated by politics trumping collaboration, particularly in relation to the focus on wards. Councillors and ELT members identified a distrust amongst Councillors and between some Councillors and staff, which could be damaging to staff wellbeing and to the reputation of the Council. The Councillors felt unsupported by management in relation to Councillor behaviour, primarily in the chamber.

- The TCorp report in 2013 identified what was needed for a sustainable Council – good management and a good Council working together with their community. According to the Elton Consulting report, the governing body of CCC was not a Council which worked together, particularly later in its term. The Council meetings were unreasonably long and characterised by lengthy and often irrelevant debate, interruptions and points of order. The behaviour of some Councillors was very challenging for those chairing the meetings and often went unchecked. The absence of consensus and the constant bickering may well have distracted the governing body from its role in managing the council finances and budgets.

Commissioner's Findings on the Terms of Reference:

Following are some extracts from the various findings by the Commissioner against the specified ToR for the Inquiry that are considered to have some relevance to Woollahra Council. It should be noted that the following are selected extracts only, with full details of the findings available for review on pages 82 – 87 of Attachment 3 to this report, being the Report of Public Inquiry into CCC. Please note that the following extracts include references at the beginning of each point that relate to the paragraph number as they appear in Attachment 3 to this report:

Terms of Reference 1)

Financial Consequences of the Decisions of the Governing Body:

- 332. The financial crisis which befell CCC in October 2020 was not the result of the governing body being ignorant of the financial consequences of its decisions. Most reports to CCC included a paragraph on the financial impact of the subject matter of the report. Where that impact was expected to be of some significance an estimate of the cost or impact would be provided with advice about funding (for example, via budget adjustments, grants etc).
- 334. The repeated deficit budgets and outcomes were a significant factor in the deterioration of the financial position of CCC. The Councillors could have observed that actual results year on year were much worse than budgeted for. Instead of reigning in subsequent budgets, the deficits of subsequent budgets were increased. The absence of any rational reaction to the IPART determination in May 2019 permitted the deficit of that budget to balloon. The promised budget adjustments to take account of the decreased revenue from the determination never happened. No adequate explanation was provided to the Inquiry as to why the 2019-20 budget was not reviewed and expenditure reduced immediately upon the release of the IPART determination.
- 335. It must be noted that the Council finance staff actively discouraged the Councillors from reviewing the budget in the presentation to the Councillor briefing on 3 June 2019 and the report to Council on 11 June 2019, even though there was still time to make adjustments. Nevertheless, it was a decision for the Councillors, not the staff, to adopt the budget with no significant changes.
- 337. In the view of the Commissioner, the budget decisions of the elected body did contribute, and in a significant way, to the financial crisis of CCC in 2020.

Terms of Reference 2)

Review of Financial Performance:

- 341. The governing body had the means at its disposal to keep the financial performance of the Council under review, but it failed to do so adequately. The monthly investment reports were adopted en masse with other information reports, without comment, questions, or debate. The quarterly budget reviews were not used as opportunities to correct adverse trends.

Terms of Reference 3)

- 348. Some submitters asserted that cost shifting to local government was a factor in the downfall of CCC. "Cost shifting" in this context means the transfer of responsibility for payment of certain costs or the removal of some revenue sources from local government. Some of the examples provided in the submissions included changes to waste services levies, emergency services levies and developer contributions within Gosford CBD. Whilst those changes impacted on CCC's income or expenditure, they were known quantities which were able to be and were budgeted for.
- 349. The knowledge and ability of the Councillors to perform their functions was also a focus of several submissions. The Councillors were provided with the opportunity to participate in an appropriate induction into their roles, though some Councillors chose to participate in very few of the briefings on offer. Once the induction briefings were complete the Councillors were given virtually free rein to choose professional development courses, or not, as they wished. This resulted in very few Councillors attending professional development courses which provided any substantial benefit to the performance of their roles, and particularly so in relation to financial management.
- 352. The Commissioner agreed that some staff at CCC failed to adequately perform their duties, resulting in a situation where there was insufficient strategic financial direction and information provided to Councillors. Those staff members who were most responsible have departed CCC. CCC now has a highly competent and experienced GM and CFO and appears to be on track to recover from its financial woes, albeit at great cost to the community of the Central Coast.

Commissioner's Recommendations:

Having regard to the findings, the Commissioner recommended that:

- 1) All civic offices at CCC be declared vacant, effective immediately.
- 2) An Administrator be appointed until the election for CCC scheduled for 2022.
- 3) The Administrator ensure the completion of the Business Recovery Plan as adopted and amended by CCC since October 2020.
- 4) Prior to the next ordinary Council election involving CCC, information sessions for prospective candidates be conducted to provide information about the obligations and burdens on future councillors.
- 5) Within three months of the next ordinary Council election involving CCC, mandatory training be provided to each Councillor, including training relating to financial management specific to local government.
- 6) Consideration be given to introducing as a mandatory requirement for all Councillors, the completion of an accredited course for company directors, or a course of equivalent rigour developed specifically for local government Councillors, within the first twelve months of their election, with refresher courses for Councillors who have previously completed such courses.
- 7) The Local Government Act 1993 be amended to eliminate any asserted ambiguity in section 409(3) of that Act to make it clear that money received as a result of levying rate or charges under any other Act may not be used otherwise than for the purpose for which the rate or charge was levied.
- 8) Alternatively, consideration be given to removing CCC as a water authority under the Water Management Act 2000 to enable it to administer its water supply and sewerage services in the same way as other NSW Councils.

Please note that of the above-mentioned recommendations, numbers 1), 2), 3) & 8) do not have direct relevance to Woollahra Council, as they are specific to CCC. However, recommendations 4), 5), 6) and 7) do have some relevance to Woollahra Council. At **Attachment 5** is a table titled *Central Coast Council Findings, Recommendations and Other Matters Relevant to Woollahra Council – May 2022*, which details many of the issues included throughout this report and how they may relate to Woollahra Council. **Attachment 5** also includes a list of proposed actions that Council may wish to take in relation to the information provided, noting that these actions are reflected in the recommendations included in this report..

Options:

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

Community Engagement and / or Internal Consultation:

There has been no community engagement in relation to this report. Internal consultation has taken place between the General Manager, the Director Corporate Performance, Chief Financial Officer and the Manager Governance & Council Support.

Policy Implications:

There are no direct policy implications as a result of this report in relation to existing policies of Council.

Financial Implications:

There are no direct financial implications as a result of this report, noting that this entire report does deal with the financial situation that impacted on CCC and the lessons learnt. This report has highlighted how critical ongoing prudent financial management is for the success of Council and the community.

Resourcing Implications:

There are no specific resourcing implications as a result of this report other than the ongoing financial management of the organisation.






Conclusion:

As noted earlier in this report, at the 28 March 2022 Council meeting, following the tabling of a Notice of Motion (NOM), Council resolved that the General Manager table a report on the findings from the recent Inquiry into CCC, highlighting any areas of relevance to Woollahra Council. This report provides a high-level summary of the key findings and recommendations from the report and any potential implications for Woollahra Council.

These potential implications for Woollahra Council have been detailed throughout this report and in Attachment 5, with the three key proposed actions relevant to Woollahra Council being included in the recommendations to this report.

The key lessons from the situation at CCC are that in line with Part 8B of the Act, sound financial management is key to the success of a Council, where spending is responsible and sustainable and where that spending aligns revenue and expenses. This is very much in line with the work Woollahra Council has been undertaking during 2021-2022 with its budget repair initiatives that will continue into 2022-2023 and beyond, in an effort to secure a financially sustainable future for Council, which will in turn benefit the community that we serve.

Attachments

1. Council Report - Response to Notice of Motion - Financials (Central Coast Council) - 22 February 2021 [↓](#) 
2. Attachment to Report 21 26860 (Central Coast Council Administrators Interim Reports Overview) [↓](#) 
3. Report of Public Inquiry into Central Coast Council [↓](#) 
4. TCorp Recommendations - 2013 [↓](#) 
5. Central Coast Council Findings Recommendations and Other Matters Relevant to Woollahra Council - May 2022 [↓](#) 

Woollahra Municipal Council
Ordinary Council Meeting

22 February 2021

Item No: 12.3
Subject: **RESPONSE TO NOTICE OF MOTION - FINANCIALS**
Author: Sue Meekin, Chief Financial Officer
Approvers: Don Johnston, Director Corporate Services
Craig Swift-McNair, General Manager
File No: 21/26860
Reason for Report: To provide further information in response to the Council resolution from 14 December 2020 regarding Notice of Motion – Financials.

Recommendation:

THAT Council note and receive the report.

Background:

At its meeting on 14 December 2020, Council resolved:

- A. THAT Council notes the:
- Central Coast Council Interim Administration Report dated 3 December 2020¹, and
 - Woollahra Council “Budget Review for the Quarter Ended 30 September 2020” Report presented to the Finance, Community & Services Committee on 9 November 2020².
- B. THAT Council resolves that:
- Council staff prepare a report outlining mechanisms in place or steps to be taken to address the following areas identified in the Central Coast Council Interim Administrator’s Report dated 3 December 2020³:
- Woollahra Council budgeting and financial reporting systems which ensure that not only Council is aware of relevant financial condition information, but that the community also have a transparent view of Council’s financial position, and
 - the process and details of an annual CEO Performance Review including the criteria for financial performance, and
 - mechanisms by which Council has the power to get whatever information it requests with reference to process and the relevant provisions of the Local Government Act, and
 - any other mechanisms that would ensure that the community is kept informed in plain English terms of information relevant to the financial circumstances of Woollahra Council.

In response to this Notice of Motion from Councillor Luise Elsing, this report provides further information on the mechanisms in place in relation to the areas identified in the Interim Administrator’s Report.

Central Coast Council Interim Administration Report:

In relation to Part A of the resolution, an overview of what happened at Central Coast Council including the key findings from the Administrator’s report is attached at Annexure 1. Also attached are copies of the Administrator’s 30 Day Interim Report at Annexure 2 and the Administrator’s 3 Month Progress Report at Annexure 3.

¹ <https://www.centralcoast.nsw.gov.au/council/news/media-releases/office-administrator-media-release-administrator-delivers-damning-5>

² https://www.woollahra.nsw.gov.au/_data/assets/pdf_file/0009/226269/FC-and-S-Agenda-9-Nov-2020.pdf

³ <https://www.centralcoast.nsw.gov.au/council/news/media-releases/office-administrator-media-release-administrator-delivers-damning-5>

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Mechanisms in place or steps to be taken to address the following areas identified in the Central Coast Council Interim Administrators Report:

In relation to Part B of the resolution the following outlines the mechanisms currently in place in relation to the areas noted.

Woollahra Council Budgeting & Financial Reporting Systems:

Council has a range of comprehensive budget management processes, reports and deliverables designed to ensure the integrity and strength of the budgeting system and at the same time deliver on our objective to be transparent and accountable to our community. The following mechanisms are in place to ensure that Council is aware of relevant financial condition information and the community have a transparent view of Council's financial position:

Development and Approval of Council's Annual Budget

The annual development of Council's budget forms part of Council's overall planning process and is undertaken by each department as they are best placed to know their business and understand the factors which should be taken into consideration. Managers of each department are responsible for updating their planning documents including the Delivery Program/Operational Plan (DPOP) and at the same time enter their detailed budgets into Council's Finance System – Technology One Financials. They are guided by a set of parameters and guidelines developed by senior management.

The budget is reviewed in detail by the Executive Leadership Team (ELT) and the Finance team, adjustments made as required and then approved by Council through the following processes:

1. Confidential Councillor Briefings
To date four briefings have been held over a period of five months providing background and detail in relation to Council's Draft 2021/22 budget.
2. Draft Budget / Delivery Program & Operational Plan (DPOP)
The draft budget and DPOP is approved by Council to be placed on public exhibition for the required period. This process enables Council to consider and review the proposed operating and capital budgets as well as Council's draft Rating Structure and Draft Fees & Charges.

The draft budget is generally presented to the Finance, Community & Services Committee usually in March/April seeking their recommendation to Council to place on public exhibition for the required period. If the recommendation is approved the draft budget is subsequently considered and approved by Council for public exhibition.

The Committee / Council report that details the budget includes:

Operational Budget:

- a) Council's draft Operating Statement detailing the anticipated Surplus/Deficit including and excluding Capital Grants & Contributions
- b) Detailed breakdown by each category of income and expense showing the \$ and % movements from both the prior year budget and the most recent forecast and includes explanations of these movements.
- c) Detailed breakdown of proposed expansionary items i.e increases in service levels
- d) Full breakdown of budgets by Division and Cost Centre

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Capital Budget:

- a) Council's draft Capital Budget – summary and detailed by project
- b) Proposed Capital Budget Funding – summary and detailed by project

Balance Sheet:

- a) Draft Balance Sheet
- b) Draft Working Funds Position

Reserves:

- a) Table showing movements to and from Reserves including the anticipated closing balances
- b) Details of the proposed movements to and from each Reserve within Council's Restricted Cash

3. Final Budget

The final budget is approved by Council. This process enables Council to consider and review the final operating and capital budgets as well as Council's final Rating Structure and Fees & Charges.

It is presented to either the Finance, Community & Services Committee (for recommendation to Council) or to full Council, usually in June, as part of Council's Delivery Program & Operational Plan. This report includes:

- a) Details of and responses to any submissions received during the public exhibition period.
- b) Full details of any changes from the draft budget.

Ongoing Monitoring of Council's Budget

1. Monthly Financial Report

In accordance with Clause 212 of the Local Government (General) Regulation 2005 Council's Responsible Accounting Officer (Council's Chief Financial Officer) provides Council with a monthly report (the Monthly Financial Report) setting out details of all money that the Council has invested. This report is made up to the last day of the month immediately preceding the meeting it is presented to.

The Monthly Financial Report is considered by the Finance, Community & Services Committee.

The Monthly Financial Report includes:

- a) Investment Transactions for the month.
- b) Restricted Cash (Reserves).
- c) Summary of Receipts, Payments and Bank Balance.
- d) Details of Investment Portfolio and market valuations.
- e) Statement of Investment Policy Compliance.
- f) Charts:
 - a. Weighted Average Maturity and Weighted Average Returns.
 - b. Weighted Average Returns v 90 day AusBond Bank Bill Index.
 - c. Actual Interest Earned v Original Budget & Revised Forecast.
- g) Movements in Book Value of Investments
- h) Quarterly Update on Arrears of Rents and Fees

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2. Quarterly Budget Review Report

The Quarterly Budget Review Report is presented to the Finance, Community & Services Committee, which makes a recommendation to Council and is then considered by Council. The Quarterly Budget Review is the mechanism whereby Council considers and approves changes to Council's budget for the year.

In accordance with Clause 203 of the Local Government (General) Regulation 2005 Council's Responsible Accounting Officer prepares and submits to Council a budget review statement that shows, by reference to the estimates of income and expenditure set out in the Operational Plan (Council's original budget) that the Council has adopted for the relevant year, a revised estimate of the income and expenditure for that year. A budget review statement must include or be accompanied by:

- a) a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimates of income and expenditure, and;
- b) if that position is unsatisfactory, recommendations for remedial action

This report is detailed and includes:

- a) Operational Budget:
 - a. Council's Operating Statement detailing the anticipated Surplus/Deficit including and excluding Capital Grants & Contributions
 - b. Summary and detailed listing of recommended changes to Council's budget
 - c. Detailed commentary on notable recommended changes
- b) Capital Budget:
 - a. Council's Capital Budget Position – actual expenditure
 - b. Summary and detailed listing of recommended changes to Council's budget
 - c. Detailed commentary on notable recommended changes
- c) Working Funds Position
 - a. Impact of the recommended changes on Council's working funds position as forecast to year end
- d) Cash & Investment Position and Reserves Listing:
 - a. Impact of the recommended changes on Council's Cash Position showing full details of Externally Restricted Cash, Internally Restricted Cash and Unrestricted Cash.
- e) Balance Sheet:
 - a. Impact of the recommended changes on Councils' assets and liabilities as forecast to year end
- f) Other:
 - a. Contracts of \$50,000 or more that were entered into during the quarter under review but have not been fully performed or completed (note - Contracts for employment and contracts entered into from Council's "preferred contracts list" are not included).
 - b. Consultancy and legal expenses that shows totals of year to date budget and year to date expenditure

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End of Financial Year

Council's draft annual financial statements are presented to the Finance, Community & Services Committee which makes a recommendation to Council and is then considered by Council. This report includes Council's financial position at 30 June of each year and also provides an assessment of the final results against budget and movements from the prior financial year.

Consideration of the annual financial statements and the accompanying report provides Council the opportunity to:

- a) Review Council's results for the year compared to budget
- b) Review Council's overall financial position
- c) Review the Independent Auditors Report

The annual financial statements are independently audited under the control of the NSW Audit Office and Council has consistently received unqualified audit opinions.

In addition to the financial statements, a detailed report is presented to Council and includes:

- a) An overview of Council's overall financial position
- b) Council's working funds position
- c) Council's financial ratios including comparison to benchmark and commentary as appropriate
- d) Operating result comparison with the prior financial year – detailed by account category with commentary on major variances
- e) Operating result comparison with the last forecast as presented to Council in the Quarterly Budget Review – detailed by account category with commentary on major variances
- f) Detailed analysis and commentary on Council's balance sheet and movements from the prior year
- g) Details of Restricted Cash Balances
- h) An overview of Council's Investment portfolio valuation and performance against benchmarks
- i) Details of asset valuations including Investment Properties
- j) Details on abnormal or unusual items e.g. changes in accounting standards

Transparency to the Community of Council's Financial Position

The following mechanisms/steps are in place to ensure the community have a transparent view of Council's position:

1. Committee and Council papers are available to the public online 4 days prior to the meeting
2. Members of the community can:
 - a) Attend meetings, watch meetings live on line or post the meeting listen to recordings of meetings
 - b) Pre-register to address to address a Committee at a Committee meeting
 - c) Make a written submission as late correspondence on an agenda item being considered at a Council or Committee Meeting
3. The draft budget, as part of Council's draft Delivery Program and Operational Plan for the year, is placed on public exhibition for a minimum of 28 days. The exhibition of the

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documents is promoted using Woollahra Your Say website and our various social media platforms inviting submissions. The public can access the documents:

- a) Online on Council's website or through the Your Say link
- b) Physical copies on display of the documents in our Libraries and Customer Service Centre

4. Council's annual financial statements are placed on public exhibition for 28 days. The exhibition of the documents is advertised in the Wentworth Courier and promoted using Woollahra Your Say website and our various social media platforms inviting submissions. The public can access the documents:
- a) Online on Council's website or through the Your Say link
 - b) Physical copy on display in our Customer Service Centre

CEO Annual Performance Review

In July 2011, the then Division of Local Government (now the Office of Local Government (OLG)) issued Guidelines for the Appointment and Oversight of General Managers (the Guidelines). In addition to this, the Standard Contract of Employment for General Managers of Local Councils requires that within three months of the commencement a General Manager will sign a performance agreement that sets out agreed performance criteria.

At the 24 August 2020 Council meeting, Council resolved the following:

123/20 (Robertson/Zeltzer)

Resolved:

THAT Council:

- A. *Determine the composition of the General Manager's Performance Review Panel for the 2020-2021 period to consist of the Mayor, Deputy Mayor and the 3 Councillors who made up the General Manager Recruitment Committee, being Councillor Matthew Robertson, Councillor Claudia Cullen and Councillor Toni Zeltzer.*
- B. *Delegate to the General Manager's Performance Review Panel:*
 - i. *The process of performance management, including discussions about performance and performance reviews for the 2020-2021 period.*
 - ii. *The reporting to Council of findings and recommendations of reviews for the 2020- 2021 period and any actions that should be taken, noting that the report would be considered in closed session.*
 - iii. *The determination of any new performance agreement for the period 2021-2022*

A copy of the report from 24 August 2020 is included as Annexure 4 to this report.

In the months since the above-mentioned Council resolution, the Mayor, General Manager and the General Managers Performance Review Panel (GMPRP) have worked on developing the General Managers performance agreement to 30 June 2021.

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As per the OLG Guidelines, the General Manager's performance agreement should be presented to the governing body of Council in a closed meeting, the reason for this being that the performance agreement is a confidential document. The recently finalised General Manager's performance agreement for the period to 30 June 2021 will be tabled at the March 2021 Council meeting for the information of Councillors.

The General Manager's performance agreement does contain a criteria around improving the financial position of Council by aiming to improve the Operating Performance ratio, plus the performance agreement also includes the full range of financial ratios and benchmarks that Councils are measured on. This is in addition to a range of leadership, delivery and community driven performance criteria.

At the end of performance agreement reporting period (in this case being 30 June 2021), a full review of the General Manager's performance will take place with the GMPRP as required under the OLG Guidelines. This annual review will then be reported to Council in a closed meeting as soon as practicable following the annual review. It should be noted that the development of a General Manager performance agreement for 2021-2022 will commence in the coming months with the GMPRP, as per the Council resolution from 24 August 2020.

Councillor's Right to Access Council Information

The Local Government Act requires that councillors as a group direct and control the Council's affairs, allocate resources, determine policy, and monitor its performance. As individuals, councillors also communicate Council policy and decisions to the community, exercise community leadership and represent the views of residents and ratepayers to Council.

Councillors have a right to access Council information that is reasonably necessary for exercising the functions of civic office, including those roles outlined above which extend beyond decision making at formal meetings. However, this is counterbalanced by the obligation to use this information appropriately and to maintain the integrity and security of confidential information.

Councillors' rights to access information includes the statutory provisions of Council's Code of Conduct, the Government Information (Public Access) Act and the policy provisions contained within the Councillors' Access to Information and their Interaction with Staff Policy.

Specifically, the Code of Conduct references the following, which may be of interest:

Councillor and administrator access to information

8.1 The general manager is responsible for ensuring that councillors and administrators can access information necessary for the performance of their official functions. The general manager and public officer are also responsible for ensuring that members of the public can access publicly available council information under the Government Information (Public Access) Act 2009 (the GIPA Act).

8.2 The general manager must provide councillors and administrators with the information necessary to effectively discharge their official functions.

8.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to exercise their official functions and in accordance with council procedures.

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8.4 Members of staff of council who provide any information to a particular councillor in the performance of their official functions must also make it available to any other councillor who requests it and in accordance with council procedures.

8.5 Councillors and administrators who have a private interest only in council information have the same rights of access as any member of the public.

8.6 Despite clause 8.4, councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public, or the council has determined to make the information available under the GIPA Act.

In summary, Councillors' have access to all information necessary for them to exercise their statutory role as a member of the governing body of the Council. Any request to access information not readily available would need be made by a Councillor to the General Manager.

Keeping the Community Informed – Other Mechanisms.

Council staff are currently looking at opportunities to provide meaningful, plain English financial information online for the benefit of the community.

Initially Council's capital works program with progress updates and financial information for each project across the LGA will be made available through an interactive map on Council's website.

It is envisaged that the information available will be expanded and made available through a more sophisticated online portal.

In late April 2021 we plan to publish Council's Draft 2021/22 Budget through the online portal to provide greater access to the community whilst it is on public exhibition for the 28 day period. Council's Final Budget will follow once it is adopted by Council in June.

Council Officers are also planning to publish Council's other financial reports including the Quarterly Budget Review Report through the same online portal. Currently these reports are attached to Finance Community & Services Committee Agendas and are generally difficult for the community to locate on Council's web site.

Conclusion:

Council has a number of mechanisms currently in place in relation to the areas outlined within the Central Coast Council Administrator's 30 Day Interim Report and noted in the Notice of Motion. These include:

1. Council has a range of comprehensive budget management processes, reports and deliverables designed to ensure the integrity and strength of the budgeting system and at the same time deliver on our objective to be transparent and accountable to our community.
2. Council has in place an annual performance agreement for the General Manager.

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3. Councillors' have access to all information necessary for them to exercise their statutory role as a member of the governing body of the Council, or if Councillors feel they require further information, a request to access information can be made to the General Manager.
4. Council staff are currently looking at opportunities to provide meaningful, plain English financial information online to the community. Initially Council's capital works program with progress updates and financial information for each project across the LGA will be made available through an interactive map on Council's website. It is envisaged that the information available would be expanded and made available through a more sophisticated online portal in the near future.

Annexures

1. Central Council Administrator's Interim Reports Overview
2. Central Coast Council Administrator's 30 Day Interim Report
3. Central Coast Council Administrator's 3 Month Progress Report
4. Council Report 24 August 2020 General Managers Performance Review and Performance Agreement

Central Coast Council – Administrator’s Interim 30 Day Report & 3 Month Progress Report

Background

On 30 October 2020, the Minister for Local Government, Shelley Hancock appointed an Administrator for Central Coast Council for a period of three months following the suspension of the Councillors. This followed council moving from a \$65.4m surplus financial position at the time of amalgamation in 2016/17, to a substantial financial loss in each of the three years since, and to a position where it needed a State Government ‘bail-out’ to pay its staff and creditors.

On 2 December 2020 the Administrator released his 30 day interim report and subsequently issued a 3 month interim report on 3 February 2021. The following summarises the three main issues outlined in the Administrator’s reports.

By way of context there are two key differences between Central Coast Council (CCC) and Woollahra Council (WC):

1. Provision of Water and Sewerage

Many non-metropolitan Councils provide services that are not provided by metropolitan councils. In the case of CCC when compared to WC the most significant of these services are water and sewerage.

These services are large in financial terms with CCC receiving annual charges & fees in 2018/19 of \$89.1m from Water services and \$87.7m from Sewerage services. These funds are restricted in their use and can only be used to provide those specific services. They are not allowed to be used for the provision of any of Council’s other services like roads, beaches, parks, libraries and child care.

The pricing for CCC’s water and sewerage services is determined by IPART and in 2019/20 there was a \$39m loss of revenue (compared to 2018/19) from the 2019 IPART pricing determination for water, sewerage, stormwater drainage and trade waste services. This was a significant loss of income.

In contrast, Woollahra Council does not provide these services.

2. Amalgamation

Central Coast Council was formed in 2016/17 through the amalgamation of Gosford and Wyong Councils. The Administrator noted that whilst the amalgamation was not the major factor it was true that it had contributed to the issues.

Three Key Issues Identified by the Administrator

The Failure to Manage Council’s Budget from the Time of Amalgamation

In the five years since Central Coast Council was formed, they accumulated net financial losses (including projected for 2021) of \$165m. They posted an operating surplus in the first year and operating losses over the subsequent four years. These losses were impacted by:

- service expansions that they could not afford

- increases in Employee Costs over the 4 years to 30/6/20 (Excluding Award Increase) of 33.2%
- incurred substantial costs of \$50m in upgrading IT systems and infrastructure following the amalgamation with \$8m per annum ongoing
- increased costs and lost revenue brought about by the bushfires, floods and COVID-19, estimated at \$10.5m.

At the same time their Capital Works Program increased significantly (the 2019/20 capital works program of \$242m was \$69m more than the average capital spend over the previous two financial years)

They also experienced a \$39m loss of revenue (compared to 2018/19) from the 2019 IPART pricing determination for water, sewerage, stormwater drainage and trade waste services.

In the 30 Day Interim Report the Administrator noted that

“Managing the Council’s financial position is the number one responsibility of the CEO.

Council, in their role as the Governing Body, shares that responsibility.”

The Administrator noted that the performance of the CEO in managing Council’s financial position was unsatisfactory and that although some Councillors indicated they were denied the information they needed to fulfil their responsibilities, Council has the power to obtain whatever information it requested.

The Misuse of Council’s Restricted Reserves

In the 30 Day Interim Report the Administrator noted the reporting of Council’s restricted and unrestricted cash was incorrect.

The level of Restricted Cash (particularly in relation to Water and Sewer) was significantly understated and as a result Unrestricted Cash was overstated. Specifically, in 2018/19 both the Water Fund Externally Restricted Reserves and the Sewer Fund Restricted Reserves were both understated by a total of \$129.5m. This gave the impression that the \$129.5m was Unrestricted Cash and therefore available to fund operating expenses. The Administrator noted “that since 2019/20, \$220m+ of Restricted Reserves have been either unlawfully used or used without the approval of Council.”

These funds need to be repaid back to the Externally Restricted Reserves and are effectively borrowings that need to be repaid.

Amalgamation Savings

At the time of preparing the 30 Day Interim Report, the Administrator indicated that there was “no evidence that the new Council made any serious attempts to identify the savings available from merging two large organisations.”

High Level Points on Central Coast Council Issues

	Central Coast	Woollahra	Contributing Factors
Organisation Differences			
Provision of Water and Sewerage services	Yes	No	<ul style="list-style-type: none">Water & Sewerage are separate funds and restricted in their useIPART decision to reduce water rates led to a reduction of \$39m in revenue.
Amalgamation	Yes	No	<ul style="list-style-type: none">The Administrator stated that amalgamation ‘is certainly not the major factor but it is true that it has contributed.’
Misuse of Restricted Reserves			
Adequate Cash reporting	No	Yes	<ul style="list-style-type: none">Administrator - financial reports did not include sufficient information regarding the cash position.Woollahra - provides detailed reporting on cash (restricted and unrestricted) in the Monthly Finance Report, Quarterly Budget Reviews and annual Budget Report.
Unlawful use or use without the approval of Council of Restricted Cash	\$200m+	Nil	<ul style="list-style-type: none">Administrator - a program of expanded capital works and expanded services was funded from Restricted Reserves, which was either unlawful, or done without the approval of the elected bodyWater & Sewerage Restricted Funds were incorrectly used to fund other areasWoollahra – Use of Restricted funds is approved by Council only. The General Manager does not have delegation to spend restricted funds without a resolution of Council.
Lack of Control Over Costs			
<u>Employee Costs</u>			
% Increase 4 years to 30/6/20 Excluding Award Increase	33.2%	6.45%	<ul style="list-style-type: none">FTE increase - Central Coast Council 13% vs Woollahra 7% (compared to the budgeted increase of 8.2%)\$25.3m due to an industrial dispute at former Gosford and subsequent harmonisation costs\$12.7m in termination payments and associated costs such as annual and long service leave
<u>IT Systems & Infrastructure</u>			
Upgrade - Capital	\$50m		<ul style="list-style-type: none">Substantial costs in upgrading IT systems and infrastructure following the amalgamation
Ongoing Costs - Operational	\$8m	\$1.6m	
Excessive Capital Works Program			
Large increase in Capital Works Program that they couldn’t afford	Yes	No	<ul style="list-style-type: none">Administrator:<ul style="list-style-type: none">2019/20 \$242m capital works program - \$69m more than the average capital spend over the previous two financial yearsIncrease funded by unlawful/ unapproved use of Water & Sewerage Restricted FundsWoollahra – 2019/20 \$15.7m - \$3.8m reduction from the average of the previous 2 years with appropriate and approved funding, as detailed in the annual budget adopted by Council.

CENTRAL COAST COUNCIL
PUBLIC INQUIRY
REPORT

10 February 2022
Roslyn McCulloch

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1. INTRODUCTION AND TERMS OF REFERENCE

1. On 30 October 2020 the then Minister for Local Government, the Hon Shelley Hancock MP, suspended the councillors of Central Coast Council (CCC) and appointed an Administrator, Mr Dick Persson. At the time the Council was suspended by the Minister, there were thirteen elected councillors, two having resigned a short time prior. The decision to suspend the council was taken after CCC had, on 6 October 2020, informed the Office of Local Government (OLG) of a significant deterioration in its budgetary position and the possible use of restricted funds for purposes other than those for which they were restricted. The Administrator issued his final report on 15 April 2021. On 26 April 2021, the Minister announced a formal Public Inquiry into CCC and a continuation of the suspension of the councillors. The Minister appointed Mr Rik Hart as Administrator of the Council.

2. The terms of reference for this Inquiry are:

To inquire and report to the Minister for Local Government with respect to whether:

1. *In exercising its functions pursuant to sections 21, 22, 23, 23A and 24 of the LG Act, the governing body met its obligations in a manner consistent with sections 8A(1)(b), 8B(a), 8B(c) and 8B(d) of the LG Act, particularly in relation to:*
 - a. *Whether the governing body acted in a manner that maximised the success of gaining efficiencies and financial savings from the merger process,*
 - b. *Whether the governing body disregarded the financial consequences of its decisions, and*
 - c. *Whether the governing body's decisions since 2017 contributed to the financial position which the Council now finds itself in.*
2. *In exercising its functions pursuant to section 223 of the LG Act, the governing body ensured:*
 - a. *As far as possible, that decisions taken by it had regard to the financial sustainability of the council, and*
 - b. *That it kept under review the performance of the council, including that council spending was responsible and sustainable by aligning general revenue and expenses.*
3. *Any other matter that warrants mention, particularly those that may impact on the effective administration of Council's functions and responsibilities or the community's confidence in the Council being able to do so.*

The Commissioner may make recommendations as the Commissioner sees fit having regard to the outcomes of the Inquiry, including whether all civic offices at Central Coast Council should be declared vacant.

3. To aid an understanding of the Terms of Reference the particular provisions of the *Local Government Act 1993* (LG Act) referred to in the Terms of Reference are set out below.

Chapter 3 Principles for local government

8 Object of principles

The object of the principles for councils set out in this Chapter is to provide guidance to enable councils to carry out their functions in a way that facilitates local communities that are strong, healthy and prosperous.

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 provide strong and effective representation, leadership, planning and decision-making.
 - (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
 - (c) 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.
 - (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
 - (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
 - (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
 - (g) Councils should work with others to secure appropriate services for local community needs.
 - (h) Councils should act fairly, ethically and without bias in the interests of the local community.
 - (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.
- (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.
- (3) **Community participation** Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

8B Principles of sound financial management

The following principles of sound financial management apply to councils—

- (a) Council spending should be responsible and sustainable, aligning general revenue and expenses.
- (b) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- (c) 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.
- (d) 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.

8C Integrated planning and reporting principles that apply to councils

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by councils—

- (a) Councils should identify and prioritise key local community needs and aspirations and consider regional priorities.
- (b) Councils should identify strategic goals to meet those needs and aspirations.
- (c) Councils should develop activities, and prioritise actions, to work towards the strategic goals.
- (d) Councils should ensure that the strategic goals and activities to work towards them may be achieved within council resources.

- (e) Councils should regularly review and evaluate progress towards achieving strategic goals.
- (f) Councils should maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals.
- (g) Councils should collaborate with others to maximise achievement of strategic goals.
- (h) Councils should manage risks to the local community or area or to the council effectively and proactively.
- (i) Councils should make appropriate evidence-based adaptations to meet changing needs and circumstances.

.....

21 Functions under this Act

A council has the functions conferred or imposed on it by or under this Act.

22 Other functions

A council has the functions conferred or imposed on it by or under any other Act or law.

23 Supplementary, incidental and consequential functions

A council may do all such things as are supplemental or incidental to, or consequential on, the exercise of its functions.

23A Departmental Chief Executive's guidelines

- (1) For the purposes of this Act, the Departmental Chief Executive may from time to time prepare, adopt or vary guidelines relating to the exercise by a council of any of its functions.
- (2) The Departmental Chief Executive may only prepare, adopt or vary guidelines relating to the exercise by a council of functions conferred or imposed on the council by or under any Act or law that is not administered by or the responsibility of the Department of Local Government if the Departmental Chief Executive has first obtained the concurrence of the Minister administering or responsible for the administration of the other Act or law.
- (3) A council must take any relevant guidelines issued under this section into consideration before exercising any of its functions.
- (4) The guidelines for the time being in force are to be made available to councils on request and, on payment of such fee (if any) as the Departmental Chief Executive may determine, to any interested person.

24 Provision of goods, services and facilities and carrying out of activities

A council may provide goods, services and facilities, and carry out activities, appropriate to the current and future needs within its local community and of the wider public, subject to this Act, the regulations and any other law.

.....

222 Who comprise the governing body?

The elected representatives, called "councillors", comprise the **governing** body of the council.

223 Role of governing body

- (1) The role of the governing body is as follows—
- (a) to direct and control the affairs of the council in accordance with this Act,
 - (b) to provide effective civic leadership to the local community,
 - (c) to ensure as far as possible the financial sustainability of the council,
 - (d) to ensure as far as possible that the council acts in accordance with the principles set out in Chapter 3 and the plans, programs, strategies and policies of the council,
 - (e) to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council,
 - (f) to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) of the council and for the benefit of the local area,
 - (g) to keep under review the performance of the council, including service delivery,
 - (h) to make decisions necessary for the proper exercise of the council's regulatory functions,
 - (i) to determine the process for appointment of the general manager by the council and to monitor the general manager's performance,
 - (j) to determine the senior staff positions within the organisation structure of the council,
 - (k) to consult regularly with community organisations and other key stakeholders and keep them informed of the council's decisions and activities,
 - (l) to be responsible for ensuring that the council acts honestly, efficiently and appropriately.
- (2) The governing body is to consult with the general manager in directing and controlling the affairs of the council.

Structure of the Report

4. It is not possible to properly understand the events at CCC in 2020 without putting those events into their historical context.
5. Accordingly, this Report will outline the significant events and circumstances leading up to the suspension of the councillors. To the extent possible, those events and circumstances will be considered in a roughly chronological sequence, concerning the following:

2014 NSW Treasury report in council financial sustainability

Independent Local Government Review Panel (ILGRP) report
"Revitalising Local Government"

Government response

2015 Councils "Fit for the Future" proposals

Wyong Shire Council (WSC) and Gosford City Council (GCC) vote to merge

2016 WSC/GCC merger proposal

Delegate's report

Boundaries Commission report

Merger proclamation and administration

2017 Election of the governing body

6. In an effort to be succinct, a number of acronyms are used in this report. For those less familiar with those acronyms, a glossary of them is an appendix to this report. Throughout the report reference is made to the role of General Manager (GM). That role at CCC was given the title Chief Executive Officer (CEO) and the titles are used interchangeably. For consistency with the LG Act this report will use the term GM. For ease of reference all councillors of CCC, whether currently suspended or having previously resigned, will be referred to as councillors in this report.
7. Public notice of the Inquiry was published in Central Coast Community News on 21 May 2021, the Coast Community Chronicle on 26 May 2021 and the Pelican Post on 3 June 2021. The notice included the terms of reference and invited submissions relevant to the terms of reference. The notice and an information paper were uploaded to the websites of the Inquiry and CCC. Notice of the public hearings of the Inquiry was advertised in Central Coast Community News, the Coast Community Chronicle and the Pelican Post and uploaded to the websites of the Inquiry and CCC.
8. During the Inquiry, extensive documentation was obtained from CCC and some further documentation from OLG, submissions were received from most of the witnesses summonsed to the public hearings as well as members of the

public, and submissions in reply were received following the public hearings. Due to COVID-19 restrictions the hearings were held via Zoom between 27 September and 19 October 2021. The hearings were livestreamed via YouTube and transcripts of the hearings were uploaded to the Inquiry website.

9. During the hearings, the Inquiry heard from each of the fifteen councillors. The Inquiry also heard from the former and current GMs and staff, former and current Administrators, members of CCC's Audit Risk and Improvement Committee (ARIC) and from several members of the public who had made written submissions to the Inquiry. A small number of witnesses gave their evidence in camera due to concerns about recriminations and other matters. I have not found it necessary to refer to or rely on that evidence, other than as corroboration of evidence received on the record.

2. STEPS TO AMALGAMATION

2.1 New South Wales Treasury Corporation (TCorp) Report – April 2013

10. In April 2013 TCorp published its report "Financial Sustainability of the New South Wales Local Government Sector".¹ For the purpose of the report, TCorp developed a definition of sustainability for local government being:

A local government will be financially sustainable over the long term when it is able to generate sufficient funds to provide the levels of service and infrastructure agreed with its community.²

11. TCorp developed ten key benchmarks used to measure performance on a common basis across the then one hundred and fifty two Councils in New South Wales.³ It also created a Financial Sustainability Rating (FSR) and an Outlook methodology in order to rate each individual Council.⁴ Councils were then assessed and categorised into seven rating bands ranging from Very Strong to Distressed.⁵ TCorp considered that a Council needed to be assessed at a Moderate or higher level to be acceptable in terms of its sustainability. A Council with a Moderate level FSR was on average equivalent to marginally exceeding the benchmarks used in TCorp's assessment process.
12. The Outlook was the likely movement in a Council's FSR over the short term (three years).⁶ Councils were assigned an Outlook rating of Positive, Neutral or Negative. A Positive Outlook indicating that a Council's FSR was likely to improve in the short term, a Neutral Outlook that the FSR was likely to remain unchanged and a Negative Outlook an indication that the FSR was more likely to deteriorate.
13. TCorp assessed the financial capacity of each Council which included an analysis of each Council's historical results for the 2009 – 2012 financial years. TCorp also looked at the long-term sustainability of each Council and the degree to which that Council had completed its Asset Management Plan (AMP) as part of its long-term financial plan (LTFP). The financial performance of each Council was then compared to a range of similar Councils when measured against the established benchmarks.
14. Both GCC and WSC were categorised as having a Moderate FSR.⁷ Both Councils were assessed as having a Neutral Outlook and retained a moderate FSR.⁸
15. GCC and WSC were part of "Group 7" forming part of the larger group of "Urban Councils". The members of Group 7 were then Blue Mountains City

¹ "Financial Sustainability of the New South Wales Local Government Sector" NSW Treasury Corporation April 2013

² Ibid p 5

³ Ibid pp 22-23

⁴ Ibid p 23

⁵ Ibid p 35

⁶ Ibid p 25

⁷ Ibid p 32

⁸ Ibid p 37

Council, Campbelltown City Council, GCC, Hills Shire Council, Hornsby Shire Council, Liverpool City Council, Penrith City Council and WSC.⁹

16. Some of the key findings of the TCorp report are particularly relevant to the financial position of CCC at the time its councillors were suspended in October 2020. Those relevant key findings include (adopting the numbering in the report):

1. *Operating deficits are unsustainable – the majority of Councils are reporting operating deficits and a continuation of this trend is unsustainable.*
4. *Consultation with the community is required – addressing the expected continued deterioration of Councils' financial positions will require an extensive consultation process with the community to consider a combination of revenue increases, expenditure reductions and service level of use.*
5. *Need to prevent further deterioration – achieving a break-even operating position for Councils is one factor that will assist in preventing further deterioration in the financial position of the local government sector.*
8. *An asset maintenance gap exists – Councils' reported expenditure on the maintenance of their assets shows an annual shortfall in spending on the asset maintenance.¹⁰*

17. The nine key findings were part of twenty five main findings of the TCorp report. In addition to the key findings identified above, some of the main findings of the TCorp report had relevance to CCC including:

15. *Long term financial planning is improving but further work needs to be done – under the Integrated Planning & Reporting framework process, Councils are moving from a short-term budgeting focus to a longer-term financial forecasting focus. Further improvements are still needed, particularly in linking Asset Management Plans (and strategic plans) to the financial plans.*
20. *Access to skilled staff can be an issue particularly for more remote Councils – providing assistance to Councils in respect of specialist skills such as engineering and finance needs to be considered.*
23. *Cost shifting occurs between different levels of government – TCorp has cited examples of instances where Councils have been adversely impacted by other levels of government transferring responsibilities for certain assets without appropriate funds being provided.¹¹*

⁹ Ibid p 74

¹⁰ Ibid pp 7-8

¹¹ Ibid pp 62-63

18. The TCorp report made seven key recommendations for consideration, all of which are relevant to the 2020 financial position of CCC. Those key recommendations were:
1. **At least breakeven operating positions are essential** - Councils need to achieve at least a breakeven operating position on an on-going basis. The future sustainability of Councils is dependent upon generating sufficient funds to meet the costs of maintaining and renewing assets to deliver services. Councils who have been operating with deficits and are forecasting to continue to do so, are not generating sufficient funds to continue providing services and renewing assets at their current levels. These Councils need to develop options to correct this position. Such options will necessarily involve extensive consultation with their communities, and will need to consider options for revenue increases, reductions in expenditure, and reviews of existing service levels and standards. Surpluses generated by Councils can be used to address their Infrastructure Backlogs.
 2. **Pricing paths are needed for the medium term** - IPART, DLG and Councils should work together to consider the development of a medium or long term, and achievable pricing path so that Councils can achieve at least a breakeven operating position. A clear strategy across the local government sector is needed to promote future sustainability for Councils.
 3. **Rate increases must meet underlying costs** - Future increases in all rates and annual charges for Council services should be based on the underlying cost of delivering these services and the annual movement in the cost of these services. Where a decision by Council is made to increase rates and charges at a lower than required factor, the impacts of such actions must be clear in the context of each Council's sustainability.
 4. **Asset management planning must be prioritised** - Councils need to prioritise the completion and validation of their AMP and Infrastructure Backlog values so that a clear picture is available as to the total funding requirements for their assets. Without this certainty, Councils cannot accurately forecast their future funding requirements and put in place appropriate strategies.
 5. **Councillor and management capacity must be developed** - Councils and the DLG should continue to articulate the benefits of the IP&R process, by increasing the focus on linking long term strategies, asset management planning and long term financial forecasting to assist with decision making and promoting sustainability. Enhancing the knowledge and skills of Council management and elected officials, particularly in respect of the importance of financial and asset management, would greatly assist in this area.
 6. **Improved use of restricted funds** - A review of the system and guidelines for accessing restricted funds is needed. Under the current requirements, most Councils are required to hold substantial funds in reserve for specific purposes, often for lengthy periods of time. On average 50% to 60% of funds held by

Councils are externally restricted. Being able to access more of these funds (eg through s 410 internal borrowing arrangements) could allow Councils to meet current asset renewal and maintenance requirements and be a more efficient use of funds

7. **Increased use of debt** - Debt is underutilised by some Councils and there are opportunities for more cost effective borrowing and debt management. Some Councils have low or zero debt, strong cash flows and outstanding Infrastructure Backlogs. For some of these Councils the use of debt can be an efficient means of addressing Backlog issues, enhancing intergenerational equity and improving asset quality and services. For many Councils with existing debt, overly conservative debt management practices are adopted which could be improved to deliver enhanced value and a lower cost of funds for Councils.¹²
19. The seven key recommendations were part of the twenty recommendations of the TCorp report. Of the other recommendations, recommendation eight has particular relevance to the terms of reference of this inquiry and provided:
 8. *DLG should consider developing and implementing training programs for Council staff and Councillors in financial management and planning - In particular, training in the development of effective LTFPs would promote a greater understanding of the impact of decisions made by Councils on their finances. The assessment indicates that some Councils need assistance in understanding how to approach the development of an effective LTFP. For example, the use of a base case and various scenarios with supporting data that aligns with Councils' strategic plans.*
20. It is important to understand the limitations of the benchmarking process used by TCorp in its 2013 report and which continues in use today. As noted at paragraph 3.2 of the TCorp report:

"Benchmarks do not necessarily represent a pass or fail in respect of any particular area. One-off projects or events can impact a Council's performance against a benchmark for a short period. Other factors such as the trends in results against the benchmarks are critical, as well as the overall performance against all the benchmarks. The Operating Ratio in particular has been set at a benchmark of negative 4.0%, but in TCorp's view, Councils over the long term need to achieve a breakeven position (at least 0% Operating Ratio). Small operating deficits in some years can be acceptable. Even at a breakeven position this will not generate sufficient funds for a Council to address any Infrastructure Backlog that it may have, nor any unquantified asset maintenance gap.

As Councils can have significant differences in their size and population densities, it is important to note that one benchmark does not fit all. For example, the Cash Expense Ratio should be greater for smaller Councils than larger Councils as a protection against variation in operating performance and financial shocks. In particular, the Own

¹² Ibid p 64

*Source Operating Revenue Ratio benchmark may need to be different for Rural and Urban Councils. Many Rural Councils are unlikely to achieve the same level of Own Source Operating Revenue as an Urban Council due to their limited rate base. Further, it can be argued that Urban Councils should have a much higher Own Source Operating Revenue Ratio as these Councils not only have access to a larger rate base, but also the ability to raise income from other services such as car parking. So for many Urban Councils, this Ratio benchmark should be in excess of 80% rather than the current agreed level of 60%."*¹³

21. The ten benchmark ratios were as follows:

Indicator	Quantitative Measure	Definition	Benchmark
Operating Ratio	Measures a Council's ability to contain operating expenditure within operating revenue	(Operating revenue excluding capital grants and contributions less operating expenses) / Operating revenue excluding capital grants and contributions	> (4.0%)
Own Source Operating Revenue Ratio	Measures the level of a Council's fiscal flexibility. It is the degree of reliance on external funding sources such as operating grants and contributions	Rates, utilities and charges / total operating revenue (inclusive of capital grants and contributions)	> 60%
Unrestricted Current Ratio	The Unrestricted Current Ratio is specific to local government and is designed to represent a Council's ability to meet debt payments as they fall due	Current assets less all external restrictions / current liabilities less specific purpose liabilities	> 1.5x
Capital Expenditure Ratio	Indicates the extent to which a Council is forecasting expansion of its asset base with capital expenditure spent on both new assets, and replacement and renewal of existing assets	Annual capital expenditure / annual depreciation	> 1.1x
Infrastructure Backlog Ratio	This ratio shows what proportion the backlog is against total value of a Council's infrastructure	Estimated cost to bring assets to a satisfactory condition / total infrastructure assets	< 0.2x

22. TCorp categorised the ten benchmark ratios into four broad categories and then considered the relative importance of each category in terms of a Council's financial capacity and sustainability. Weightings were then applied to the four broad categories.¹⁴ The following table sets out the weightings applied by TCorp to the benchmark categories.

¹³ Ibid p 22

¹⁴ Ibid p 23

Ratio	Benchmark	Weighting (%)	Subtotals (%)
Financial Flexibility			
Operating ratio	> (4.0%)	17.5	35.0
Own source operating revenue ratio	> 60.0%	17.5	
Liquidity			
Cash expense ratio	> 3.0 months	10.0	20.0
Unrestricted current ratio	> 1.5x	10.0	
Debt Servicing			
Debt service cover ratio (DSCR)	> 2.0x	7.5	10.0
Interest cover ratio	> 4.0x	2.5	
Asset Renewal and Capital Works			
Infrastructure backlog ratio	< 0.02x	10.0	35.0
Asset maintenance ratio	> 1.0x	7.5	
Building and infrastructure asset renewal ratio	> 1.0x	7.5	
Capital expenditure ratio	> 1.1x	10.0	
Total		100.0	

15

23. At paragraph 4.2.1 the TCorp report examined the features of a sustainable Council. The Report states at page 33:

The simple answer to the question of what makes a Good Council is:

Good management and a good Council working together with their community.

24. The Report identified a high population density and low reliance on external sources of funds as important factors for a sustainable Council but also identified quality management and staff, a responsible Council that understands its role and good reporting and budgeting, as other factors which would assist sustainability.¹⁶
25. The TCorp report was used by the Independent Local Government Review Panel (ILGRP) to develop options to improve the strength and effectiveness of local government in New South Wales, in particular in relation to financial sustainability.¹⁷

2.2 Independent Local Government Review Panel (ILGRP) Report

26. In April 2012 the NSW Government appointed the ILGRP to formulate options for governance models, structures and boundary changes in local government in order to improve the strength and effectiveness of local government and to

¹⁵ Ibid p 24

¹⁶ Ibid p 33

¹⁷ Revitalising Local Government – Final Report of the NSW Independent Local Government Review Panel 25 October 2013

help drive key strategic directions in several state plans.¹⁸ The panel comprised Graham Sansom (chair), Jude Munro and Glenn Inglis.

27. The final report entitled "Revitalising Local Government" was published on 25 October 2013. This report has been said to be a catalyst for the 2016 amalgamations, including that of GCC and WSC. The report made it clear that the recommendations comprised an integrated package of measures with the key recommendations being inter-dependent. The report cautioned that if individual recommendations were "cherry-picked" then the benefits of reform might only partially be realised or not at all.¹⁹
28. The principal recommendations of the report were:

Fiscal responsibility

- Establish an integrated Fiscal Responsibility Program, coordinated by DLG and also involving TCorp, IPART and LGNSW... (5.1 and 5.3)
- Introduce more rigorous guidelines for Delivery Programs... (5.2)
- Place local government audits under the aegis of the Auditor General (5.4)

Strengthening the Revenue Base

- Commission IPART to undertake a further review of the rating system focused on: options to reduce or remove excessive exemptions and concessions... (6.2); more equitable rating of apartments and other multi-unit dwellings... (6.3)
- Either replace rate-pegging with a new system of 'rate benchmarking' or streamline current arrangements to remove unwarranted complexity, costs, and constraints to sound financial management (6.5)
- Subject to any legal constraints, seek to redistribute federal Financial Assistance Grants and some State grants in order to channel additional support to councils and communities with the greatest needs (6.6)
- Establish a State-wide borrowing facility to enable local government to make increased use of debt where appropriate... (6.7)

Meeting Infrastructure Needs

- Maintain the Local Infrastructure Renewal Scheme (LIRS) for at least 5 years, with a focus on councils facing the most severe infrastructure problems (7.2)
- Pool a proportion of funds from the roads component of federal Financial Assistance Grants and, if possible, the Roads to Recovery program in order to establish a Strategic Projects Fund for roads and bridges... (7.2)
- Adopt a similar model to Queensland's of Regional Roads and Transport Groups... (7.4)

¹⁸ Ibid p 7

¹⁹ Ibid p 17

Improvement, Productivity and Accountability

- Commission IPART to undertake a whole-of-government review of the regulatory, compliance and reporting burden on councils (8.2)
- Amend IPR Guidelines to require councils to incorporate regular service reviews in their Delivery Programs (8.4)
- Strengthen requirements for internal and performance auditing as proposed in Box 17 (8.5)
- Political Leadership and Good Governance
- Require councils to undertake regular Representation Reviews ... (9.1)
- Amend the legislated role of councillors and mayors... and introduce mandatory professional development programs (9.2 and 9.3)
- Amend the legislated role and standard contract provisions of General Managers... (9.5)
- Develop a Good Governance Guide ...(9.7)

Advance Structural Reform

- Introduce additional options for local government structures, including regional Joint Organisations, 'Rural Councils' and Community Boards, to facilitate a better response to the needs and circumstances of different regions (10.1)
- Legislate a revised process for considering potential amalgamations and boundary changes through a re-constituted and more independent Boundaries Commission (10.3)
- Encourage voluntary mergers of councils through measures to lower barriers and provide professional and financial support (10.4)

Regional Joint Organisations

- Establish new Joint Organisations (JOs) for each of the regions shown on Map 2 ... under new provisions of the Local Government Act that replace those for County Councils (11.5)
- Establish Regional Water Alliances in each JO along the lines proposed in the 2009 Armstrong-Gellatly report (11.3)

State-Local Government Relations

- Introduce new arrangements for collaborative, whole-of-government strategic planning at a regional level (17.3)
- Amend the State Constitution to strengthen recognition of elected local government (17.4)²⁰

29. The report considered that the fundamental prerequisite for all other actions to strengthen and make local government more effective was to secure local government's financial capacity and sustainability.²¹ It recommended a medium to long term strategy combining fiscal discipline with improved financial and asset planning, accelerated increases in rates and charges, a

²⁰ Ibid p 16

²¹ Ibid p 36

redistribution of grant funding, and improved efficiency and productivity. The report recommended that Councils be required to employ an appropriate qualified Chief Financial Officer (CFO) with the role of strategic management, not simply "keeping the books". It also recommended providing additional training programs for councillors and staff in relation to financial management.

30. In order to strengthen the revenue base, the report recommended a system of "rate benchmarking" to replace rate pegging.²² The rate benchmarking system would be based on an annual Local Government Cost Index (a CPI specific to local government) published concurrently with comparative data on rate increases and associated expenditures with the aim of permitting greater public scrutiny of Council's revenue and expenditure decisions and a heightened awareness of the need for sound financial management.
31. The report dealt extensively with political leadership and good governance. Some of its recommendations included compulsory awareness sessions for intending candidates for Councils and increased remuneration for councillors who successfully complete recognised professional development programs.²³
32. In considering the necessary structural reform for local government, the report acknowledged that amalgamations were not a panacea for local government's problems but considered them to be an essential part of a wider package of reforms.²⁴ The report acknowledged that mergers can be disruptive and that transition costs can place a heavy strain on new organisations in their early years of operation. It also noted that merging weak or unsustainable Councils would require complementary action to address underlying issues in order for efficiencies to be achieved. It recommended that amalgamation be preceded by careful analysis of the issues to be addressed and all of the options available with full community consultation, handled by an expert, independent body.
33. In terms of the Central Coast, the report acknowledged the strong socio-economic and functional linkages between the Gosford and Wyong areas and the existing level of cooperation between the Councils. It considered the options for Central Coast to be either a full amalgamation or a multi-purpose Joint Organisation, with the potential for an amalgamation warranting further investigation.²⁵
34. The report made two specific recommendations relevant to the Central Coast namely:
 47. Seek evidence-based responses from Hunter and Central Coast councils to the Panel's proposals for mergers and boundary changes, and refer both the proposals and responses to the proposed Ministerial Advisory Group (section 18.1) for review, with the possibility of subsequent referrals to the Boundaries Commission (14.1 and 14.2)

²² Ibid p 43

²³ Ibid p 62

²⁴ Ibid p 72

²⁵ Ibid p 109

48. Defer negotiations for the establishment of a Central Coast Joint Organisation pending investigation of a possible merger of Gosford and Wyong councils (14.2)²⁶
35. This Inquiry received comprehensive written submissions and oral testimony from the Chair of the ILGRP, now adjunct Professor Graham Sansom of University of Technology Sydney. Professor Sansom's submission included his report dated September 2021 entitled "Not so Simple: the origins and implications of the Central Coast Council's 'financial calamity'" which is addressed later in this report.

2.3 NSW Government Response

36. In September 2014 the NSW Government published its response to the ILGRP Report. It required all Councils to submit a proposal by 30 June 2015 outlining the reforms which would be undertaken to become financially sustainable, efficient, effectively manage infrastructure and deliver services and have the scale, resources and strategic capacity to govern effectively. To support the voluntary merger the government was providing up to \$22.5M for new Councils including the proposed Central Coast merged Council.
37. The Independent Pricing and Regulatory Tribunal (IPART) developed an assessment methodology including an assessment of the scale and capacity as a threshold criterion. The IPART methodology required that a Council submit the same proposal preferred by the ILGRP or one that was broadly consistent with it or demonstrate why an option for no structural change would be at least as good as or better than the merger option.

2.4 Council Responses

38. Both WSC and GCC submitted proposals which did not involve a merger of the two Councils. The IPART final report delivered on 16 October 2015 found that GCC and WSC were not fit for the future because they did not meet the scale and capacity criterion and that their standalone proposals were not as good as or better than the merger option. The IPART report stated:

Based on our indicative analysis, up to \$101M over 20 years in NPV²⁷ benefits could be realised from a Gosford and Wyong merger. In addition, Ernst & Young estimated NPV benefits from a merger of Gosford and Wyong is \$196M over 20 years.

39. The NSW Government subsequently encouraged GCC and WSC to voluntarily merge and offered up to \$10M in "stronger communities" funding and up to a further \$10M in merger implementation funding if the Councils agreed to a voluntary merger. That incentive funding was not to apply unless both Councils volunteered to merge. Councils were given until 18 November 2015 to decide whether they would agree to merge or face forced amalgamations.
40. On 28 October 2015 WSC voted 5:4 in favour of a merger and on 16 November 2015 GCC voted 7:3 in favour of a merger.

²⁶ Ibid p 110

²⁷ Net Present Value

41. In January 2016 the merger proposal for GCC and WSC was published. In his foreword the Minister for Local Government listed the benefits of the proposed merger including a total financial benefit of \$135M over a twenty year period, a projected 119% improvement in annual operating results, potentially reducing the reliance on rate increases through Special Rate Variations (SRV) and a greater capacity to manage and reduce the infrastructure backlog. The Minister confirmed the NSW Government funding of \$20M.²⁸

2.5 Delegate's Report

42. The function of examining and reporting on the proposal was delegated to Mr John Rayner (Delegate) who published his report on 29 March 2016 (Delegate's Report). The Delegate confidently concluded that the merger of the two Councils would result in savings based on examinations by KPMG, GCC, SGS Economics and Planning, WSC, IPART and Ernst & Young.²⁹ The Delegate noted that those savings would arise once transitional requirements were completed. In terms of employment and staffing the Delegate noted that the immediate impact of the merger would be on the GMs and senior staff. He recommended that, as far as practicable, the initial organisational structure of the Council be a composite of that of the former Councils.³⁰ He noted that non-senior staff were well protected under the LG Act and awards and that restructuring of operations would occur over time. The Delegate recommended that councillors be elected from an undivided area rather than from within wards, noting that a ward system may encourage parochialism and resource allocation prioritised on the basis of wards rather than the needs of the whole Council area.³¹
43. In relation to the financial analysis the Delegate noted the varying estimates of both the level of and the time by which savings resulting from the merger might be expected. He found however that there was consistency in that there would be savings generated through a merger of the two Councils.
44. The Delegate noted that as at 30 June 2015 GCC had \$155M in loans outstanding and WSC had \$178M in loans outstanding, both representing a debt service cover ratio (DSCR) of 3:1 against a benchmark of greater than 2:1. He concluded that the loans could be adequately serviced and represented relatively equal levels of debt being brought by each former Council into the new entities.³²
45. The Delegate noted the NSW Government policy to freeze existing rate paths for four years following the merger. He said that there needed to be meaningful change to the rating system to provide more flexibility to address growing disparity and valuations and between housing types. The Delegate noted:

In reaching conclusions on the success or otherwise of an amalgamation, the Delegate believes that there needs to be a

²⁸ Merger Proposal: Gosford City Council Wyong Shire Council NSW Government January 2016

²⁹ Examination of the Minister for Local Government's Proposal to merge Gosford City Council and Wyong Shire Council John Rayner March 2016 p 24

³⁰ Ibid p 45

³¹ Ibid p 49

³² Ibid p 20

measurement of performance, service levels and infrastructure backlog at the time of the merger to compare with performance at points in time in the future.³³

2.6 Boundaries Commission Report

46. The Delegate's Report was referred to the NSW Local Government Boundaries Commissioner for review and comment. In April 2016 the Boundaries Commission issued its report which concluded that the Delegate had adequately considered the issues required to be considered under s 263(3) of the LG Act.
47. On 12 May 2016 the *Local Government (Council Amalgamations) Proclamation 2016* (the Proclamation) was published. The Proclamation had the effect of amalgamating thirty-nine metropolitan, regional and rural Councils into seventeen Councils. Amongst them GCC and WSC were amalgamated into the new area of CCC.
48. The Proclamation set the date for the first election of councillors of a new Council on 9 September 2017, with an Administrator appointed for the initial period between the date of amalgamation and the election of the new Council. For CCC Mr Ian Reynolds was appointed as Administrator, Mr Rob Noble (GM of WSC) was appointed as Interim GM and Mr Paul Anderson (GM of GCC) was appointed as Deputy GM. The number of councillors was set at fifteen and the Council was to be divided into five wards according to areas identified on a map.
49. The Proclamation required the initial organisation structure of a new Council to be, as far as practicable, a composite of the organisation structures of each of the former Councils. The senior staff were to hold their positions until the determination of an organisation structure by the new Council.³⁴
50. The LG Act contained important provisions relating to arrangements for Council staff affected by amalgamation of Council areas. In particular, the LG Act prohibited the termination of the employment of a staff member (other than a senior staff member) on the ground of redundancy, without the staff member's agreement within three years after the amalgamation date.
51. The LG Act also contained lateral transfer provisions which required any vacancies (other than senior staff positions) to be offered to staff members who were performing substantially the same duties at the former Council. The lateral transfer provisions also applied for three years following the amalgamation. A further limitation in relation to non-senior staff was that the Council could not require staff members to transfer to a work base outside the boundaries of the former Council by whom they were employed, without written consent or if such a requirement would not cause unreasonable hardship because of the distance required to travel to the proposed work base.
52. In addition to the statutory constraints following the amalgamations the NSW Government introduced a rate path freeze policy for newly merged Councils.

³³ Ibid p 21

³⁴ cl 29 *Local Government (Council Amalgamations) Proclamation 2016*

That policy required that there be no change to existing rate paths so that rate payers in newly merged Councils would pay no more for their rates than they would have in their pre-merger Council areas for a period of four years. That did not mean that there could be no rate increases in that period, but it did limit any rate increases to those permitted under the rate pegging system and any prior Special Rate Variation (SRV).

3. COUNCIL UNDER THE FIRST ADMINISTRATOR

53. The first meeting of the newly formed CCC was held on 25 May 2016. At that meeting the quarterly budget review statement for the former GCC was considered as required under the *Local Government (General) Regulation 2005* (LG Regulation). That statement indicated that former GCC was running better than budgeted with the net operating result before grants and contributions for projected 2015-16 actual results of \$4.518M compared to an original budgeted deficit of \$9.756M. The key performance indicators relating to consolidated funds at 31 March 2016 were consistent with the financial statements of the prior financial year.

3.1 Executive Leadership Team (ELT)

54. Also, at the meeting of 25 May 2016 the interim organisation structure of CCC was established.
55. On 16 June 2016 the interim leadership team for CCC was announced. It comprised of eight positions, five filled by former WSC staff, two by former GCC staff and one position remained unfilled. Mr Anderson, the former GM of GCC who had been appointed as the Deputy GM of CCC, had taken a redundancy shortly before that announcement and Ms Judy Jaeger, who had been appointed as Group Leader Customer and Community Relationships, resigned shortly after on 22 September 2016, leaving a solitary former GCC staff member, Ms Janine McKenzie, as part of the ELT.

3.2 Operational Plan 2016-17

56. At the extraordinary meeting on 29 June 2016, the CCC Operational Plan for the 2016-17 financial year was adopted.
57. The Financial Overview of the plan forecast a net operating result (before capital grants and contributions) of \$15M with an operating income of \$555.9M. The budget included capital investment of \$183M, consistent with commitments identified in the delivery programs and four-year budgets of GCC and WSC. The plan had regard to the legislated staff protections following the merger and took account of \$10M to be received under the NSW Government Stronger Communities Fund. The plan did not make provision for estimated costs of the merger but noted that they would be included in a quarterly budget adjustment for 2016-17³⁵.
58. The details of the Operational Plan 2016-17 were contained within separate long term financial plans of GCC and WSC.

3.3 Rate Path Freeze

59. In June 2016 IPART released its interim report in relation to the freezing of existing rate paths for newly merged Councils. That report made certain recommendations about freezing existing rate paths, special variations and the

³⁵ Operational Plan 2016-17 p112-114

setting of rates during the rate path freeze period and a sunset clause for the rate path freeze period.

60. The rate path freeze period was set to run between 1 July 2016 until 30 June 2020.

3.4 Enterprise Resource Planning Upgrade

61. The Central Coast Transformation Program was launched in May 2016. Avocado Consulting was engaged in November 2016 to advise and assist CCC in the Program. It consisted of nineteen work streams. The Information Management & Technology work stream was responsible for delivering business capabilities via the implementation of seventeen "pebble" projects. On 16 December 2016 Avocado Consulting recommended that CCC select a Tier 1 Enterprise Resource Planning (ERP) product and implementation partner. The Oracle system was recommended for the ERP functions and the Infor Public Sector system for asset management, property and rating. Earlier versions of those systems were already in use by WSC.
62. On 24 January 2017 CCC selected Oracle Cloud Solutions as the preferred ERP product. Avocado Consulting was then engaged to test whether a single ERP implementation across CCC would be of better value than continuing with the separate Council systems. On 20 February 2017 Avocado Consulting reported that there was clear evidence that it would be better value to implement a single ERP system than to maintain separate systems. The models used indicated that a single ERP would provide \$21M more in net present value benefits and would break even within five years, had little difference in implementation costs and would allow cost savings of \$14.2M compared to an equivalent uplift in ERP-like capabilities. Quantitative benefits included simplifying IT contracting and service management, reducing maintenance, simplifying staff training. The ten-year real dollar costs of implementing an ERP system across CCC was estimated to be \$71M compared to the cost of upgrading the current systems to have ERP-like capabilities of \$48M. The annual operating expenses of the ERP system were estimated to be \$4.2M compared to \$2.7M for upgraded existing systems.
63. The ERP upgrade was not formally considered by CCC again before the conclusion of the first Administrator's term in September 2017.

3.5 Change in Accounting Practice

64. WSC and GCC were and CCC is now in a unique position relative to other Councils in New South Wales which also supply water and sewer services. CCC is a water supply authority under the *Water Management Act 2000* (WM Act) whereas all other Councils which supply water and sewerage services do so as part of their functions under the LG Act.
65. As a consequence, CCC is not free to set its own rates for water supply and sewerage services. Those fees and contributions are set by IPART. CCC must also prepare separate financial statements for the Central Coast Council Water Supply Authority (CCCWSA).

66. Until 2016 the consolidated financial statements of GCC and WSC had accounted for the funds collected for water supply or sewerage services as externally restricted funds. In the consolidated financial statements of WSC and GCC for the period 1 July 2015 to May 2016 that practice changed.
67. On 21 December 2016 the financial reports for the period 1 July 2015 to 12 May 2016 for the former WSC and the former Wyong Water Supply Authority (WWSA) were adopted by CCC.³⁶
68. The consolidated financial reports for the former WSC contained Note 20(d) which provided:³⁷

Note 20. Retained earnings, revaluation reserves, changes in accounting policies, changes in accounting estimates and errors (continued)

(d) Voluntary Changes in Accounting Policy

In the interest of good financial management Council will restrict funds from time-to-time to either meet external statutory obligations, such as (restrictions relating to grant funding or developer contributions), or in order to set aside funding for future commitments.

Restricted assets that are internally developed by Council to cover commitments or obligations that are expected to arise in the future and where it is prudent for Council to hold cash in restrictions to cover these obligations (despite there being no legislative requirement) are known as internally restricted assets.

On review of Council's current restrictions for its Water and Sewer operations, Council has derecognised certain cash, receivable and payable restrictions, in line with the current restriction disclosures recorded in the Financial Statements of Wyong Shire Council Water Supply Authority. This change was corrected in the prior period in accordance with AASB 108 *Accounting Policies, Changes in Accounting Estimates and Errors*.

As a result of the above disclosure changes:

- None of the financial information disclosed in the Financial Statements changed
 - The restricted and unrestricted balances within Note 6(c), Note 7 and Note 10(a) have changed such that all Wyong Water unrestricted amounts are now recorded as Unrestricted in the consolidated results
 - The Unrestricted current ratio in Note 13a(i) has improved
69. Notes 6(c), 7 and 10(a)³⁸ cross-referenced the change in accounting policy in Note 20(d) but no reference was made to it in the overview, the section entitled "Understanding Council's financial statements", the Statement by Management signed by the Administrator, the GM and the CFO, or the independent auditor's reports.³⁹
70. Mr Dennis Banicevic, then of Price Waterhouse Coopers (PWC), the independent auditors for the financial statements, addressed the Council meeting on 21 December 2016. He did not refer to the change in accounting policy directly, but he did offer a caution in relation to the apparent level of working capital. Page 9 of the consolidated financial report indicated that total cash, cash equivalents and investments had improved from \$156M to \$158M. Mr Banicevic said that once the restricted components were stripped

³⁶ Minutes of Extraordinary Meeting of GCC 21 December 2016 p 3

³⁷ Consolidated Financial Reports former Wyong Shire Council 1 July 2015 – 12 May 2016 p 76

³⁸ Ibid pp 40, 42 and 47

³⁹ Ibid pp 1, 2-3, 4, 95-99

out, the actual working capital was a more modest \$48M and that would be the basis for the new Council to develop any budgets going forward.

71. Note 6(c) to the financial reports indicated that the unrestricted cash available at 12 May 2016 was \$29.283M.
72. A number of witnesses gave evidence about the effect of the change in accounting practice. Ms Natalia Cowley, the current CFO of CCC, explained that the change in accounting policy had the effect of changing the numbers in the consolidated financial statements, but it did not change how water and sewer funds were actually handled within the Council.⁴⁰ That is, they continued to be handled as restricted funds.
73. The accounting practice would, however, alter the calculation of one of the benchmarks used to assess sustainability of a Council. The Unrestricted Current Ratio compares unrestricted current assets to restricted current assets. The benchmark is 1.5 (or 155%). That is, unrestricted current assets should be at least 1.5 times the value of restricted current assets. The purpose of the ratio is to assess the adequacy of working capital and its ability to satisfy obligations in the short term for the unrestricted activities of the Council.⁴¹ By including water and sewer funds as unrestricted assets that ratio in the WSC consolidated financial statements was inflated. The ratio, if water and sewer funds were excluded from the unrestricted current assets, would have fallen considerably short of the benchmark.
74. The amalgamation Proclamation required the auditor of the new council to be the auditor of one of the former councils. PWC had been the auditor for WSC, and it was appointed as auditor for CCC. The amalgamation Proclamation also required the new council to prepare audited financial reports for the former councils by 31 December 2016.
75. The financial statements for GCC for the period 1 July 2015 to 12 May 2016 were not considered by CCC until 19 June 2017. The reasons for the delay in finalising those statements was explained by Mr Stephen Naven, who was the CFO of CCC at that time. Firstly, the fixed assets were written down by \$1.39B, comprised of write-downs for roads and drainage assets of \$720M, fixed assets in the water and sewer fund of \$595M and land under roads of \$74M⁴². In addition, the interrogation of the GCC financial system to prepare the financial statements revealed a lack of electronic access controls⁴³. The consequence of the lack of electronic access controls was that the Administrator, GM and CFO were not prepared to issue a Management Statement for the GCC financial reports in the usual form. A qualified Management Statement was issued. Due to the qualified nature of the Management Statement the auditor issued a Disclaimer of Opinion. Draft financial statements for GCC for the period 1 July 2015 to 12 May 2016 considered by CCC on 13 March 2017 and final statements were eventually signed in May 2017 and presented to CCC on 19 June 2017. Ms Caroline Mara, the author of the Disclaimer of Opinion and

⁴⁰ T442.2

⁴¹ WSC Financial Reports 1.07.15-12.05.16 p 54

⁴² T542.5

⁴³ T542.39

auditor of the statements spoke briefly at that Council meeting. She made no reference to the change in accounting practice referenced at Note 20(d).

76. Those financial statements contained the same voluntary change in accounting policy as described earlier in relation to the financial statements for WSC.
77. Note 6(c) to the financial statements indicated that the unrestricted cash available at 12 May 2016 was \$4.675M.
78. The Unrestricted Current Ratio was recorded as 2.96x⁴⁴. That ratio, if water and sewer funds were excluded from the unrestricted current assets, would have been less than the figure adopted in the financial statements but probably would have exceeded the benchmark of 1.5x.

3.6 Audit, Risk and Improvement Committee (ARIC)

79. On 24 January 2017 CCC resolved to establish an ARIC and on 26 April 2017 the Council resolved to appoint three independent external members. Dr Colin Gellatly AO (chair), Mr John Gordon and Mr Carl Millington were appointed for a period of three years. The first meeting of ARIC was held on 20 June 2017 and the committee continued to meet on a formal basis four to five times annually. Following input from ARIC, the ARIC Charter was formally adopted on 26 July 2017. The Administrator and GM filled the non-independent positions on ARIC until the election of councillors in September 2017.
80. Contrary to the perceptions of some people, ARIC did not fulfil the role of a financial auditor. Its role was to provide Council with independent oversight, objective assurance and monitoring of Council's audit processes, internal controls, external reporting, risk management activities, compliance of and with Council's policies and procedures, and performance improvement activities.⁴⁵
81. The agendas for ARIC meetings were very full. Its focus was on ensuring that appropriate structures and systems were established within the council to identify and manage risk. There were often more than ten CCC ELT or senior staff in attendance as well as several visitors such as representatives of the Auditor General or the CCC auditors. Financial management was only one aspect of CCC that ARIC was charged with keeping under review.⁴⁶ Consideration is given later in this report to the responsibility, if any, of ARIC for the financial collapse of CCC.

3.7 End of Term Report

82. On 30 August 2017 the first Administrator delivered his end of term report. He referred to the business and organisational transformation of the Council, noting that there were then still one hundred and fifty individual transformation

⁴⁴ Financial Reports for Former Gosford City Council 1 July 2015 to 12 May 2016 p 49

⁴⁵ ARIC Charter adopted 26 July 2017 p 4

⁴⁶ Local Government Act 1993 s 428A

projects, many of which would continue for some time. In relation to the merger, he said⁴⁷:

Financial benefits of the merger are expected to come from improved efficiency of Council's back office functions and reduced expenditure on external supplies as a result of stronger bargaining power and improved procurement processes.

Council has modelled the expected benefits and costs of the merger and expects to see a net benefit of around \$70M (in present value terms) over a 10-year period....

The expected non-financial benefits of the merger program will be better, consistent, more responsive service delivery; improved infrastructure planning and maintenance and an improved ability for a single Central Coast Council to advocate for the Central Coast region with all tiers of government and business.

83. In relation to finances, the Administrator said⁴⁸:

Council undertook a thorough analysis of the finances of the former Wyong and Gosford Councils. Issues requiring remedial action were addressed. As a result Council's finances are sound and strong and the fully funded Operational Plan for 2017-18 is already rolling out.

84. The budget totalled \$756M, including record spending of \$208M on capital works and maintenance to reduce the infrastructure backlog. That capital works and maintenance figure included \$55.3M to be spent on capital road works and \$117M on road and drainage maintenance.
85. The report referred to three candidate awareness sessions conducted by the Council in May and June 2017 attended by some ninety people, though the number of elected councillors who attended those sessions is not known. Cr Pilon did attend a session and found it useful to the extent that it explained that there would be a significant time commitment and described the type of skill sets required of a councillor, but she also said⁴⁹:

I think a key part of that should have been what you were actually getting in for when it came to the position of merging both Gosford and Wyong Councils.

⁴⁷ Mayoral (Administrator) Minute - End of Term Report to Council meeting of 30 August 2017 pp 3, 4

⁴⁸ Mayoral (Administrator) Minute - End of Term Report to Council meeting of 30 August 2017 p10

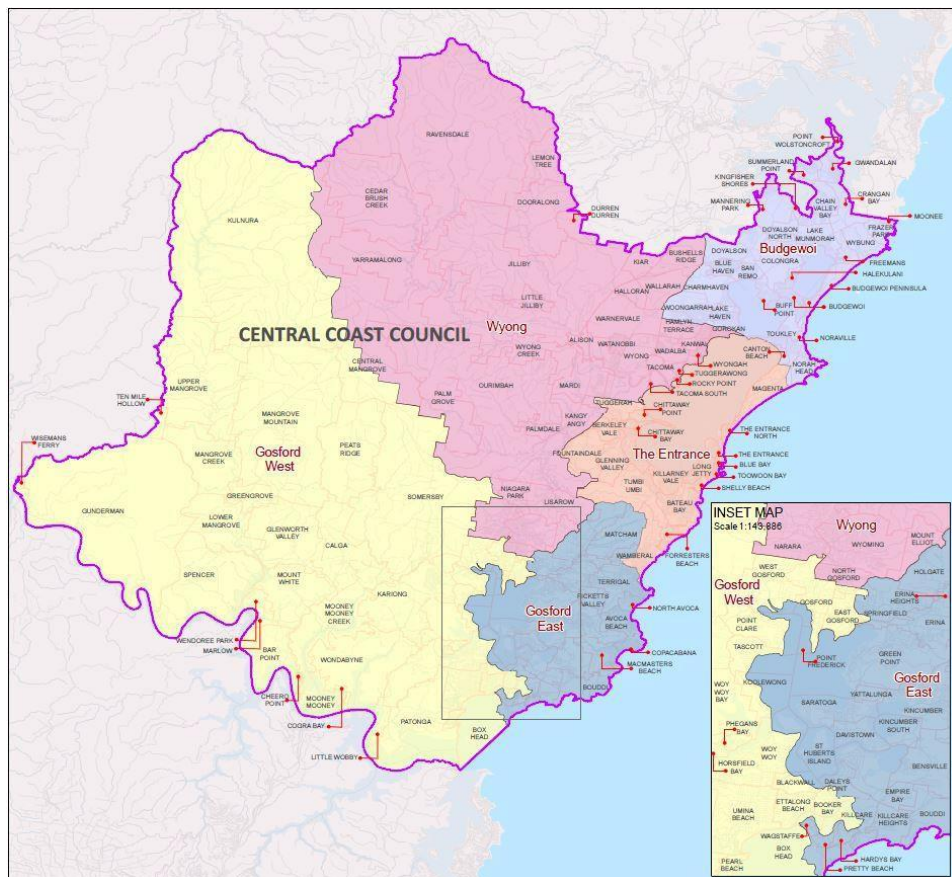
⁴⁹ T349.4

4. ELECTION OF THE GOVERNING BODY

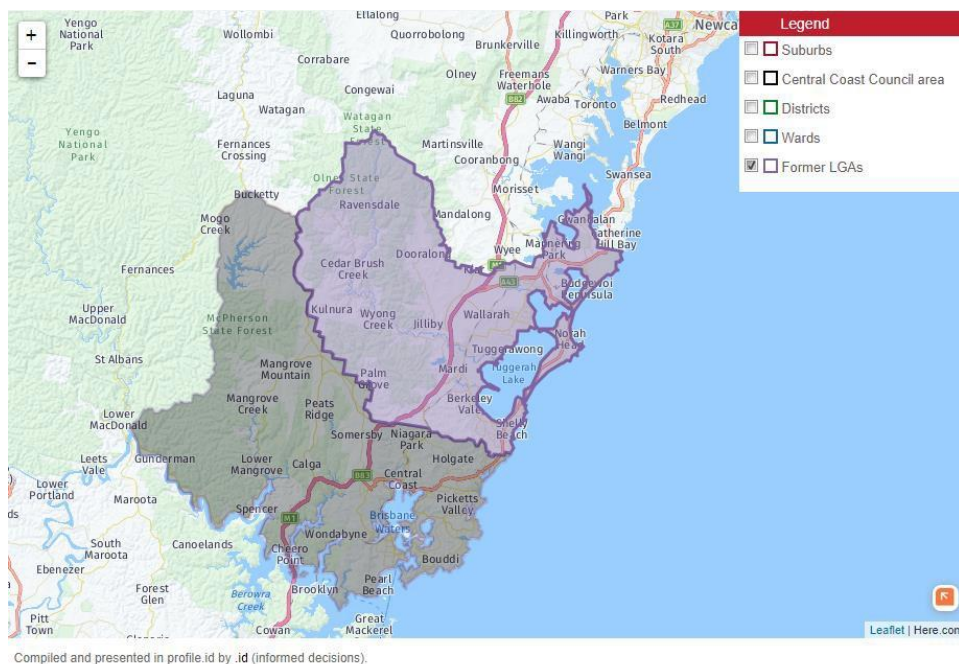
86. The election of representatives occurred on 9 September 2017 and the initial meeting of those councillors was held on 25 September 2017. The elected councillors were:

- Budgewoi Ward – Doug Vincent, Jillian Hogan and Greg Best
- Gosford East Ward – Rebecca Gale Collins, Jeff Sundstrom and Jane Smith
- Gosford West Ward – Richard Mehrtens, Troy Marquart and Chris Holstein
- The Entrance Ward – Lisa Matthews, Jilly Pilon and Bruce McLachlan
- Wyong Ward – Kyle MacGregor, Louise Greenaway and Chris Burke

87. The following map shows the Ward locations:



88. Of the new councillors, Crs Vincent, Best and Matthews had been councillors on the former WSC and Crs Burke and Holstein had been councillors on the former GCC, though in the case of Cr Holstein, not in the period immediately preceding the formation of CCC.
89. The following map shows the boundaries of the former WSC and GCC:



5. INDUCTION AND HANDOVER

90. The councillors of CCC took their oaths or affirmations of office at a public ceremony on 21 September 2017. At the Council meeting on 25 September 2017 the councillors elected Cr Jane Smith as Mayor and Cr Chris Holstein as Deputy Mayor.
91. The CEO, Council staff and external consultants conducted a series of induction briefings and workshops over the next few weeks comprising:
- Wednesday 27 September 2017 (two hours) – Briefing by the CEO and ELT about the Council structure, functional responsibilities of the ELT, baseline information about CCC and key issues and future decisions to be made.
 - Wednesday 4 October 2017 (one hour) – Workshop by CEO, Executive Manager, Governance and Governance staff about the Code of Meeting Practice, managing conflicts of interest, the role of the Chair, the Code of Conduct and equipment to be used by councillors.
 - Wednesday 4 October 2017 (two hours) – Briefing by CEO, Group Leader Environment and Planning and Environment and Planning staff providing an overview of and the councillors' role in the planning process, staff delegations and investigation of compliance matters.
 - Saturday 7 October 2017 (six hours) – Presentation and workshop by the CEO, a corporate culture consultant, the Group Leader, Connected Communities and the Executive Manager, Transformation Business and Performance about the councillors working together, the roles of the councillors, Mayor and CEO, demography and trends in the Central Coast, the requirements of the Integrated Planning & Reporting (IP&R) framework, and the Resourcing Strategy: Asset Management, Workforce Planning and Long Term Financial Plan.
 - Monday 9 October 2017 (one hour) – Mock Council meeting facilitated by the CEO and staff.
 - Tuesday 10 /Friday 13/Monday 16 October 2017 (five hours) – Post election workshop conducted by LGNSW at North Sydney/Hornsby/ Sydney CBD
 - Monday 16 October 2017 (two hours) – Briefing by the CEO, a corporate culture consultant, Group Leader, Connected Communities and the Executive Manager, Transformation Business and Performance about community engagement strategy and the community profile.
 - Tuesday 17 October 2017 (five hours) – Post election workshop conducted by LGNSW at Canterbury.
 - Wednesday 18 October 2017 (six and a half hours) – “Hit the Ground Running” workshop conducted by the Office of Local Government (OLG) at Strathfield or Raymond Terrace.

- Thursday 19 October 2017 (six and a half hours) – “Hit the Ground Running” workshop conducted by OLG at Parramatta or Sydney.
 - Monday 23 October 2017 (one hour) – Walk-through of Council chambers by staff.
 - Monday 30 October 2017 (two hours) – Code of Conduct training with an external provider.
 - Saturday 4 November 2017 (six hours) – Presentation by CEO, corporate culture consultant, community consultation expert, Executive Manager, Transformation Business and Performance, Group Leader, Assets, Infrastructure and Business, CFO and Executive Manager, People and Culture about working together, the Resourcing Strategy, how local government is financed, the rating structure, financial sustainability and the audit process.
 - Monday 6 November 2017 (two hours) – Briefing by the CEO, Executive Manager, Transformation Business and Performance, Group Leader, Assets, Infrastructure and Business and the CFO about the Delivery Program and capital works.
 - Monday 13 November 2017 (two hours) – Briefing by the CEO, a corporate culture consultant, the Executive Manager, Transformation Business and Performance and the CFO about the Operational Plan and budget.
 - Monday 20 November 2017 (two hours) – Councillor workshop to address any requests for additional briefings which arose during the induction process.
92. Although there was, reportedly, a good attendance at the CCC briefings and workshops, not all councillors attended all sessions.
93. The councillors had varying opinions about the usefulness of the induction sessions.
94. Cr Matthews said⁵⁰:
- It was a lot of psychoanalysing. And from people giving me feedback, they just said, you know, “We spent four hours in a room working out who was strong and who was weak” and, yes, really didn’t get to the nuts and bolts of what you really did need to know as a councillor, or a new councillor.
95. Cr Holstein, who had the experience of four or more Council inductions said⁵¹:
- ... this council’s induction was very regimented, it was very much about, Councillors, you speak to the ELT only”. There was a greater formality in how this progressed. In hindsight, I suppose, that may have been about some of the – two things: one, the perception of the

⁵⁰ T13.5

⁵¹ T89.14

impact the culture was having within the organisation, the lower levels of management and the amalgamation processes of bringing the two entities together; but also I think it may have been the administrator at the time's concerns were that we had been through a very rigorous election campaign. There was – "vigorous" probably was an understatement on the campaign that the council had gone through, and when the council did come together there was a certain level of animosity between certain councillors and certain factions within the councillors, the elected reps.

96. Crs Best and Vincent considered the induction to be similar to other inductions they had experienced at WSC. Cr Hogan, who was new to local government, found the induction sessions interesting but said that the personality workshop was a little alarming because she felt it identified that the councillors probably wouldn't be able to work together. Cr Greenaway found the inductions sessions effective to some extent but preferred the one-on-one session she had with the acting CFO. Crs Gale Collins and Pilon thought the induction process was useful to the extent that it provided an opportunity to get to know other councillors and staff. Cr McLachlan said the personality profiling was useful and he had used a similar process in his business. He was happy with the induction process.
97. Mr Brian Bell, the CEO from September 2017 to February 2018 was the primary architect of the induction process for CCC. He said⁵²:
- I felt I had a very good relationship with the councillors in the short time that I was there. I spent a lot of time, a large amount of time, with them on organised induction processes, workshops, briefings and site tours of the council areas. We spent at least two days taking the councillors around to sites all around the council and attempting to bring them up to speed with the council circumstances, particularly for the less experienced councillors. I think we had about eight or nine of our councillors who had very little experience. So I spent a lot of time dealing with those matters. It was terrific. I kind of prided myself on the induction processes that I had done over the years, and I was particularly keen to make this one right because there were so many newly elected councillors on that.
98. In my opinion the induction process provided by CCC to the councillors was appropriate and adequate as an initial introduction to their role. The briefings and workshops covered the various functions of the council, the legislative and regulatory settings and the inter-personal relationships which councillors would encounter. The councillors who did not attend the sessions which were offered may well have benefitted from them, had they attended.
99. Whilst the induction process was well considered and delivered there was no "handover" from the former Administrator to the councillors. The former Administrator's end of term report was the extent of the handover to the councillors.

⁵² T528.15

6. THE GENERAL MANAGERS

100. Mr Noble was appointed as the interim GM for CCC pursuant to the Proclamation made on 12 May 2016. Mr Noble had been the acting GM at WSC, having been appointed in September 2015 following the departure of its GM and in a climate where the merger of WSC and GCC looked possible. Mr Noble had a home and business in Queensland, so it was not surprising that he announced his retirement as GM of CCC near the end of the initial period of administration.
101. The Administrator, Mr Reynolds, considered it important to allow the new council to select its GM and in any event, there was insufficient time at that point to recruit a permanent GM. Mr Bell, who was the then recently retired GM of Lake Macquarie City Council, was appointed as the Interim GM for twelve months. He knew he had limited time at CCC, but he was determined to continue the merger process, including facilitating the appointment of a permanent GM. He said in evidence⁵³

"Because of my background in it, I was of the view, the strong view, that look, this decision has been made, it's now two years in the making, or almost two years in the making. There were two very good operators in the administrator, Reynolds, and the General Manager, chief executive, Rob Noble, who were dealing with that. Sadly, in my view, not enough time was given to them to allow that to happen properly. But I was very keen, in spite of the circumstances we found, to promote the proper integration of all of the services and activities within those two councils. We had to get it right for the people of the Central Coast."

102. Unfortunately, at the end of December 2017 Mr Bell was diagnosed with a malignant cancer which required immediate treatment. He subsequently resigned in January 2018. The Council resolved on 15 January 2018 to appoint Mr Brian Glendenning as Acting GM for a period of four months or until a permanent GM was appointed, whichever occurred first.
103. Mr Bell had initiated the process to recruit a GM following a Council resolution on 18 December 2017. On 29 January 2018 shortlisted recruitment agencies made presentations to the full Council. The Council resolved to appoint Davidson as the recruitment agency and to appoint a selection panel comprising the Mayor, Cr Smith, the Deputy Mayor, Cr Holstein, Cr Bourke, and Cr Hogan. Those decisions were unanimous.
104. Davidson advertised the position to which there were more than one hundred applications. Davidson reviewed the applications and prepared a shortlist. On 22 March 2018 the resumes and details of shortlisted candidates were made available for all councillors to access. The same day the selection panel reviewed additional information regarding shortlisted applicants and selected five for interviews.
105. On 28 March 2018 the selection panel interviewed the five candidates and had discussions at the end of each interview and at the end of all interviews.

⁵³ T521.22

All panel members selected Mr Gary Murphy as the standout candidate with a significant separation between him and other candidates.

106. On 29 March 2018 Cr Smith sent an email to all councillors about a meeting at which the panel would provide feedback to the councillors from the interviews and identify which candidate(s) the councillors might wish to invite to provide a presentation to the full Council. On 4 April 2018 that meeting took place although not all councillors could attend. The panel members provided their reflections and comments and confirmed that Mr Murphy had been identified as the preferred candidate. Although there was discussion about the possibility of interviewing other candidates, those present at the meeting decided that the full Council would only interview Mr Murphy⁵⁴.
107. I note that the "Guidelines for the Appointment and Oversight of General Managers" (the Guidelines) provide at paragraph B.4:

4. Selection Panel Report

The selection panel is responsible for preparing a report to the council's governing body that:

- outlines the selection process
- recommends the most meritorious applicant with reasons
- recommends an eligibility list if appropriate
- recommends that no appointment is made if the outcome of interviews is that there are no suitable applicants.

This report should be confidential and reported to a closed meeting of council.

The council's governing body must by resolution approve the position of the General Manager being offered to the successful candidate before that position is actually offered to that candidate.

108. On 11 April 2018 Mr Murphy provided a presentation and was questioned by the councillors who were present (Cr Marquart and Cr Vincent were not present). The option of calling for the presentations from other candidates was raised however the consensus of the councillors was that it was not necessary.
109. On 23 April 2018 the Council resolved unanimously to offer the position of GM to Mr Murphy. Cr Vincent was not present at that meeting. Mr Murphy commenced as GM on 2 July 2018.
110. The process to appoint Mr Murphy as a GM was in accordance with the "Guidelines for the Appointment and Oversight of General Managers" issued by the Department of Local Government in July 2011. If anything, the process followed by the selection panel gave more information and options to the councillors than strict adherence to the guidelines would have permitted.

⁵⁴ Supplementary submission to Central Coast Council Public Inquiry by Ms. Jane Smith 28 September 2021 pp 2-5

111. Despite criticism of the process for the selection of GM by a number of councillors and some members of the public, I am satisfied that the process which was followed was appropriate and fair.
112. The consequence of the events described above, however, was that CCC had four different GMs between May 2016 and July 2018. This fact contributed to a general lack of leadership and direction at CCC. It also led to the absence of a permanent CFO between August 2017 and May 2019 due to the reluctance of the Interim and Acting GMs to recruit and appoint a person for that role.
113. While the appointment process for Mr Murphy as GM was appropriate and fair, with the benefit of hindsight, he may not have been the best person for the position given the events which the Council was about to experience. His background was in engineering, and he had previously been the GM of two much smaller councils. He had no experience with a merged council and a reported dislike of conflict. His lack of financial qualifications or experience in an equivalent sized organisation, combined with the absence of a permanent CFO for most of his term, created a situation in which there was no strong financial direction or oversight.
114. The process for the appointment of the GM could perhaps have benefitted from the inclusion on the selection panel of an independent person experienced in local government. The mayor was new to local government and Cr Holstein had not been a councillor for some years prior to joining CCC. Most of the councillors were first time councillors. An independent, knowledgeable voice on the panel may have assisted the panel and the councillors to understand the experience and qualities to look for in the candidates.
115. Mr Murphy was responsible for the ill-fated appointment of Mr Craig Norman as CFO in May 2019. Mr Norman was an accountant with no background in local government who never took control of the Council's finances. It is a sad twist of fate that the current CFO, Ms Cowley, who has demonstrated an ability to re-float the sinking ship that was CCC, was looked over for the CFO position.
116. Mr Murphy relied heavily on the advice he received from Council finance staff in the drafting of the budgets, especially in the face of the May 2019 IPART determination and the rapidly deteriorating financial position thereafter. CCC's response to the financial problems it was facing was too little and far too late. Ultimately the responsibility for the fate of the Council rests with the councillors but they were not adequately supported by a GM who was able to provide strong leadership of the staff on financial matters at the time it was needed.

7. THE CHIEF FINANCIAL OFFICERS

117. On 16 June 2016 the initial ELT of CCC was announced. Mr Naven, who had been the CFO of WSC since July 2012, was appointed as CFO of CCC.
118. Mr Naven had oversight of the financial statements for GSC and WSC for the period 1 July 2015 to 12 May 2016. The Proclamation required CCC to prepare audited financial reports for those councils by 31 December 2016.
119. The WSC and WWSA audited financial reports were adopted at a CCC meeting on 21 December 2016 however due to issues relating to the GCC accounts as described earlier (see Chapter 3.5 Change in Accounting Practice), disclaimed audited financial reports for GCC and GWSA were presented at a Council meeting on 19 June 2017.
120. Mr Naven departed CCC in August 2017. Following his departure, a permanent CFO was not appointed until Mr Norman started in May 2019. It is likely that the absence of a permanent GM had contributed to the fact that no permanent CFO was appointed. In that period Ms Vivienne Louie, who was Unit Manager, Finance and later Unit Manager, Financial Performance, was appointed as Interim and Acting CFO.
121. Ms Louie gave evidence about the process employed to formulate the budgets. Paraphrasing her, it started with an aim of achieving a neutral budget with loose parameters given to the directorates within the Council. A draft budget would be prepared, and additional expenditure items would be added by staff and councillors. Attempts would then be made to reduce the projected deficit, largely by allowing for "targeted savings".
122. Recruitment of a suitable CFO proved to be difficult. Mr Glendenning, who had been Acting GM when Mr Murphy was appointed, had advertised the CFO position with a view to Mr Murphy having a pool of applicants ready for him to make an appointment once he commenced. None of those applicants was considered by Mr Murphy to be suitable and the role was advertised again.
123. Mr Norman was appointed CFO and commenced in May 2019. Mr Norman was a certified practising accountant with a background in the public service but no experience in local government or running a business. When he commenced at CCC the May 2019 IPART determination had been recently delivered and the 2019-20 budget was in its last stages of formulation. He left it to his staff to make decisions about how to adjust the budget in the light of the IPART determination. As stated elsewhere, no adjustments were made to the draft budget after the IPART determination was announced.
124. According to Mr Norman the formulation of the 2020-21 budget began in early 2020. He said that he had expressed to the councillors his preference was for a "long-term future where there would be either small surpluses or small deficits"⁵⁵. An unnamed councillor responded to that suggestion by saying words to the effect of "as government, we are here to run deficits"⁵⁶. That

⁵⁵ T587.38

⁵⁶ T587.42

exchange is emblematic of one of the problems which beset CCC. The CFO did not direct or lead the councillors in any meaningful way and at least some of the councillors behaved recklessly in the management of CCC's finances. CCC suffered from a lack of financial direction from the time of Mr Naven's departure in August 2017 until the time of the appointment of Ms Cowley in July 2020.

125. Mr Norman admitted that he ought to have known that unrestricted funds had fallen into the negative⁵⁷, that he did not know who else in CCC might have known about that fact⁵⁸, that he was aware that, due to COVID -19, cash could be an issue for CCC⁵⁹, and that local government was not a "good fit" for him⁶⁰. Mr Norman was at CCC for a relatively short but crucial period. Unfortunately, his presence did not have a beneficial impact on the management of CCC's finances and may have facilitated the lack of information flowing to councillors about the situation and lack of action to counteract the downward trend of CCC's cash position.

⁵⁷ T591.33

⁵⁸ T592.1

⁵⁹ T594.12

⁶⁰ T598.27

8. UNRESTRICTED CASH

126. Clause 212 LG Regulation provides:

212 Reports on council investments

(1) The responsible accounting officer of a council—

(a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented—

(i) if only one ordinary meeting of the council is held in a month, at that meeting, or

(ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and

(b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.

(2) The report must be made up to the last day of the month immediately preceding the meeting.

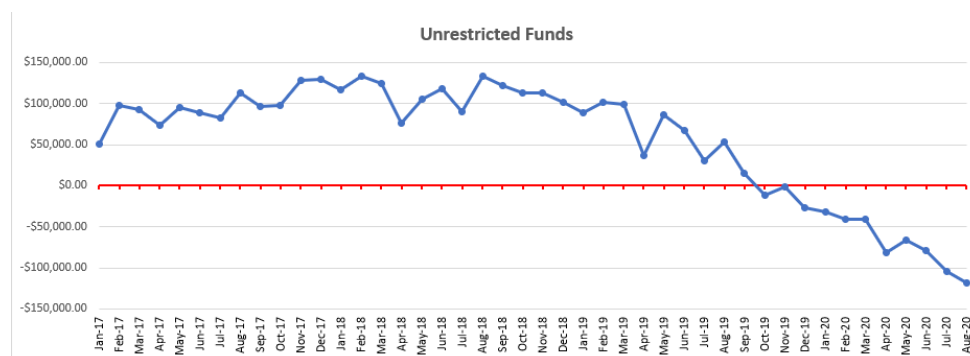
127. Since January 2017 the investment report provided to CCC included a table in the following form

Source of Funds	Value (\$'000)
Investment Portfolio	
Transactional Accounts and Cash in Hand	
Total	
Restricted Funds	
Unrestricted Funds	

128. The table was usually located in a part of the report headed "Council's Portfolio by Source of Funds". The table was preceded by a paragraph that read:

"Council is required to restrict funds received for specific purposes. Restricted funds consist of funds in the investment portfolio and in transactional accounts as follows:"

129. The unrestricted funds represented the operating capital available to Council at any given time. The investment report for October 2019 changed in format in that it no longer included a row within the table describing the value of unrestricted funds. The likely reason for its omission was that in October 2019 unrestricted funds fell into the negative. The situation with unrestricted funds can most easily be demonstrated by the following graph:



130. The investment report for October 2019 did not contain any additional comment to alert the reader to the fact that unrestricted cash was in the negative. Unrestricted cash remained negative until the Council was suspended in September 2020. At no time was any notation made in an investment report to alert the councillors to that fact.
131. Weekly briefings by Council staff were held with those councillors who wished to attend, about various matters, including upcoming reports. The councillors were never informed that the unrestricted funds had been exhausted nor were they warned about the consequences of having no unrestricted funds available.
132. The GM at the time, Mr Murphy, stated that he was unaware that the unrestricted cash position had been removed from the Investment Report for October 2019 and did not become aware of that fact until after he left CCC on 27 November 2020. He also acknowledged that as CEO he was responsible for the final agenda review for Council meetings⁶¹.
133. The author of the Investment Report for October 2019 was Mr Carlton Oldfield, Unit Manager, Financial Services. The executive responsible for that report was Mr Norman, the CFO.
134. Mr Norman had started as CFO on 27 May 2019. He had experience in government but no previous experience in local government. He frankly acknowledged that he was learning from his staff when he started and that he was not fully aware of the legislative requirements relating to restricted funds until sometime into his tenure⁶².
135. Mr Norman was not aware of the change to the format for the October 2019 Investment Report nor was he aware that the balance of unrestricted cash had slipped into the negative⁶³. In fact, he was not aware of the continued deterioration of the unrestricted cash position until after he left CCC on 24 April 2020. He did accept that the October 2019 Investment Report was signed off

⁶¹ Gary Murphy Outline of Evidence 6.10.21 4.13-4.14

⁶² T 586.30, 588.27

⁶³ T 590.42

by him⁶⁴ and that he should have known that the unrestricted cash position had fallen into the negative⁶⁵. Mr Norman could not explain why Mr Oldfield did not tell him that the unrestricted cash position had fallen into the negative, believing that Mr Oldfield had taken sick leave at that time.

136. Council records show that Mr Oldfield did not take extended sick leave until late August 2020, well after Mr Norman's departure.
137. Mr Oldfield was appointed as the acting CFO when Mr Norman left on 24 April 2020, however he relinquished that role and returned to his position as Unit Manager, Financial Services on 11 August 2020. Regrettably, this Inquiry did not have the benefit of hearing from Mr Oldfield as he was not able to be located.
138. It was at the time of Mr Oldfield's departure that Mr Murphy reluctantly took on the role of "responsible accounting officer" (RSA).
139. The RSA is the person responsible for maintaining the system of budgetary control, and providing the quarterly reports, revised budget estimates, monthly investment reports, annual financial statements and half yearly balances.⁶⁶
140. Mr David Farmer, the current GM of CCC, said of the absence of the unrestricted funds from the October 2019 Investment Report⁶⁷:

Certainly, but it's interesting, it's a line item that's missing. If you saw it turn negative, then, you know, that would be an extreme alarm bell.
..... I always work on trends, so a number is just a number, but where are you heading?

141. This statement echoes the warning in the 2013 TCorp report "the trends in results against the benchmarks are critical, as well as the overall performance against all the benchmarks"⁶⁸. The financial information provided to councillors was not easy to read and was sadly lacking in attention to trends.
142. The information about the decline in CCC's finances and the use of restricted funds was there if one knew where and how to look. As Cr Hogan recounted in her evidence, the balance of unrestricted funds could have been calculated by deducting restricted funds from the total of cash and investments as shown in the investment reports. The investment reports from October 2019 until the financial crisis, were designed to obfuscate rather than elucidate. The staff of CCC responsible for those reports bear a significant responsibility for the lack of knowledge on the part of the councillors for the unlawful use of restricted funds.

⁶⁴ T590.37

⁶⁵ T 591.33

⁶⁶ Local Government (General) Regulation 2005 cll 202, 203, 207, 212, 215, 228

⁶⁷ T633.32

⁶⁸ Supra p22

9. THE BUDGETS

143. Since 2009 councils have been required to prepare integrated planning and reporting (IP&R) documents. The primary documents are:
- Community Strategic Plan – a high level plan to identify the community's main priorities and to plans strategies to achieve those goals
 - Resourcing Strategy – a long term plan for financial (ten year), workforce (four year) and asset management (ten year) planning
 - Delivery Program – a plan outlining the principal activities to be undertaken by the council during its term of office
 - Operational Plan - a detailed plan of individual projects and activities to be undertaken each financial year to meet the commitments made in the Delivery Program
 - Annual Report – a report outlining the achievements in implementing the Delivery Program and incorporating audited financial statements.
144. The Operational Plan is often described, including by most witnesses at the public hearings, as the "budget". It includes a financial overview of income and expenditure as well as details of individual projects to be undertaken in the upcoming financial year.
145. Ms Louie described the budget formulation as a "bottom up" process.⁶⁹ Directorates within the Council would be given parameters which were hoped would achieve a neutral or a surplus budget, but those parameters were not always met.⁷⁰
146. Work on preparing the budget would start late in the preceding year however the draft budget was not presented to councillors until a weekend workshop closer to the time for adoption (required by 30 June each year).

9.1 2017-18

147. The 2017-18 budget for CCC was delivered during the initial period of administration on 28 June 2017. The Administrator, Mr Reynolds, described the Council's finances as strong⁷¹. The budget estimated an operating income of \$552.9M and operating expenses (before grants and contributions) of \$551.0M to give a net operating result (before grants and contributions) of \$1.9M. It proposed a significant increase in capital expenditure on the previous year of \$207.9M (up from \$183M). The largest expense category was employment benefits and on-costs at \$182M. An allowance of \$126M was made for amortisation and depreciation and spending on materials and contracts was \$124M. Notably, borrowing costs were \$20.2M. The budget included the following in relation to merger costs:

⁶⁹ T 575 1

⁷⁰ T 575 7-19

⁷¹ Central Coast Council Operational Plan 2017-18 p12

The 2017-18 estimated cost of the merger is included in the budget for 2017-18 and is significantly funded by the New Council Implementation Fund of \$10M received by Council in June 2016.

148. In June 2017 the Federal Government announced that the timing for half of the Financial Assistance Grant (FAG) to local governments for 2017-18 would be brought forward and paid in June 2017. For CCC that meant a \$12.4M boost to the profit and loss for the 2016-17 period and equivalent reduction in expected income for the 2017-18 period. No change was made to the budget at that time because of previous experience of the federal government "bringing forward" FAG payments for several consecutive years. In the May 2018 Federal budget, the timing of FAG payments was altered as expected and half of the 2018-19 FAG of \$12.8M was paid to CCC in June 2018.
149. Quarterly budget review reports were presented to Council in November 2017 and February and May 2018. All reports indicated a favourable variation to budget for the operating surpluses, excluding and including capital grants and contributions. There were, however, adjustments made at each quarter to reflect increased earnings and expenses as the year progressed.
150. The Annual Report 2017-18 was adopted by Council on 26 November 2018. Section 428 of the LG Act requires the annual report to be presented within five months of the end of the financial year and to contain a copy of the council's audited financial reports. Those reports were not finalised at the time of the annual report. The Annual Report 2017-18 contained a single page summary of the Council's financial result in 2017-2018 and showed that the actual net operating result before capital grants and contributions was \$27.9M due to an increase in income and a decrease in expenditure over the budgeted figures based on the Q3 revised budget. The information was said to have been drawn from draft unaudited financial results and was subject to change as part of the audit process⁷².
151. The audited Financial Reports for 2017-18 were adopted by Council on 10 December 2018 and showed a net operating deficit (excluding capital grants and contributions) of \$22.7M. The deficit was due to the revaluation of buildings and operational land during the 2017-18 financial year. Operational land decreased in value by \$35.2M. As there was no asset revaluation reserve balance to reflect the decrease in the land value, income was reduced by \$35.2M. If the operational land revaluation was excluded the net operating result (excluding capital grants and contributions) was \$12.5M (\$10.9M better than originally budgeted but significantly lower than reported in the Annual Report).⁷³

9.2 2018-19

152. The Council resolved on 14 May 2018 to endorse the draft Delivery Program and Operational Plan for 2018-19 for public exhibition. Following exhibition, the draft budget was discussed at five workshops or briefings of councillors, though

⁷² CCC Annual Report 2017-18 p 40

⁷³ CCC Agenda Papers 10 December 2018 Amended Item 4.2 p 6

not all councillors attended. The budget was formally adopted on 25 June 2018 with five councillors voting against the motion. The dissenting councillors had varying reasons for their dissent which included inequity of spending across wards, the slim net operating surplus (stated to be \$64,000), the increase in rates by the full amount allowed under the rate peg (2.5%) and inadequate spending in areas of lower socio-economic status.

153. The 2018-19 budget estimated a net operating income of \$561.54M and operating expenses (before grants and contributions) of \$561.47M to give a net operating result (before grants and contributions) of \$60,000. It proposed a modest decrease in capital expenditure on the previous year of \$199.8M (down from \$207.9M). The largest expense category continued to be employment benefits and on-costs at \$184M. An allowance of \$129M was made for amortisation and depreciation and spending on materials and contracts was \$131. Notably, borrowing costs were \$19M.
154. The Q1 quarterly budget review was presented to Council on 26 November 2018. It showed a favourable variance of the year-to-date (YTD) net operating result of \$13.8M, mostly attributable to an underspend on materials and contracts and other expenditure. The report noted that Council approved budget amendments and the Q1 budget adjustments would move the original operating surplus (excluding capital grants and contributions) of \$64,000 to a deficit of \$4.4M⁷⁴.
155. The Q2 quarterly budget review was presented to Council on 25 February 2019. It showed a favourable variance of YTD net operating result of \$14.5M, mostly attributable to an underspend on materials and contracts and other expenditure. The proposed Q2 budget adjustments would move the Q1 operating deficit (excluding capital grants and contributions) of \$4.4M to a deficit of \$3.8M⁷⁵.
156. The Q3 quarterly budget review was presented to Council on 27 May 2019. It showed a favourable variance of YTD net operating result of \$14.9M, mostly attributable to differences in annual charges and an underspend on materials and contracts and other expenditure. The proposed Q3 budget adjustments would move the Q2 operating deficit (excluding capital grants and contributions) of \$3.8M to a surplus of \$1.7M⁷⁶.
157. The 2018-19 Annual Report was adopted by Council on 11 November 2019. Its format was different from the 2017-18 Annual Report in that it omitted even a summary of financial performance.
158. The draft Financial Reports for 2018-19 were to have been considered at the meetings on 8 October 2019 and 11 November 2019 but the Council deferred consideration of those reports to a date prior to 29 February 2020. The draft reports were ultimately considered by Council on 24 February 2020 and referred for audit. The report which accompanied the draft Financial Reports summarised the actual operating result (excluding capital grants and

⁷⁴ CCC2018-19 Q1 Business Report p 66

⁷⁵ CCC2018-19 Q2 Business Report p 59

⁷⁶ CCC2018-19 Q3 Business Report p 62

contributions) as a deficit of \$5.1M which was attributed largely to increase in employee costs due to back pay under the Unified Salary Scale (\$1.4M) and industrial claims (\$2.8M), electricity back charges due to three and a half years of incorrect meter readings at the Mooney Water Treatment Plant (\$1.3M) and written off work in progress (\$0.9M)⁷⁷.

159. The report noted that once the 2017-18 operating result was adjusted for the revaluation decrement (see [151]) the 2018-19 operating result was a \$17.6M negative movement on the previous year.
160. The Financial Reports were audited and formally adopted by Council on 9 March 2020, more than three months later than required by s 428 of the LG Act. The report which accompanied those Reports confirmed the financial analysis of the financial performance contained in the 24 February 2020 report. It also noted a \$13.2M increase in cash restrictions to reimburse the GCC contributions funds for administrative fees incorrectly deducted, investment losses incorrectly allocated and for interest income over the period 2001-2018. The report noted that this adjustment did not affect the operating result but did reduce unrestricted cash. The Financial Report showed the unrestricted cash as \$50.9M⁷⁸, about half of what it had been the previous year.

9.3 2019-20

161. The Council resolved on 25 March 2019 to endorse the draft Delivery Program and Operational Plan for 2018-19 for public exhibition.
162. Prior to that resolution a motion in the following terms was moved by Crs Best and Marquart and lost:
 1. That Council rejects the 2019-20 Draft Budget.
 2. That Council conducts a management audit to investigate why Councils finances are deteriorating at such as rapid rate.
 3. That Council further staff report (sic) to Council around delivering a rate reduction to the rate payers of the former Wyong Shire Local Government Area to provide parity with rate payers of the former Gosford City Local Government Area.
163. The draft budget had been the subject of several briefings and a weekend workshop, although not all councillors attended that workshop. Further briefings were to be arranged in April 2019 to address the OLG benchmarks and possible rate reductions and in May 2019 to discuss the Workforce Management Strategy. The draft budget proposed an operating deficit of \$7.7M before capital grants and contributions which, it was said, reflected the Council's focus on consolidating information on a single technology platform, an increase in electricity costs (\$4M) and an adjustment to annual charges in line with Council's submission to IPART. The draft budget stated that once

⁷⁷ CCC Additional Item 2.9 Report to Meeting of 24 February 2020 p 6

⁷⁸ 2018-19 CCC Consolidated Financial Reports p 33 of 98

IPART's final report was released "appropriate adjustments will be made to the Operational Plan 2019-20 including budgets"⁷⁹.

164. On 20 May 2019 there was a councillor briefing on the draft budget. The only change then recommended was to add an increase in Emergency Services Levy of \$0.5M to the operating deficit before capital income.

9.4 2019 IPART Determination

165. On 24 May 2019 the Independent Pricing and Regulatory Tribunal (IPART) issued its determination and report for water and other services prices for CCC from 1 July 2019 to 30 June 2022.
166. As stated previously, CCC is unique among local government authorities in NSW which also provide water supply and sewerage services. Most other Councils are able to set their own rates for those services based on need and following community consultation. The water and other services prices for CCC, however, are set by IPART in much the same way as it determines prices for other water authorities under the WM Act such as Sydney Water or Hunter Water.
167. IPART released a draft determination in April 2019. CCC was in the process of finalising its 2019-2020 budget when this news arrived. The news was not totally unexpected, the Council had budgeted for a decrease in income from water supply and other services of about \$22M over three years, however the magnitude of the reduced income in the draft determination was significant.
168. Budget revisions were made at that time. Unfortunately, the nature of those revisions was to introduce "targeted savings" to various directorates within the Council without identifying how savings were to be achieved. Ms Cowley gave evidence that the 2019-20 budget included targeted savings of \$70M⁸⁰. As stated by the current GM, Mr Farmer, adjustments to the budget by introducing targeted savings "means nothing if you don't have plans to implement"⁸¹. As Ms Cowley stated, in reality, the budget deficit was more like \$83M⁸².
169. The determination in May 2019 had the effect of removing \$39M from the income of the Central Coast Council Water Supply Authority (CCCSWA) over three years. The result was that the budget, which was already planned to be a deficit budget of \$7.7M, grew to be a larger deficit budget of \$18.6M.
170. Instead of reducing capital expenditure, the Council allowed the budget deficit to increase, with the likelihood that the projected figure would not be met due to lack of planning of any proposed "targeted savings".
171. The sad irony about the May 2019 IPART decision was that the determination was made because of the accumulation of the surpluses due to higher water sales and continual underspending in relation to operational and capital expenditure for the prior determination period (2013-2018).

⁷⁹ CCC Draft Operational Plan 201-20 at 25 March 2019 p 116

⁸⁰ T449.23

⁸¹ T633.10

⁸² T449.25

172. On 27 May 2019 the Council resolved to approve water, sewerage and stormwater drainage fees and charges for 2019-20 consistent with the IPART determination. The report on the item did not mention the large difference between the revenue from water, sewerage and stormwater drainage fees and charges projected by Council's submission to IPART and the revenue available under the IPART determination.
173. On 3 June 2019 a staff presentation was given to councillors regarding the IPART determination. The briefing paper explained that the operating result before capital grants and contributions would move from the publicly exhibited deficit of \$7.7M to a projected deficit of \$18.6M.⁸³
174. The impact of the anticipated increased deficit for the 2019-20 budget was described in these terms in the briefing document:

Since Central Coast was formed on 12 May 2016 the cumulative operating surplus (before capital income) from 13 May 2016 to 30 June 2018 is \$78.0M. The **forecasted** (sic) operating surplus (before capital income) for the year ended 30 June 2019 is \$1.7M. These operating surpluses estimated to total \$79.7M will offset the proposed operating deficit of \$18.6M in 2019-20.⁸⁴

175. The briefing document did not make any recommendations for budget adjustments other than to include additional expenditure on water and sewer capital works of \$1.4M as required by the IPART determination. It somewhat unhelpfully stated in its conclusion:

Councillors must feel appropriately informed and comfortable before signing off financial reports or agreeing to financial commitments.

Councillors need to advise specifically what additional information they require in order to be appropriately informed and comfortable.⁸⁵

176. Cr Smith's evidence was that she recalled that the draft budget was adjusted in light of the IPART determination⁸⁶. There is no documentary evidence to support that recollection.
177. On 11 June 2019 CCC considered the Operational Plan for 2019-20. The report relating to the Operational Plan presented Council with three options:
1. Adoption of the Operational Plan 2019-20 with amendments as outlined in attachments 3, 4 and 5*. *This is the recommended option.*
 2. Further amend the Operational Plan 2019-20. *This is not recommended as the operational plan and capital works program have been developed based on careful consideration by Council staff, who considered Council's strategies and plans. Any changes made would have to be costed and consider the*

⁸³ Councillor Briefing – Final IPART Determination 3 June 2019 11th page

⁸⁴ Ibid 12th page

⁸⁵ Ibid 16th page

⁸⁶ T47.6

* minor adjustments to the capital works program and to the schedule of fees and charges

impact on service delivery and other projects and future capital works programs.

3. Failure to adopt an Operational Plan 2019-20 by 30 June 2019 will be a breach of s 405(1) LG Act and (in respect of the Operational Plan) leave Council without funds to operate. *This not the recommended option.*
178. The Council adopted the Operational Plan. The final part of its resolution was:

That Council notes with concern the projected deficit and general issues of ward expenditure equity.
179. The resolution was carried 13:1 with Cr Vincent against and Cr Burke was not present at the meeting.
180. The Q1 report was considered by CCC on 25 November 2019. The year to date (YTD) operating result was generally running to budget, other than due to a timing issue in relation to the receipt of grants and contributions. However, unfavourable adjustments of \$3.1M (excluding grants and contributions) were made due to reflect reduced interest on investments (\$2M), increased expenses for Holiday Parks (\$1.2M) and other factors. The Q1 budgeted deficit was adjusted accordingly to \$21.7M.⁸⁷
181. The Q2 report was considered by CCC on 24 February 2020. The YTD operating result (excluding capital grants and contributions) showed an unfavourable variance of \$10.8M. After budget adjustments the Q2 proposed operating deficit (excluding grants and contributions) worsened by \$2.8M. The adjustments proposed as part of the Q2 budget review related to increased expenses (\$2.2M). Council had resolved to allocate savings resulting from a reduction in the Emergency Services Levy (\$0.445M) to other projects. The Q2 proposed operating deficit increased to \$24.5M.⁸⁸
182. The Q3 report was considered by CCC on 25 May 2020. The YTD operating result (excluding capital grants and contributions) showed an unfavourable variance of \$19.4M. After budget adjustments the Q3 operating deficit (excluding grants and contributions) increased to \$41.6M.⁸⁹
183. The Annual Report for 2019-20, which was required to be prepared by November 2020, was not presented at that time due to the intervening financial crisis.
184. The audited financial reports for 2019-20 were included as an addendum to the Annual Report 2019-20 and were adopted by CCC on 11 May 2021. They showed that the operating result (excluding capital grants and contributions) was \$88,838M⁹⁰.

⁸⁷ Report to Council 25 November 2019 Item 3.12 – 2019-20 Q1 Business Report p 282

⁸⁸ Report to Council 24 February 2020 Item 2.10 – 2019-20 Q2 Business Report p 132

⁸⁹ Report to Council 25 May 2020 Item 2.2 – 2019-20 Q3 Business Report p 5

⁹⁰ General Purpose Financial Statements Central Coast Council 1 July 2019-30 June 2020 p5

9.5 2020-21

185. The draft budget came before Council on 23 March 2020. The Council voted unanimously and without debate to endorse the draft Delivery Program and Operational Plan for 2019-20 for public exhibition. The report which accompanied the draft budget disclosed that it proposed an operating deficit (before capital grants and depreciation) of \$32.5M. The 2019-20 Long Term Financial Plan had forecast a deficit of \$16M. The report stated that the difference arose from a decrease in development application fees, reduction in interest income, increase in emergency services levy, increase in Holiday Park management contract costs, increase in costs of the development of Coastal Management Plans and integrated water cycle strategy and costs to implement LED streetlighting⁹¹. No figures were provided to indicate the individual reduction in income or increase in expenditure relative to those items.
186. The 2020-21 budget was considered by Council on 27 July 2020. Normally the budget would have been required to have been adopted by 30 June however due to COVID-19 the time for adoption was extended to 30 July in 2020.
187. The report to Council stated:
- The draft Operational Plan 2020-21 was developed prior to the realisation of COVID-19. During exhibition and proceeding months further work was done to understand the impacts on Council's budget and operations. The Operational Plan 2020-21 presented as Attachment 1 of this report will differ to what was presented in the draft Operational Plan 2020-21. These changes are necessary and aim to ensure that Council is being fiscally responsible and 'living within its means'.⁹²
188. The main changes between the exhibited draft Operational Plan 2020-21 and that ultimately adopted by the Council were:
- decrease capital expenditure by \$23.3M from \$248.3M to \$225M
 - decrease operating expenditure by \$10.8M from \$584.1M to \$564.3M
 - decrease in projected capital grants and contributions of \$6.6M from \$45.9M to \$39.3M.
189. Somewhat surprisingly, given the known impacts of the COVID-19 on income at that time, the projected operating income was only decreased by \$0.6M from \$551.6 to \$551M.
190. The result of these measures was to reduce the net operating result (excluding capital grants and contributions) from a \$32.5M deficit to a \$13.3M deficit.
191. The Q1 report was delivered on 2 December 2020, after the suspension of the governing body. It reflected the financial status as at 30 September 2020. The year to date operating result (excluding capital grants and contributions) was

⁹¹ CCC Item 3.3 Report to Extraordinary Meeting of 23 March 2020 p 27-8

⁹² Minutes of CCC meeting 27 July 2020 Item 2.1 p 10

showing an unfavourable variance of \$1.9M. Unfavourable Q1 adjustments totalled of \$101.7M which brought the approved operating deficit (excluding capital grants and contributions) to \$115.1M. The adjustments included \$50M in employee costs for restructuring and critical recruitment, \$29.9M in depreciation due to capitalisation of major assets, \$11.2M in targeted savings in contracts and materials which would not be realised and \$9.6M in reduced interest and water and sewer charges⁹³.

192. The Q2 report was delivered on 23 February 2021. It reflected the financial status as at 31 December 2020. The year to date operating result (excluding capital grants and contributions) was showing a favourable variance of \$21.5M. Q2 adjustments totalled of \$7.7M which brought the approved operating deficit (excluding capital grants and contributions) to \$107.4M⁹⁴.
193. The Q3 report was delivered on 25 May 2021. It reflected the financial status as at 31 March 2021. The year to date operating result (excluding capital grants and contributions) was showing a favourable variance of \$52.8M. Q2 adjustments totalled of \$4.1M which brought the approved operating deficit (excluding capital grants and contributions) to \$103.3M⁹⁵.
194. Draft financial statements for 2020-21 were presented to CCC on 12 October 2021. They showed an operating result (excluding capital grants and contributions) of \$91,544M⁹⁶

⁹³ 2020-21 Q1 Business Report pp 3-5

⁹⁴ 2020-21 Q2 Business Report p 43

⁹⁵ 2020-21 Q3 Business Report p 45

⁹⁶ Attachments under separate cover to Agenda CCC meeting 12 October 2021 p 13

10. PWC REPORT – JULY 2019

195. In April 2019 the GM, Mr Murphy, engaged PricewaterhouseCoopers (PWC) to carry out a financial strategic review with the aim of developing a long-term financial strategy for the Council. That report was delivered in July 2019. The executive summary of that report described the current financial outlook in the following terms:

The current analysis shows that whilst the financial position of the Council deteriorates over time it is still sustainable, without any major external shocks, over the 10-year period.⁹⁷

196. The background to the report acknowledged certain limitations to developing rigorous Council budgets including a lack of available underlying data, a lack of consistent understanding and approach to financial planning, a lack of asset management planning beyond a twelve-month horizon and a lack of clear links between the strategic and operational outcomes tied to finances.⁹⁸
197. In relation to the Council's current financial position, the report noted the history of prudent financial performance since the formation of the Council in 2016 against a projected significant deficit for the 2019-20 financial year mainly due to an increase in capital expenditure. Although the current year performance (2018-19) showed an improvement of \$18M against the budget, the budget for 2019-20 showed a deterioration of the operational budget of \$25M from the 2018-19 projected outcomes due to two factors: the recent IPART determination reducing net operating results by \$11M and a significant increase in capital expenditure resulting in a planned deficit of \$59M. The capital expenditure of \$233M was approximately \$40M or 20% above capital expenditure of the previous two years.⁹⁹
198. The report noted that expenses were the area where Council had greater control to impact on overall financial health.¹⁰⁰ In terms of the financial outlook one of the key takeaways was that the significant investment in capital expenditure was depleting cash generated over previous years.¹⁰¹
199. In its conclusion the report said that while the accounts were in a relatively strong position it would require a number of adverse events to eventuate before the Council was faced with significant financial challenges. It noted that this view was based on an incomplete view of the full financial position.¹⁰² In relation to financial strategy the report said that there was no immediate or pressing need to implement initiatives to improve the financial position, but it would be advisable for the Council to consider initiatives including operational efficiencies, revenue maximisation and strategic initiatives¹⁰³.

⁹⁷ PWC Report July 2019 p 5

⁹⁸ PWC Report July 2019 p 8

⁹⁹ PWC Report July 2019 p 14

¹⁰⁰ PWC Report July 2019 p 15

¹⁰¹ PWC Report July 2019 p 16

¹⁰² PWC Report July 2019 p 24

¹⁰³ PWC Report July 2019 p 26

200. Perhaps most interesting from the PWC Report were its insights which it recommended be the subject of further investigation. These included:
- Failure to align the strategic and financial objectives.
 - Lack of detailed financial understanding, especially in relation to the delivery of services.
 - Recommendation to build financial understanding from councillors down through to all relevant staff.
 - Lack of detailed capital plan - the level of capital expenditure proposed for the 2019-20 financial year cannot be continued annually.
 - The business partners were not acting as financial advisors to the departments within which they worked.
201. The PWC Report was the subject of a memorandum from the GM, Mr Murphy, to the CFO, Mr Norman dated 14 October 2019. The memorandum summarised aspects of the report and noted that commentary from "the business", which is assumed to mean Council's staff, was that the report did not provide any new information or insight. The memorandum concluded:
- Notwithstanding the report's shortcomings (which feedback has been provided) the principles should be used as a guide to improve our financial management framework.
202. It does not appear from the Council meeting records that the PWC Report was formally discussed by Council although it may have been the subject of a Councillor Update.

11. AUDIT OFFICE

203. The Audit Office of NSW became the auditor for CCC and CCCWSA in 2018.
204. On 12 September 2018 the Audit Office issued its Interim Management Letter to CCC. It raised three main issues relating to Council's fixed assets register in that it was not updated for acquisitions and disposals for the prior year, not reconciled to the general ledger and that the reassessments of fair value had not been done in a timely manner. The explanation from Council's staff was that the delays were due to the delay in the auditing of the financial statements of the prior year and the implementation of the Oracle cloud financial system.
205. The Audit Office issued its Final Management Letter on 28 February 2019 and did not raise any significant matters or make any ongoing recommendations.
206. On 13 January 2020 the Audit Office issued its Interim Management Letter. A draft of its Interim Management Letter had been provided to Council management on 9 August 2019 and Council staff had responded. The Interim Management Letter raised issues of moderate risk relating to:
- risk management culture
 - legislative compliance
 - controls over
 - manual journals
 - adjustments to customer accounts
 - procurement governance
 - changes to vendor master files
 - changes to payroll master files
207. On 18 February 2020 the Audit Office issued a Closing Report which raised two significant matters. Firstly, that a \$13.2M adjustment was made to reimburse the local infrastructure contribution restricted funds due to errors dating back to 2001 relating to the use of contributions to pay for administrative expenses under forty contribution plans which did not allow for those expenses to be claimed.
208. The other significant matter raised was that the financial statements included a number of misstatements and disclosure deficiencies.¹⁰⁴ The Closing Report also noted the restricted cash investments balance of \$380.9M as at 30 June 2018 was large.¹⁰⁵

¹⁰⁴ Audit Office closing report to CCC 18 February 2020 pp 3-4

¹⁰⁵ Audit Office closing report to CCC 18 February 2020 p 7

209. On 19 March 2020 the Audit Office issued a Final Management Letter which raised two matters of high risk and consequence, those were the matters raised in its Closing Report of 18 February 2020.

12. AUDIT OFFICE REPORT – WORKFORCE REFORM IN THREE AMALGAMATED COUNCILS

210. On 1 May 2019 the Audit Office published its report entitled Workforce Reform in Three Amalgamated Councils (Workplace Reform Report). It looked at Inner West Council, Queanbeyan-Palerang Regional Council and Snowy Monaro Regional Council. Its conclusions noted that the two regional Councils did not expect to achieve material savings of efficiencies from workplace reform within the first three years of amalgamation. The report said that amalgamated Councils should be routinely reporting to their communities about the costs and benefits of amalgamation.¹⁰⁶
211. One of the key findings of the report was that progress towards an efficient structure had been slowed by the staff protections under the LG Act. Those protections limited the pace at which Councils could:
- move staff to new locations and co-locate work teams
 - divest redundant staff
 - bring salaries and work conditions into line with work value
 - recruit new skills, due to the requirement to exhaust internal recruitment options before advertising externally.
212. The staff protections did however result in little industrial action related to the amalgamations.¹⁰⁷
213. There were also administrative and logistical barriers to achieving efficiencies including the need to maintain duplicated information technology systems until an integrated enterprise system could be implemented, inconsistent policies, procedures customs and practices that needed to be aligned, and significant staff time devoted to recruitment. At the time of the report none of the Councils concerned could adequately assess the effectiveness of the changed management efforts.¹⁰⁸
214. Following the 2016 amalgamations amalgamated Councils were required to prepare benefits realisation plans for the Department of Premier and Cabinet (DPC). In mid-2017 amalgamation monitoring and support was transferred from DPC to OLG. After that time no mandatory reporting of benefits realisation was required.
215. The report noted that changes in leadership can disrupt the progress of workplace reform. The interim GMs appointed under the proclamation at two of the studied Councils departed during the protection period. Inner West Council then had a second Interim GM appointed under a series of short-term contracts and appointed a permanent third GM during the time the audit was

¹⁰⁶ Audit Office Report p 1

¹⁰⁷ Audit Office Report p 2

¹⁰⁸ Audit Office Report p 3

being conducted for the purpose of the report.¹⁰⁹ That situation is not unlike that which occurred at CCC with the permanent GM, Mr Murphy not being appointed until July 2018, being the fourth GM in two years.

216. Workplace reform in CCC was clearly affected by the protections to staff under the LG Act, the lack of an integrated enterprise system and, unlike the councils which were the subject of the Workplace Reform Report, a relatively high level of industrial disputation¹¹⁰. Mr Persson was critical in his reports of the increase in staff numbers at CCC. Some submissions asserted that a useful comparison could not be made of staff numbers of the former councils and CCC because of the different ways of measuring full time employees in those councils. Ms Cowley gave evidence that the annualised employee costs rose from \$154M to \$221M between May 2016 and November 2020¹¹¹. The conclusion is that whether employee numbers or costs of employees is considered, there was a significant increase in that period which would have contributed significantly to the expenses of CCC.

¹⁰⁹ Audit Office Report p 12

¹¹⁰ Submission to Inquiry by United Services Union dated 11 October 2021 p 2

¹¹¹ T455.9-16

**13. AUDIT OFFICE REPORT – GOVERNANCE AND INTERNAL CONTROLS OVER
LOCAL INFRASTRUCTURE CONTRIBUTIONS**

217. On 17 August 2020 the Audit Office published a performance audit report entitled "Governance and Internal Controls Over Local Infrastructure Contributions". The audit assessed the effectiveness of governance and internal controls over local infrastructure contributions (LICs) collected by four councils during the 2017-18 and 2018-19 financial years. Those councils were Blacktown City Council, CCC, City of Sydney Council and Liverpool City Council. As at June 2018 those councils held the four highest LIC balances, each in excess of \$140M.
218. Part 6 of section 1 of the report dealt with CCC. It noted that CCC had inherited fifty-three contributions plans from the former GCC and WSC and had been working on consolidating those plans. Between June 2016 and 2019 the LIC balance for CCC doubled from \$90M to \$196M. During that period the LIC contributions (including works in kind and land) averaged \$33M per year against average expenditure of \$7M per year. The report noted that an increasing balance with relatively low expenditure represented infrastructure that developers had paid for but which the community had not received.¹¹²
219. The report also noted the need for CCC to adjust its accounts in 2018-19 by \$13.2M to repay the LIC fund for administration expenses unlawfully claimed under forty contributions plans since 2001.¹¹³
220. Each of the key findings of the report had relevance for CCC. Apart from the misuse of contributions for administration expenses, the following shortcomings were identified:
- the LIC committee did not have a sufficiently senior level of membership to be effective and did not address contributions collected for water and sewer under the LG Act
 - CCC did not report regularly to senior management or the councillors about the projected financial statement of the contributions plans or the development servicing plans (for water and sewer)
 - contributions plans were not reviewed within the past five years contrary to the 2005 practice note of the former Department of Infrastructure Planning and Natural Resources
 - weak internal controls including
 - lack of independence in valuation of works-in-kind and land
 - risks that security bonds may be insufficient to cover the cost of undelivered or poor-quality works

¹¹² Audit Office Report – Governance and Internal Controls Over Local Infrastructure Contributions 17 August 2020 p 24

¹¹³ Ibid p 23

- outdated policies and procedures
 - incomplete guidance relating to probity during negotiations with developers
 - limited security over important data maintained in spreadsheets
- lack of transparency over how cash collected under voluntary planning agreements (VPAs) is spent; and
- heavy reliance on knowledge of specific staff members due to outdated procedural documentation.¹¹⁴

¹¹⁴ Ibid p 4 and 5

14. GRANT THORNTON REPORTS

14.1 Grant Thornton Phase 1 Report

221. In about April 2020 the GM, Mr Murphy, engaged Grant Thornton Australia Limited (Grant Thornton) to review the Council's COVID-19 response financial plan, its budget processes and longer-term financial planning. Grant Thornton was also asked to advise on interim role appointments within the finance directorate.
222. The terms of engagement were signed on 17 April 2020 and revised on 20 and 24 May 2020. The Financial Capacity Review – Phase 1 was received on 4 June 2020.
223. That report estimated that revenue and cash collections for 2020-21 would reduce by between \$86M - \$117M in addition to the reduction in revenue and cash collections for the last quarter of 2019-20 which would reduce by between \$15M - \$20M. It warned that there was a real risk that the collection of rates and charges would be materially impacted by a reduction in business and household income during the economic crisis, severely impacting available cash for Council.
224. The report estimated that every 1% increase in the arrears of rates equated to approximately \$4.1M of reduced cash. The report recommended an immediate reduction in operational and capital expenditure where available, and the implementation of cost saving measures including a freeze on new recruitment, limiting over time, limiting the use of contract and temporary labour, and enforcing leave to reduce excess accruals. The specific areas of operation and capital expenditure which could be reduced or deferred were to be explored in the Phase 2 Grant Thornton Report.¹¹⁵
225. In the section of the report dealing with estimated cash flow impact, the report recommended that the operating budget be adjusted to "break even" as a minimum. The exhibited budget had a projected operating loss of \$32.5M before capital grants and contributions.
226. The report also noted that the funding of more than \$205M from operation and general funds was not sustainable given the prior year's performance and the impact of COVID-19. As the result of the poor operating performance of the Council it would not be able to obtain debt funding from TCorp (due to the operating deficit) and would have to pay a higher commercial rate for funding from the banks. The report estimated that actual borrowings for 2019-20 were likely to be \$20M higher than budgeted and were proposed to be used to retire old debt and reimburse restricted funds that were accessed. The 2020-21 budget proposed a further \$50M in borrowing, most of which was to be used to replace existing debt. The report warned that restricted funds should not be used to fund general capital expenditure. The report also bore the following note:

¹¹⁵ Grant Thornton Financial Capacity Review – Phase 1 pp 5 and 8

A negative cashflow of \$2.6 million was forecast prior to COVID-19. This will be heavily impacted by COVID-19 (\$117.2 million) and the use of restricted funds (\$63.0 million). The total cash impact of \$180.2 million compares to only c. \$29.5 million of available cash. As such, it is necessary to immediately reduce operational and capital expenditure by c. \$153.3 million. We will consider this further in Phase 2 of our review.¹¹⁶

227. That note should have caused alarm bells to start ringing. The reference to the use of \$63.0M of restricted funds was well beyond the \$13.2M repayment for the wrongful deduction of administration fees from developer contributions paid under the *Environmental Planning and Assessment Act 1979* (EPA Act).
228. The draft report was circulated to the ELT by Mr Murphy on 5 June 2020 ahead of a meeting planned for 8 June 2020. Comments from Mr Murphy in the email which accompanied the draft report included:

As we have seen crs have shown a surprising tolerance for deficits and while I don't think anyone will accept a \$153m potential deficit, they may similarly be reluctant to get back to a balanced budget in 2020/21.

It is anyone's guess as to what their appetite might be, but it could potentially be a \$50m deficit?¹¹⁷

229. A councillor workshop was held on 13 June 2020 to discuss the Grant Thornton Phase 1 report. The PowerPoint presentation to that workshop repeated the findings and recommendations of the Grant Thornton Phase 1 report. It did not repeat the note warning of negative cash flow and the use of restricted funds.
230. On 15 June 2020 a councillor briefing was held to confirm the outcomes of the 13 June 2020 workshop. A further workshop was planned for 4 July 2020. In the week prior to that next workshop key information was distributed to councillors and one-on-one information sessions were provided upon request. The further workshop was then held on 4 July 2020 to present and discuss information regarding the COVID-19 impacts on the budget and operations for 2020-21. A final briefing was held with councillors on 22 July 2020 ahead of the adoption of the 2020-2021 budget on 27 July 2020.
231. Representatives of Grant Thornton also made a confidential presentation to ARIC on 17 June 2020. ARIC resolved in the following terms:
- (a) endorses the fact that the process has been undertaken by Council;
 - (b) notes the thoroughness in which it has been prepared; and
 - (c) recommends that there be a feedback loop within the process so the progress can be tracked.

¹¹⁶ Grant Thornton Financial Capacity Review – Phase 1 p 10

¹¹⁷ Email from Gary Murphy to Boris Bolgoff; Carlton Oldfield; Jamie Loader; Julie Vaughan; Krystie Bryant; Mark Margin; Scott Cox 5 June 2020 8.38am p 1

232. The Grant Thornton Phase 1 report had noted Council's intention not to alter its draft operational plan 2020-21 prior to adoption but to make adjustments in response to COVID-19 in the Q1 review.

14.2 Grant Thornton Phase 2 Report

233. On 17 July 2020 the draft Grant Thornton Phase 2 report dated 15 July 2020 was received by Mr Murphy. An email which accompanied the draft report noted that Mr Oldfield had already reviewed the draft report. Prior to finalising the report, Mr Murphy was asked by Grant Thornton to sign a management representation letter confirming the accuracy of the contents of the report.
234. On 3 August 2020 Mr Murphy responded to Grant Thornton with twenty-seven comments and questions. Grant Thornton responded to those comments and questions on 9 August 2020. On 13 August 2020 the draft Grant Thornton Phase 2 report and the exchange of comments and questions and responses between Mr Murphy and Grant Thornton were circulated to the ELT who were asked to keep the draft report confidential.
235. The draft (V2) Grant Thornton Phase 2 report dated 16 August 2020 was provided to Mr Murphy, apparently in the absence of a management representation letter as it remained in draft. That report contained a number of concerning observations, including:

Culturally, there lacks significant emphasis on the importance of the financial position and performance of Council. There are too many competing priorities that overshadow the need for a financially sustainable organisation. As a result, Council has reported deficits for the past three years and has severe cash constraints.

Given the past historical operational performance of Council and the lack of unrestricted cash reserves, there needs to be an immediate restructure of the cost base and a shift in culture to ensure Council is financially responsible and sustainable.¹¹⁸

236. The report made a large number of recommendations relating to better and longer-term budget formulation, ongoing reporting, better management, reporting and forecasting of cash flow, avoidance of further external debt and a reduction in expenses (particularly in relation to employee costs).
237. The report included a LTFP¹¹⁹ - Cash Flow Forecast. In a highlighted row within that forecast unrestricted cash was shown to have deteriorated from \$50.9M in 2018-19 to -\$42.7M for that current year with a continued and significant deterioration over the long term. The preamble to the notes to the forecast stated:

The summary opposite is prepared from the LTFP. While only forecast at present, should the forecast not be revised to reduce the operational loss and capital expenditure, there is expected to be insufficient available cash to fund future periods. Further, the estimated impact of

¹¹⁸ Grant Thornton Draft (V2) Phase 2 Report dated 16 August 2020 p 5

¹¹⁹ Long Term Financial Plan

COVID is not included in the forecast and needs to be accounted for.¹²⁰

238. The report identified that expenses had been increasing and revenue falling so that the cost base was unsustainable. The two main areas of increased expenses were employee costs (9% increase year on year against an annual wage increase of 2.5%) and materials (~10% increase over two years mainly in relation to consultants, labour hire and external plant hire).¹²¹

239. The report recommended better practices with respect to reporting on and segregating internally and externally restricted funds and said:

The lax practices (together with a lack of cash flow reporting) have resulted in over \$60 million of internally restricted funds being utilised for general purposes without the approval of the Councillors. Internally restricted funds appear to have been accessed from October 2019 for general operational purposes given unrestricted funds were exhausted. The cash flow forecasts in the LTFP results in negative unrestricted funds which appears to have inadvertently led to the use of internally restricted funds as part of delivering the operational and capital budgets.¹²²

240. A briefing of councillors was held 31 August 2020 for an update on the 2020-21 financial position.

¹²⁰ Grant Thornton Draft (V2) Phase 2 Report dated 16 August 2020 p 14

¹²¹ Grant Thornton Draft (V2) Phase 2 Report dated 16 August 2020 p 28

¹²² Grant Thornton Draft (V2) Phase 2 Report dated 16 August 2020 p 37

15. DMB REPORT

241. Following the Grant Thornton Phase 2 report Mr Banicevic of DMB Consulting Pty Ltd, a chartered accountant with extensive local government experience, was engaged to investigate the use of restricted funds.
242. On 3 October 2020 Mr Banicevic provided a brief confidential report to the GM (DMB Report). His report stated that as at 30 June 2020 there was insufficient cash and investments in the General Fund to cover internal and external restrictions. The shortfall was \$184M meaning that all internally restricted funds and \$75M of externally restricted funds had been spent for purposes other than purposes for which they were restricted. No approval had been obtained for the alternate use of those funds. There was also a shortfall in the Drainage Fund of \$34M. Mr Banicevic posited that those shortfalls were likely to represent breaches of Council policy and the LG Act.¹²³
243. The DMB Report went on to state:
- The position after June 2020 appears to have deteriorated further. Cash and investment levels have dropped a further \$46m – to \$314m at the end of August – without significant changes in the committed restrictions. Water Fund (sic) may also have moved into a funding deficiency for the first time.¹²⁴
244. Mr Banicevic suggested that the following factors may have contributed to the position:
- no minimum liquidity levels
 - no effective monitoring or reporting of liquidity
 - no effective control to prevent restricted monies from being accessed for the wrong purposes
 - no early warning mechanism for deteriorating liquidity or compromise of restricted funds
 - no liquidity contingency plan
 - no contingency funding
 - a large budget deficit in the 2019-20 financial year.¹²⁵
245. The DMB Report recommended that ARIC and OLG be advised of Council's position and that measures be introduced to address the causative factors listed above.

¹²³ Letter from DMB Consulting Pty Ltd to the GM 3 October 2020 p 2

¹²⁴ Ibid p 3

¹²⁵ Ibid p 4

- 246. On 6 October 2020 Mr Banicevic made a PowerPoint presentation to the councillors which repeated the information contained in his report of 3 October 2021.
- 247. Also, on 6 October 2020 Mr Murphy telephoned and wrote to the Acting Secretary, OLG regarding the DMB Report and issued a media release regarding Council's financial position.

16. DOMESTIC WASTE REVIEW

248. On 22 February 2021 KPMG and Clayton Utz published their joint review of Council's Domestic Waste system. It was a targeted review over the 2018, 2019 and 2020 financial years.
249. The review made some findings relevant to this Inquiry, including:
- The total balance of the Domestic Waste Fund (DWF) was treated by Council staff as externally restricted for the sole use of domestic waste management.
 - The Restrictions Master Sheet reported to Council via the monthly Investment Report was either not attached or was out of date, sometimes by several months, meaning that inaccurate Restricted and Unrestricted Fund balances had been reported in the Investment Reports over the review period.
 - Capital expenditure for waste was initially funded by the General Fund (GF) and later recouped from the DWF over the duration of the service. The approach is consistent with the Council Rating and Revenue Raising Manual (2007) (CRRR Manual).
250. The combined effect of these findings was that in relation to domestic waste, at any point in time, there was no clear picture of the balance of restricted funds, or the amount "owed" to the general fund.

17. CLAYTON UTZ LEGAL AND FINANCIAL FORENSIC ANALYSIS

251. On 24 February 2021 Clayton Utz published its Legal and Financial Forensic Analysis relating to the Council's liquidity crisis and the use of restricted funds. As a result of its investigations Clayton Utz found there were no reasonable grounds to suspect that the crisis or the use of restricted funds was the result of corrupt conduct, but rather it was due to:

- lack of control and transparency in the inherited financial system of GCC
- delays and problems integrating the financial systems of GCC and WSC into a single system
- a long-standing practice of reallocating funds between the General Fund and restricted funds
- mismanagement of the bank account, general poor financial management and lack of early warning systems.

18. AUDITOR-GENERAL LETTER TO MINISTER

252. On 11 May 2021 the Auditor-General wrote to the Minister for Local Government following completion of the audit of CCC's financial statements for the year ended June 2020 by the Audit Office of NSW. That letter raised matters identified by the Auditor-General as being of significance including:
- The correction of an error in a previous reporting period resulting from a change in the Council's interpretation of the relevant legislation
 - Breaches of the LG Act and Regulation
 - Extreme and high risk matters of governance including the management of cash flows and restrictions, lack of documented policy relating to restricted funds, valuation of roads, bridges and footpaths, financial statement preparation and review, reconciliations of key accounts and sub-ledgers, access controls to financial computer systems and the valuation of Community and Crown land.
253. The correction of an error in a previous reporting period related to the change in accounting policy for WSC and GCC for the period ending 12 May 2016 (see Chapter 3.5 Change in Accounting Policy), which was continued by CCC for the years ending 30 June 2017, 2018 and 2019. The Auditor-General determined, based on advice from the Solicitor-General dated 13 February 2021¹²⁶, that the change in accounting policy in 2016 was a reasonable interpretation of the relevant legislation so that the decision in 2020 to revert to the previous accounting method (to treat charges levied under the WM Act as restricted funds) was not a correction of an error but rather a voluntary change in accounting policy. The Auditor-General considered the description as an error amounted to a material disclosure deficiency in the 2020 statements.
254. As acknowledged by the Auditor-General, the opinion of the Crown Solicitor that charges levied under the WM Act could be treated as unrestricted funds by CCC, was not without doubt. That advice had generated much discussion in legal and local government circles. CCC clearly currently considers charges levied under the WM Act by CCC to be externally restricted funds and those funds are now accounted for in that manner. The Department of Planning and Environment (formerly the Department of Planning, Industry and Environment) proposes to issue guidance consistent with the preferred view of the Crown Solicitor.¹²⁷
255. The breach of the LG Act of concern to the Auditor-General related to the further change in accounting policy in 2020. That is, as CCC elected to treat monies collected under the WM Act as externally restricted, accessing those funds without the required approvals constituted a breach of sections 409 and 410 of the LG Act in the year ended 30 June 2020.

¹²⁶ Advice of Crown Solicitor dated 13 February 2021, Appendix 2 to Report on Local Government 2020, Audit Office of NSW 27 May 2021p 60

¹²⁷ Letter from Secretary, Department of Planning, Industry & Environment to the Auditor-General dated 26 May 2021, Appendix 1 to Report on Local Government 2020, Audit Office of NSW 27 May 2021p 59

256. The breach of the LG Regulation of concern to the Auditor-General related to clause 212 which requires the responsible accounting officer to provide a written report each month setting out details of all monies invested. The Investment Report was not presented within time for November 2019 and February, April, July and September 2020 resulting in a breach of the LG Regulation.

19. AUDIT OFFICE REPORT ON LOCAL GOVERNMENT 2020

257. The Auditor-General is required by section 421C of the LG Act to report annually on any local government sector-wide matters arising from the examination of financial statements of councils and the exercise by the Auditor-General of audit or other functions under that Act. On 27 May 2021 the Auditor-General published the Report on Local Government 2020.
258. That report acknowledged that Councils were significantly impacted by emergency events during 2019-20 including drought, bushfires, floods and the COVID-19 pandemic.¹²⁸ In addition to experiencing each of those emergency events CCC also experienced severe coastal erosion at Wamberal Beach in July 2020.
259. The report is useful to put into context the findings of the Auditor General summarised in the letter to the Minister dated 11 May 2021. CCC was classified as a metropolitan Council for the purpose of the Report.¹²⁹ Despite the many emergency events in 2019-20 56% of metropolitan Councils performed better than their original budget. CCC was not amongst those Councils.
260. The analysis of key audit findings for 2019-20 showed that CCC was the only NSW Council to be subject to an extreme risk finding (in relation to spending of restricted funds for unrestricted purposes). CCC was also subject to seven high risk findings in five of the nine categories of findings (governance, financial reporting, financial accounting, asset management and information technology), more than any other NSW Council.¹³⁰

¹²⁸ Report on Local Government 2020 Audit Office 27 May 2021 p 5

¹²⁹ Ibid p 73

¹³⁰ Ibid pp 32-53

20. SECOND ADMINISTRATOR'S REPORTS

261. On 30 October 2020 the councillors of CCC were suspended and Mr Persson AM was appointed as the Interim Administrator for three months. Mr Persson's tenure was subsequently extended to six months. Mr Persson issued three reports during his tenure as Interim Administrator – a 30 day report on 2 December 2020, a 3 month progress report on 3 February 2021 and a final report on 15 April 2021.

20.1 30 Day Report

262. The executive summary of the 30 day report painted an alarming picture of the state of CCC. Its operating losses for that financial year were forecast to be \$115M, following a loss in the previous financial year of \$89M. Accumulated debt, including funds to be repaid to restricted reserves was in the order of \$565M. Mr Persson said the Council (presumably referring to the councillors) did not know how much money they had from the outset and set out on a program of expanded capital works and services which they could not afford.
263. Mr Persson said much of the expenditure was funded from restricted reserves either unlawfully or without approval of the elected body.
264. Somewhat controversially, Mr Persson alleged that the former CFO, Mr Norman, and the former GM, Mr Murphy, were aware of this unlawful use of funds. In his oral testimony Mr Persson was questioned about the emails and notes he relied on to reach that conclusion. The Inquiry also heard explanations from Mr Norman and Mr Murphy as to the meaning of the somewhat cryptic notes and comments. As I am aware that this issue is likely to be determined by a Court of record, I will not venture an opinion as to the state of Mr Murphy's knowledge as to the use of restricted funds for unlawful purposes prior to his receipt of the Grant Thornton Phase 1 Report on 4 June 2020.
265. Mr Norman on the other hand, as CFO, ought to have had knowledge of the cash position of the Council and balances of restricted funds. His evidence was that he did not become aware that unrestricted cash had fallen into the negative in October 2019 until after he left CCC.¹³¹ Mr Norman resigned from CCC and his last day was 24 April 2020. It is difficult to accept that a CFO, in the role of a responsible accounting officer under the LG Act, could not have been aware of the true cash position of the Council for some six months.
266. Mr Persson put the rapid financial decline of the Council down to the substantial costs of upgrading the IT system and an industrial dispute, the impact of the IPART determination for water, sewer and drainage services and increased costs and revenue losses caused by bushfires, floods and COVID-19.
267. He said that there was no evidence that the elected body or senior management had prioritised possible savings from the merger, though he did not identify what savings might have been able to be achieved at that stage of the merger process.

¹³¹ T590.46

268. Mr Persson was critical of the increase in staff numbers by two hundred and fifty full time equivalent positions since amalgamation. He provided a graph of employee costs however the increased employee costs from 2017 to 2020 were largely due to harmonisation costs, termination payments and award increases and were not directly attributable to increased staff numbers.¹³²
269. He was also critical of the failure of the elected body and senior management to exercise fiscal restraint in the 2020-21 budget in light of the large operational loss the previous year and the other factors impacting Council finances which were known at the time the budget was formulated.

20.2 3 month progress report

270. The 3 month report did not alter the historical review of CCC's actions as described in the 30 day report but focussed on future action, including the securing of loans to maintain liquidity, reducing staff numbers, reducing capital and operational expenditure, sale of assets and a Special Rate Variation (SRV) via IPART.
271. In commenting on the behaviour of the elected body Mr Persson said the dynamic of CCC was more like a parliament, where opposing forces rarely collaborate. He said:

To be successful, councils need to operate more like a governing body of a large business enterprise [which councils are] where members collaborate and cooperate to get the best results for their residents and ratepayers. A quick view of previous council meetings confirms that this rarely occurred, with political point scoring too often on show.¹³³

272. Having viewed a large number, but by no means all, of the meetings of CCC, it is hard to disagree with Mr Persson's assessment. There was very little evidence of collaboration but plenty of grandstanding and speechmaking for the apparent benefit of the viewing public, but not for the residents and ratepayers.

20.3 Final Report

273. Mr Persson issued a final report on 15 April 2020. In this report Mr Persson was again critical of the councillors and the GM in expanding all aspects of CCC spending with little regard or understanding of the financial consequences. He said:

My investigation has concluded that by far the greatest reason CCC became insolvent was due to mismanagement of their budget over the years following the merger and leading up to their suspension.

There were unusual circumstances [IPART water pricing decision, bushfires, floods and COVID] which exacerbated and accelerated the collapse of the operating budget. Nevertheless, nothing excuses the

¹³² 30 Day Report Dick Persson 2 December 2020 p 7

¹³³ 3 Month Progress Report Dick Persson 3 February 2021 p 3

negligence of those in charge for their relative inaction, which was manifestly much too little and much too late.

The types of hard decisions/actions which Mr Hart* and I have put in place needed to have been taken immediately after the IPART decision cut \$39 million pa from water rate income. Increased costs and revenue losses from floods, fires and COVID 19 made urgent action all the more necessary.¹³⁴

274. Mr Persson said the use of restricted funds was not unimportant, but it was not the reason the budget "blew out". He said to use those funds to prop up a rapidly deteriorating bottom line was inexcusable at best, and negligent at worst.
275. The report addressed the Council merger in a number of respects. It found that there was no evidence to support the view that the financial crisis was caused by the merger, that the merger was incomplete in September 2017 and that the elected body had little interest in gaining efficiencies or savings, though again the report did not identify what those efficiencies or saving might have been at that stage. Mr Persson acknowledged that WSC and GCC were not as "fit-for-the-future" and other merged councils and that the merger did not have strong community support at the outset.
276. Mr Persson recommended an extension of the period of administration for CCC to allow adequate time to complete the merger and re-build community confidence.

¹³⁴ Final Report Dick Persson 15 April 2021 p 4-5

* the then interim CEO/GM

21. SANSOM REPORT

277. Adjunct Professor Sansom published a research paper entitled "Not so Simple: the origins and implications of Central Coast Council's 'financial calamity'" (the Sansom Report) on 21 September 2021. Professor Sansom had chaired the ILGRP which published its report Revitalising Local Government" in April 2012 so he quite naturally had an interest in the subject matter of this Inquiry.
278. The objectives of the Sansom Report were:
- To explore the origins of the claimed 'financial calamity' and identify the factors involved.
 - To place Central Coast's experience in the broader context of the legislative and policy frameworks that regulate local government in NSW – particularly newly amalgamated councils.
 - To consider the implications for future governance and oversight of the NSW system of local government – especially the emerging group of very large municipalities with populations projected to reach 300-400,000 or more within the next decade or two.¹³⁵
279. The Sansom Report identified sixteen key issues and findings, not all of which are pertinent to this Inquiry. Those that are of relevance include (as paraphrased):
- The merger process was deficient in that it failed to properly assess the risks (infrastructure backlogs, relatively low rates) and fuelled unrealistic expectations of merger benefits
 - Underlying weaknesses in CCC were compounded by the rate path freeze and the change in accounting policy in the 2015-16 financial statements of WSC and GCC
 - There was a "revolving door" of senior executives, especially in the CEO and CFO roles
 - Significant problems emerged in 2019-20 including unbudgeted increases in employee costs, the financial impact of emergencies and the IPART determination for water, sewerage and drainage levies. The projected budget deficit of \$18.6M grew to \$41M by March 2020 and \$89M by the end of that financial year.
 - A case can be made that during 2019-20 and in setting its 2020-21 budget CCC was slow to respond to signs that its financial position was weakening
 - IPART's determination in May 2019 caught CCC unprepared

¹³⁵ Research Paper: Not So Simple: the origins and implications of Central Coast Council's 'financial calamity' Adjunct Professor Graham Sansom, University of Technology Sydney 21 September 2021

- CCC's serious financial situation in October 2020 concerned accounting practice not an absolute shortage of funds
 - \$317M of the \$565M of debt owed by CCC in October 2020 had been inherited from WSC and GCC and about \$200M was restricted funds which were asserted to be required to be repaid. The advice of the Crown Solicitor¹³⁶ has cast doubt on that assertion.
280. For the most part I agree with the key issues and findings of the Sansom Report. Without entering the debate about whether charges levied under the WM Act should be accounted for as restricted or unrestricted funds, there is an appealing "pub test"-type logic to the idea that money collected by a water supply authority should be used only for purposes associated with that water supply authority. Indeed, that is what occurs for other water supply authorities. I am not convinced that spending those funds for general Council operations is appropriate.
281. I depart from Professor Sansom's view in relation to the response of CCC to the IPART determination and the blow out of the 2019-20 budget.
282. CCC was not entirely unprepared for the IPART determination. It had already factored a decrease in water, sewerage and drainage charges into its draft budget, consistent with its submission to IPART. It had also received a draft determination from IPART under which its revenue would decrease more substantially than had been anticipated in the CCC submission to IPART. Despite having that knowledge, no changes were made to the draft budget. The IPART determination on 24 May 2019 almost doubled the CCC forecast decrease in revenue and again no changes were made to the draft budget, even though the projected deficit had grown from \$7.7M to \$18.6M.
283. I do not accept that it was reasonable for CCC to fail to adjust its 2019-20 budget for the significant reduction in revenue resulting from the IPART determination. The inclusion of \$70M in targeted savings which were unlikely to ever be realised only added to the risk which the large deficit presented. In addition, CCC should have kept a very close eye on each quarterly review to ensure that there was no significant departure from the budget and to make the adjustments which had been mooted when the IPART determination was announced. Instead, the 2019-20 budget deficit continued to grow unchecked without any serious action to restrain spending.

¹³⁶ Advice of Crown Solicitor dated 13 February 2021, Appendix 2 to Report on Local Government 2020, Audit Office of NSW 27 May 2021pp 60-71

22. COUNCILLOR RELATIONSHIPS AND BEHAVIOUR

284. Mr Murphy was the GM from July 2018 to November 2020. He described the culture of the councillors as suspicious and sceptical, of staff and between themselves, even those of the same political affiliation. He referred to bitter exchanges between councillors, numerous points of order about councillor behaviour, a high number of notices of motion, frequent amendments to staff recommendations and an inordinate number of councillor requests and questions on notice. In late 2019 he engaged an industrial psychologist firm, Elton Consulting, to try to improve the relationships between the councillors themselves and between the councillors and the ELT.
285. Elton Consulting provided two online surveys, one to each councillor and the other to each member of the ELT. Thirteen of the fifteen councillors and eight of the ten ELT members completed the surveys.
286. The results of the surveys were published in a report dated 28 January 2020. In terms of processes and systems the key findings from the surveys were that councillors were generally satisfied, other than with the Hub and with Council meetings and briefings. The councillors suggested stricter and stronger facilitation could improve meetings and briefings.
287. The key findings in relation to relationships and capabilities were more concerning. A key issue for councillors was the lack of respectful and collaborative efforts between councillors. Greater enforcement of behavioural and procedural expectations between councillors was suggested however most councillors had no confidence that relationships between councillors could be improved.
288. Elton Consulting then conducted individual telephone interviews with thirteen of the fifteen councillors, including the current and former mayors, and eight of the ten ELT members. The results of those interviews were published in a report dated 13 March 2020.
289. In relation to systems and processes the report identified concerns amongst councillors about unbalanced competencies in formal debate practice, unequal councillor preparation for meetings and attendance at briefings and frustration at late notices of motion.
290. In regard to relationships, management and confidence most councillors identified their experience in being part of a council as largely negative. Some councillors and ELT members felt disrespected and personally attacked in formal meetings and briefings and were frustrated by politics trumping collaboration, particularly in relation to the focus on wards. Councillors and ELT members identified a distrust amongst councillors and between some councillors and staff, which could be damaging to staff wellbeing and to the reputation of the Council. The councillors felt unsupported by management in relation to councillor behaviour, primarily in the chamber.
291. The report found that in the current climate and timing (an election was due in September 2020) investing in significant change to councillor support processes would be unproductive. It instead suggested a response of "good will"

signalling that the feedback had been heard and setting a tone of expectation for the next term of Council. For that next term the report recommended better and continued training in formal protocols, consistent and robust management to promote and maintain the values of Council as an organisation and other measures to improve knowledge and transparency.

292. An indicator of the deterioration of relationships between councillors was the number and increasing frequency of Code of Conduct complaints made by one councillor against another. Prior to June 2018 there had been no such complaints. In the 2018-19 period seven complaints were received and in the 2019-20 period thirteen complaints were received. Three of the complaints were upheld and resolved by alternate means. The balance of the complaints were dismissed at preliminary assessment or by OLG or were pending at the time the councillors were suspended. It is apparent from the nature of the complaints that the Code of Conduct procedures were weaponised in a presumed attempt to exclude, sanction or silence opponents within the governing body.
293. The TCorp report in 2013 identified what was needed for a sustainable council – good management and a good council working together with their community¹³⁷. The governing body of CCC was not a council which worked together, particularly later in its term. The council meetings were unreasonably long and characterised by lengthy and often irrelevant debate, interruptions and points of order. The behaviour of some councillors was very challenging for those chairing the meetings and often went unchecked. The absence of consensus and the constant bickering may well have distracted the governing body from its role in managing the council finances and budgets.

¹³⁷ Supra p 33

23. COUNCILLOR TRAINING

294. The LG Act imposes significant obligations on councillors in relation to the decisions which they make. A number of submissions to the Inquiry claimed that councillors were ill-equipped and insufficiently trained to properly discharge those obligations, particularly in relation to financial management.
295. Some submitters and witnesses suggested that councillors were akin to members of a company board and should be appointed based on their qualifications and experience. That notion is contrary to the democratic process and to the policy of the NSW Government which seeks diversity in age, experience, gender and background for local government councillors.
296. Given the policy to encourage diversity amongst councillors and the significant obligations on them, proper training is essential to maximise the effectiveness and success of a governing body in performing its functions.
297. The councillors were offered many and varied opportunities for further training but there was no written direction given by Council staff or the GM to councillors as to what forms of training might be most beneficial to them. The funding for councillor training was generous¹³⁸, yet this was one budget within the Council which was not blown, at least not during Mr Murphy's term as GM¹³⁹.
298. Most councillors described the difficulty in attending suitable training courses due to their life and work commitments and the fact that most courses were offered in Sydney and fewer in reasonable proximity to the Central Coast. Two particular types of courses were mentioned by several councillors as courses which might be of benefit to them in their role as a councillor.
299. One of those courses was the Executive Certificate for Elected Members offered by LGNSW through University of Technology Sydney (UTS), a course conducted over four days with a specific focus on the roles and responsibilities of councillors and the local government planning and reporting process.
300. The other course was the Australian Institute of Company Directors (AICD) company directors course. Those councillors who had completed the AICD course believed it was very helpful¹⁴⁰ and should be mandatory¹⁴¹. The current GM, Mr Farmer, said that it is not appropriate to simply set a budget for training and allow councillors to choose what courses they wished to attend. What he had found very effective at Wollongong City Council, working with a new governing body following a Council dismissal, was for all of the councillors together to complete the AICD company directors accreditation¹⁴². He described the effect of completing the course on the councillors as "really, really powerful"¹⁴³.

¹³⁸ T184.40; T304.13

¹³⁹ T185.7

¹⁴⁰ T151.6

¹⁴¹ T305.25

¹⁴² T643.10

¹⁴³ T643.18

301. The ILGRP had grappled with the need for councillor training in its report "revitalising Local Government" in 2013. Its preferred approach included a mandatory extended induction program for new councillors and update modules for re-elected councillors to be completed within three months of the election in addition to a prescribed number of optional approved professional development courses¹⁴⁴. It recommended increased remuneration for councillors who successfully completed recognised professional development programs¹⁴⁵. The government supported and expected councils to provide professional development for councillors, but it did not favour tying successful completion of programs to councillors' remuneration¹⁴⁶.
302. At CCC councillors were informed of a broad range of course, seminars and conferences which they could attend via the Councillor Updates. The take up of those opportunities varied amongst the councillors. Some councillors did no additional training at all, while others regularly attended comprehensive and/or targeted courses.
303. In terms of training relating to Council finances, a course was offered by LGNSW entitled "Understanding Local Government Finances for Councillors". This may have been the course which Cr Mehrtens said he had seen three or four times¹⁴⁷ and seemed underwhelmed by.
304. I do not subscribe to the view that councillors are akin to board members, however I do think that councillors should be supported and trained so that they develop competencies to enable them to understand their role and responsibilities, including in relation to local government finance. At least the core components of that training should be mandatory and ongoing. To properly carry out their roles, councillors should be able to read and understand council financial statements, draft budgets, quarterly budget reports, investment reports and annual reports. Mandatory professional development exists across most professions and there is no reason why councillors, some of whom might be new to the role, should not similarly be required to have specialised and ongoing training.
305. It is evident from the evidence of the councillors to the Inquiry that not all CCC councillors, and perhaps not any, possessed the knowledge and skill to analyse the information provided to them so that they understood what was happening to the Council's finances from May 2019 until the financial crisis in October 2020. The necessity for such skills was acknowledged in the 2013 TCorp¹⁴⁸ and ILGRP¹⁴⁹ Reports. While steps have been taken since then to improve councillors' financial skills, greater attention needs to be given to properly equipping councillors for the role which they assume once elected.

¹⁴⁴ ILGRP report "Revitalising Local Government" p 62

¹⁴⁵ ILGRP report "Revitalising Local Government" p 68

¹⁴⁶ Fit for the Future NSW Government Response to ILGRP recommendations p10-11

¹⁴⁷ T55.4

¹⁴⁸ Supra p 9

¹⁴⁹ Supra p 62

24. PUBLIC SUBMISSIONS

306. More than one hundred written submissions were received by the Inquiry. Ten of the thirteen suspended councillors provided submissions. One former councillor, eight former staff members and two of the CCC Administrators also provided submissions. The overwhelming majority of the submissions came from members of the public.
307. There was a general sentiment of dissatisfaction with the state of affairs concerning the finances at CCC but a marked difference of opinion as to the reasons for those circumstances. Of the submissions which expressed a position concerning the governing body, a slim majority was critical of its role in the financial crisis at CCC. The balance, while unhappy with the situation, pointed to other factors as being the root cause of that crisis.
308. Those "other factors" included:
- a de facto forced merger with legacy debt and infrastructure backlog, and high costs with inadequate grant funding
 - merger "rules" restricting staff changes and imposing a rate path freeze
 - natural disasters such as bushfires, floods, coastal erosion and COVID-19
 - poor financial management by the GM, CFO, ELT and finance staff
 - inadequate information for councillors, particularly regarding:
 - the change in accounting practice
 - change in investment report format
 - late and inadequate budget review information
 - the improper use of restricted funds
 - Wyong v Gosford (or North v South) rivalry
 - Cost-shifting to Councils including:
 - waste levies
 - Gosford CBD contributions
 - dredging of waterways
 - emergency services levies
309. Those factors did make the job of managing the finances of CCC harder than if they did not exist, but most of those were known factors when the governing

body was making budgetary decisions or at budget review phases. Their existence ought to have resulted in greater fiscal restraint than was evident, particularly in the budgetary decisions later in the term of the governing body.

310. A number of submissions raised issues or posed questions which its author desired the Inquiry to address. Many of those issues and questions are beyond the scope of this Inquiry, which is limited by its Terms of Reference. By way of example, it is not within the purview of this Inquiry to comment on individual development applications, staff issues or items of public infrastructure.
311. Similarly, it is not the role of this Inquiry to make recommendations about possible changes to the ward system or the number of councillors for CCC. Nor is it for this Inquiry to comment on the steps taken by the Administrators since the councillors were suspended to tackle the financial woes of the Council.
312. A number of submissions asserted that ARIC should take or at least share responsibility for the financial collapse of CCC. The nature of that committee, which met four to five times annually, with a full agenda addressing issues across the whole of the CCC operations, did not lend itself to a detailed knowledge or examination of the financial status of CCC. Its role in relation to financial management was, until July 2020, confined to the review of draft financial statements and audits associated with them. That is, it was a back-looking function, aimed at ensuring compliance with statutory reporting requirements. It had no role in the oversight of proposed budgets.
313. At the ARIC meeting on 17 July 2020 representatives of Grant Thornton made a presentation (see Grant Thornton Reports). That presentation related to the Grant Thornton Phase 1 Report received on 4 June 2020 as the Phase 2 Report was not published until 16 August 2020. This was the first time ARIC had been briefed on the current financial status of CCC. In relation to the Grant Thornton presentation ARIC resolved:

That the Audit, Risk and Improvement Committee:

 - a. endorses the fact that the process has been undertaken by Council;
 - b. notes the thoroughness in which it has been prepared; and
 - c. recommends that there be a feedback loop within the process so the progress can be tracked.
314. Also at that meeting, ARIC received a report entitled "Finance Update". It provided a summary of the deteriorating financial position of the Council. ARIC did not meet again until after the councillors were suspended. The Finance Update thereafter became a standing item on the ARIC agenda. On 27 April 2021 the ARIC Charter was amended to expand the role of ARIC to include greater financial oversight in order to provide advice to CCC regarding its financial situation and to monitor the controls CCC has put in place to better monitor financial performance.
315. Having regard to the nature and functions of ARIC as it existed during the tenure of the governing body, I do not regard it as having a central or even peripheral role in the financial problems at CCC.

25. FINDINGS ON TERMS OF REFERENCE

25.1 Term of Reference 1

316. Term of Reference 1 is in the following terms:

1. *In exercising its functions pursuant to sections 21, 22, 23, 23A and 24 of the LG Act, the governing body met its obligations in a manner consistent with sections 8A(1)(b), 8B(a), 8B(c) and 8B(d) of the LG Act, particularly in relation to:*
 - d. *Whether the governing body acted in a manner that maximised the success of gaining efficiencies and financial savings from the merger process,*
 - e. *Whether the governing body disregarded the financial consequences of its decisions, and*
 - f. *Whether the governing body's decisions since 2017 contributed to the financial position which the Council now finds itself in.*

Efficiencies and financial savings from the merger process

317. The forecast financial benefits of the merger of WSC and GCC were many and varied.
318. In 2014 GCC commissioned SGS Economics and Planning to undertake an analysis of the impact of a merger with WSC. That report estimated savings of about \$180M over twenty years¹⁵⁰.
319. The NSW Government stated in 2016 that CCC could achieve a total financial benefit of \$135M over twenty years (including the \$20M in merger grants) and a projected 119% improvement in operating results¹⁵¹. The savings over a twenty year period were to be achieved from streamlining senior management roles (\$112M), increased purchasing power (\$17M) and a reduced number of councillors (\$3M)¹⁵². The costs of implementing the merger (unspecified) were expected to be surpassed by net savings within a three year period¹⁵³.
320. The Government's estimates were based on an analysis prepared by KPMG which has not been made public. The methodology employed by KPMG was criticised by commentators including Professor Brian Dollery¹⁵⁴.
321. GCC undertook an analysis based on the KPMG model but using 2014-15 GCC financial data and concluded that savings of \$64M over twenty years could be expected¹⁵⁵.

¹⁵⁰ SGS Economics and Planning, Response to Revitalising Local Government Report August 2014 p 94

¹⁵¹ Foreword to Merger Proposal: Gosford City Council Wyong Shire Council NSW Government January 2016 p 2

¹⁵² Merger Proposal: Gosford City Council Wyong Shire Council NSW Government January 2016 p 8

¹⁵³ Merger Proposal: Gosford City Council Wyong Shire Council NSW Government January 2016 p 9

¹⁵⁴ Review of KPMG (2016) Outline of Financial Modelling Assumptions for Local Government Merger Proposals Technical Paper

¹⁵⁵ Gosford CC submission to the Minister's Delegate February 2016 p 9

322. IPART assessed GCC and WSC against the Fit for the Future criteria. It stated that its independent economic analysts, Ernst and Young, estimated gains from the merger of \$196M over twenty years¹⁵⁶.
323. The public, however, was sceptical. 70% of submissions to the Minister's Delegate which addressed financial considerations thought there was insufficient evidence to support the estimates of costs and benefits of the merger¹⁵⁷.
324. The Minister's Delegate himself concluded that there would be savings as a result of the merger (no quantum was specified) and those savings would arise after transitional requirements were completed (no time frame was specified). He did note that "Time must be taken to lay a solid foundation so the economic benefits will be realised over the longer term"¹⁵⁸.
325. The governing body of CCC had been at the helm for just over three years when the councillors were suspended in October 2020. At that time the merger process was far from complete. The constraints on staff changes existed until May 2020 and the rates path freeze until June 2021. The costs of the merger, on any reckoning, far exceeded the merger grants. The Council had inherited significant infrastructure backlogs from GCC and WSC as well as significant, but manageable debt levels. It would be unrealistic and unreasonable to expect efficiencies or financial savings to have been evident by October 2020.
326. The Minister's Delegate had commented in his report on the need to measure "performance, service levels and infrastructure backlog at the time of the merger to compare with performance at points in time in the future"¹⁵⁹. The councillors and council staff, however, did not have a focus on measuring the costs and benefits of the merger or even the stage of completeness of the merger. The Project Management Office (PMO) established by the initial Administrator to implement and measure the progress of the merger was disbanded by Mr Bell following his appointment as GM in September 2017. With the support of the executive group, he reduced the number of consultants, returned seconded staff to their substantive positions and arranged for the PMO functions to be undertaken in-house by all directors, managers and key general staff¹⁶⁰. Regrettably, without the centralised role of the PMO, measurement and reporting on the progress of the merger processes at the whole of Council level no longer occurred.
327. As a consequence, when councillors did make calls for information about the costs (but not benefits or savings) and progress of the merger¹⁶¹ it took many months for staff to respond. Eventually, a report was presented to the meeting of CCC on 25 November 2019, however it deferred until early 2020 the provision of information relating to the estimate of costs of the amalgamation, the

¹⁵⁶ IPART Fit for the Future Assessments for Gosford CC and Wyong SC October 2015

¹⁵⁷ Delegate's Report March 2016 p 18

¹⁵⁸ Delegate's Report March 2016 p 6

¹⁵⁹ Supra p 21

¹⁶⁰ T521-523

¹⁶¹ Council resolutions 649/17 and 650/17 of 9 October 2017; Council resolution 813/18 of 13 August 2018 and Cr Vincent Question on Notice on 12 November 2018

expenditure of the merger grants and projected time for completion of merger processes¹⁶².

328. The report due in early 2020 did not materialise and a further call for information about the cost and progress of the merger was made via a Question with Notice to the meeting of 22 June 2020¹⁶³. The response from staff was that the information would be provided in a report to the council meeting of 27 July 2020¹⁶⁴.
329. A report was presented to the council meeting of 27 July 2020 entitled Amalgamation Progress Update. It estimated that CCC had funded to date (exclusive of government grants) almost \$40M of the total estimated amalgamation costs. As at 30 June 2020, 73% of the amalgamation projects had been completed with the remainder expected to be completed by 30 June 2022. The projects awaiting completion at that time included introduction of the new information management and technology systems, consolidating the LEPs and DCPs and rates harmonisation.
330. Given the lack of information available to councillors about the progress of and costs associated with the amalgamation it is unsurprising that the governing body did not have a primary focus on efficiencies and financial savings which might have been available from the merger process, particularly when the process was still some years away from completion.
331. In relation to Term of Reference 1(a) it is my opinion that the efficiencies and savings to be realised from the merger (if any) would not emerge until the merger processes and the spending on them were complete. Those processes were not forecast to be and were not in fact completed within the term of the governing body. The governing body did not act in a manner which would have prevented efficiencies and savings to be realised from the merger in the future. Indeed, it was continuing with the implementation and completion of the merger processes as identified by the first Administrator, albeit without the PMO managing the process.

Financial consequences of the decisions of the governing body

332. The financial crisis which befell CCC in October 2020 was not the result of the governing body being ignorant of the financial consequences of its decisions. Most reports to CCC included a paragraph on the financial impact of the subject matter of the report. Where that impact was expected to be of some significance an estimate of the cost or impact would be provided with advice about funding (for example, via budget adjustments, grants etc).
333. The decisions of the governing body which had the greatest financial consequences were those relating to the annual budgets. As outlined in Chapter 9 The Budgets, the governing body inherited a surplus budget of \$1.9M (before grants and contributions) which resulted in an actual deficit of \$22.7M (but a surplus of \$12.5M if land and building revaluations were excluded). It

¹⁶² Minutes of CCC meeting 25 November 2019

¹⁶³ Question with Notice by Cr MacGregor at CCC meeting 22 June 2020

¹⁶⁴ Amended agenda item 4.1 of CCC meeting 22 June 2020

then adopted in 2018-19 a break-even budget which resulted in an actual \$5.1M deficit, in 2019-20 it adopted a \$18.6M deficit budget which resulted in an actual \$41.6M deficit and in 2020-21 it adopted a \$13.3M deficit budget which resulted in the financial crisis at CCC.

- 334. The repeated deficit budgets and outcomes were a significant factor in the deterioration of the financial position of CCC. The councillors could have observed that actual results year on year were much worse than budgeted for. Instead of reigning in subsequent budgets, the deficits of subsequent budgets were increased. The absence of any rational reaction to the IPART determination in May 2019 permitted the deficit of that budget to balloon. The promised budget adjustments to take account of the decreased revenue from the determination never happened. No adequate explanation was provided to the Inquiry as to why the 2019-20 budget was not reviewed and expenditure reduced immediately upon the release of the IPART determination.
- 335. It must be noted that the Council finance staff actively discouraged the councillors from reviewing the budget in the presentation to the councillor briefing on 3 June 2019 and the report to Council on 11 June 2019, even though there was still time to make adjustments. Nevertheless, it was a decision for the councillors, not the staff, to adopt the budget with no significant changes.
- 336. The fact that the 2020-21 budget proposed a substantial deficit is hard to understand in the context of the events at that time. From the quarterly budget reports in November 2019 and February and May 2020, the councillors would, or at least should, have been aware of the blow-out of the 2019-20 budget. Fires, floods and storms had impacted the Central Coast and the state had gone into lockdown as a result of COVID-19. Grant Thornton had clearly warned the councillors of the financial risks which lay ahead. Despite all of these facts, the councillors adopted another substantial deficit budget.
- 337. In my view the budget decisions of the elected body did contribute, and in a significant way, to the financial crisis of CCC in 2020.
- 338. In addition to the annual budget, "approved budget adjustments" were regularly made and recorded in the quarterly budget reviews (see Chapter 9 The Budgets). These budget adjustments contributed significantly to the actual deficits exceeding the budgeted deficits in the 2018-19, 2019-20 and 2020-21 financial years.

25.2 Term of Reference 2

- 339. Term of Reference 2 is in the following terms:

2. In exercising its functions pursuant to section 223 of the LG Act, the governing body ensured:

- c. As far as possible, that decisions taken by it had regard to the financial sustainability of the council, and*
- d. That it kept under review the performance of the council, including that council spending was responsible and sustainable by aligning general revenue and expenses.*

340. Term of reference 2(a) overlaps to a large degree with term of reference 1(b) and (c). The budget decisions of the governing body failed to have proper regard to the financial sustainability of the council for the reasons expressed earlier.

Review of financial performance

341. The governing body had the means at its disposal to keep the financial performance of the council under review, but it failed to do so adequately. The monthly investment reports were adopted en masse with other information reports, without comment, questions, or debate. The quarterly budget reviews were not used as opportunities to correct adverse trends.
342. The annual report summaries and the audited financial statements should have been used by the governing body to inform future budgets but did not appear to have been used to that effect. Even the warnings from the Audit Office and Grant Thornton did not appear to have been considered with the gravity they deserved.
343. The Council had resolved in 2018 for high level cash flow statements and a rolling forecast against the Operational Budget to be provided prior to the release of the Quarterly Budget Review¹⁶⁵. Those statements and forecasts appear to have been presented in briefings and did not form part of the budget reviews or other publicly available documents.

25.3 Term of Reference 3

344. Term of Reference 3 is in the following terms:

3. Any other matter that warrants mention, particularly those that may impact on the effective administration of Council's functions and responsibilities or the community's confidence in the Council being able to do so.

345. This Term of Reference must be read with and as an adjunct to Terms of Reference 1 and 2. This Inquiry has received many wide ranging submissions and evidence going beyond Terms of Reference 1 and 2 but only some of that information has sufficient connection to the primary Terms of Reference to warrant mention.
346. The amalgamation of WSC and GCC added to the financial and political complexities facing the governing body when it was elected, but it was not the cause of the financial crisis. The governing body was elected to the merged council and should have put its energies into making a success of that council. Some councillors, however, wished for the merger to be reversed and failed to act in the best interests of the merged council.
347. The costs of the merger was a topic common to many submissions and seen as a primary reason for the financial downfall of the Council. The asserted quantum of those costs varied wildly. Perhaps the most reliable estimate came

¹⁶⁵ Minutes of Council meeting 23 July 2018 – Item 6.4 Notice of Motion – Cash Flow Statements; Minutes of Council meeting 8 October 2018 – Item 4.3 – Cash Flow Statements

from Council staff in July 2020 when it was estimated that CCC had funded almost \$40M of the total estimated amalgamation costs, over and above government grants. Those costs were part of the operating expenses of the Council since 2016. While they added to the financial burden, they did not cause the failure of Council's finances.

348. Some submitters asserted that cost shifting to local government was a factor in the downfall of CCC. "Cost shifting" in this context means the transfer of responsibility for payment of certain costs or the removal of some revenue sources from local government. Some of the examples provided in the submissions included changes to waste services levies, emergency services levies and developer contributions within Gosford CBD. Whilst those changes impacted on CCC's income or expenditure, they were known quantities which were able to be and were budgeted for.
349. The knowledge and ability of the councillors to perform their functions was also a focus of several submissions. The councillors were provided with the opportunity to participate in an appropriate induction into their roles, though some councillors chose to participate in very few of the briefings on offer. Once the induction briefings were complete the councillors were given virtually free rein to choose professional development courses, or not, as they wished. This resulted in very few councillors attending professional development courses which provided any substantial benefit to the performance of their roles, and particularly so in relation to financial management.
350. A number of submissions sought to lay blame for the financial crisis at CCC at the feet of the Council's external auditors, ARIC, OLG and Council staff.
351. The external auditors (PWC initially, now the Audit Office) perform a limited role in the auditing of historical accounts. They are not involved in the formulation of budgets or the performance of the council against the budget. Similarly, as discussed in Chapter 24, ARIC's role at the time was limited to backward looking and it was not an overseer of CCC's day to day finances. OLG performs an advisory and supervisory role over councils when problems are identified. The financial strife at CCC was not brought to the attention of OLG until October 2020.
352. I do agree that some staff at CCC failed to adequately perform their duties, resulting in a situation where there was insufficient strategic financial direction and information provided to councillors. Those staff members who were most responsible have departed CCC. CCC now has a highly competent and experienced GM and CFO and appears to be on track to recover from its financial woes, albeit at great cost to the community of the Central Coast.
353. Many ratepayers of CCC and members of the Central Coast community are angry at the situation now faced by CCC, and understandably so. It is in the best interests of those people for the stability which has been brought to CCC to be allowed to continue until the election of a new council.

26. RECOMMENDATIONS

Having regard to my findings, I recommend that:

1. All civic offices at Central Coast Council be declared vacant, effective immediately.
2. An Administrator be appointed until the election for Central Coast Council scheduled for 2022.
3. The Administrator ensure the completion of the Business Recovery Plan as adopted and amended by Central Coast Council since October 2020.
4. Prior to the next ordinary Council election involving Central Coast Council, information sessions for prospective candidates be conducted to provide information about the obligations and burdens on future councillors.
5. Within three months of the next ordinary Council election involving Central Coast Council, mandatory training be provided to each councillor, including training relating to financial management specific to local government.
6. Consideration be given to introducing as a mandatory requirement for all councillors, the completion of an accredited course for company directors, or a course of equivalent rigour developed specifically for local government councillors, within the first twelve months of their election, with refresher courses for councillors who have previously completed such courses.
7. The *Local Government Act 1993* be amended to eliminate any asserted ambiguity in section 409(3) of that Act to make it clear that money received as a result of levying rate or charges under any other Act may not be used otherwise than for the purpose for which the rate or charge was levied.
8. Alternatively, consideration be given to removing Central Coast Council as a water authority under the *Water Management Act 2000* to enable it to administer its water supply and sewerage services in the same way as other NSW councils.

Glossary of Acronyms & Abbreviations

AIDC	Australian Institute of Company Directors
AMP	Asset Management Plan
ARIC	Audit, Risk and Improvement Committee
CCC	Central Coast Council
CCCWSA	Central Coast Council Water Supply Authority
CEO	Chief Executive Officer (aka General Manager)
CER	Capital Expenditure Review
CFO	Chief Financial Officer
CPI	Consumer Price Index
Cr	Councillor
CRRR Manual	Council Rating and Revenue Raising Manual (2077) Department of Local Government
DIPNR	Department of Infrastructure Planning and Natural Resources
DLG	(former NSW) Department of Local Government
DPC	Department of Premier and Cabinet
DPI	Department of Planning and Industry (formerly Department of Infrastructure Planning and Natural Resources)
DPIE	Department of Planning, Industry and Environment (formerly Department of Planning and Industry)
DSCR	Debt Service Cover Ratio
DSP	Development Servicing Plan
ELT	Executive Leadership Team
EP&A Act	Environmental Planning and Assessment Act 1979
ERP	Enterprise Resource Planning

FAG	Financial Assistance Grant
FSR	Financial Sustainability Rating
GCC	Gosford City Council
GM	General Manager (aka Chief Executive Officer)
Guidelines	Guidelines for the Appointment and Oversight of General Managers
GWSA	Gosford Water Supply Authority
ILGRP	Independent Local Government Review Panel
IM&T	Information Management and Technology
IP&R	Integrated Planning & Reporting
IPART	Independent Pricing and Regulatory Tribunal
IT	Information Technology
JO	Joint Organisation
LIC	Local Infrastructure Contribution
LG Act	Local Government Act 1993
LGCI	Local Government Cost Index
LGNSW	Local Government NSW (Formerly the Local Government and Shires Association)
LIRS	Local Infrastructure Renewal Scheme
LTFP	Long Term Financial Plan
OLG	Office of Local Government (formerly Department of Local Government)
Proclamation	Local Government (Council Amalgamations) Proclamation 2016
PWC	Price Waterhouse Coopers
TCorp	NSW Treasury Corporation
SRV	Special Rate Variation

UTS	University of Technology Sydney
VPA	Voluntary Planning Agreement
WM Act	Water Management Act 2000
WSC	Wyong Shire Council
WWSA	Wyong Water Supply Authority
YTD	Year to date

**Extracts from the April 2013 NSW TCorp report titled:
'Financial Sustainability of the NSW Local Government Sector'.**

In April 2013 the NSW Treasury Corporation (TCorp) published its report "Financial Sustainability of the New South Wales Local Government Sector". For the purpose of the report, TCorp developed a definition of sustainability for local government being:

A local government will be financially sustainable over the long term when it is able to generate sufficient funds to provide the levels of service and infrastructure agreed with its community.

TCorp report made seven key recommendations for consideration, many of which are considered relevant to all Councils in NSW:

1. At least breakeven operating positions are essential

Councils need to achieve at least a breakeven operating position on an on-going basis. The future sustainability of Councils is dependent upon generating sufficient funds to meet the costs of maintaining and renewing assets to deliver services. Councils who have been operating with deficits and are forecasting to continue to do so, are not generating sufficient funds to continue providing services and renewing assets at their current levels. These Councils need to develop options to correct this position. Such options will necessarily involve extensive consultation with their communities, and will need to consider options for revenue increases, reductions in expenditure, and reviews of existing service levels and standards. Surpluses generated by Councils can be used to address their Infrastructure Backlogs.

2. Pricing paths are needed for the medium term

IPART, DLG (now the OLG) and Councils should work together to consider the development of a medium or long term, and achievable pricing path so that Councils can achieve at least a breakeven operating position. A clear strategy across the local government sector is needed to promote future sustainability for Councils.

3. Rate increases must meet underlying costs

Future increases in all rates and annual charges for Council services should be based on the underlying cost of delivering these services and the annual movement in the cost of these services. Where a decision by Council is made to increase rates and charges at a lower than required factor, the impacts of such actions must be clear in the context of each Council's sustainability.

4. Asset management planning must be prioritised

Councils need to prioritise the completion and validation of their Asset Management Plans and Infrastructure Backlog values so that a clear picture is available as to the total funding requirements for their assets. Without this certainty, Councils cannot accurately forecast their future funding requirements and put in place appropriate strategies.

5. Councillor and management capacity must be developed

Councils and the DLG (now OLG) should continue to articulate the benefits of the IP&R process, by increasing the focus on linking long term strategies, asset management planning

and long term financial forecasting to assist with decision making and promoting sustainability. Enhancing the knowledge and skills of Council management and elected officials, particularly in respect of the importance of financial and asset management, would greatly assist in this area.

6. Improved use of restricted funds

A review of the system and guidelines for accessing restricted funds is needed. Under the current requirements, most Councils are required to hold substantial funds in reserve for specific purposes, often for lengthy periods of time. On average 50% to 60% of funds held by Councils are externally restricted. Being able to access more of these funds (e.g. through s410 internal borrowing arrangements) could allow Councils to meet current asset renewal and maintenance requirements and be a more efficient use of funds

7. Increased use of debt

Debt is underutilised by some Councils and there are opportunities for more cost effective borrowing and debt management. Some Councils have low or zero debt, strong cash flows and outstanding Infrastructure Backlogs. For some of these Councils the use of debt can be an efficient means of addressing Backlog issues, enhancing intergenerational equity and improving asset quality and services. For many Councils with existing debt, overly conservative debt management practices are adopted which could be improved to deliver enhanced value and a lower cost of funds for Councils.

Central Coast Council Findings, Recommendations and Other Matters Relevant to Woollahra Council

The following extracts come from the Commissioner's Inquiry report into Central Coast Council dated 10 February 2022 and include a range of findings, recommendations and other matters that are of potential relevance to Woollahra Council.

In the column below titled Woollahra Council Response, is some high-level commentary on the issues raised, as well as some suggested actions (where applicable) that may provide greater assurance around the specific issues raised.

Findings, Recommendations & Other Matters	Woollahra Council Response
Findings - Terms of Reference 1): Financial Consequences of the Decisions of the Governing Body	
<p>Paragraph 332: The financial crisis which befell CCC in October 2020 was not the result of the governing body being ignorant of the financial consequences of its decisions. Most reports to CCC included a paragraph on the financial impact of the subject matter of the report. Where that impact was expected to be of some significance an estimate of the cost or impact would be provided with advice about funding (for example, via budget adjustments, grants etc).</p>	<ul style="list-style-type: none"> - All reports to Council include a section titled <i>Financial Implications</i>. The intent of this section is to report to Council on what the financial implications are for Council relating to the report. Included in this section should be a statement/s around any existing budget to be applied to the works / actions / initiatives included in the report and if there is no existing budget, details need to be provided as to how this will be funded. This report template is used for Council and Committee meeting reports. - Clause 212 of the Local Government (General) Regulation 2021 (the Regulation) requires the responsible accounting officer to provide a written report to Council each month, setting out details of all monies invested. This report is currently tabled monthly at the Finance, Community & Services Committee (FC&S) as a Decision ('D') item, meaning that it is a matter to be determined by the FC&S Committee. This report is generally known as the <i>Investments held as at (date)</i> report. - Clause 203 of the Regulation requires that no later than 2 months after the end of each quarter (except the June quarter), the responsible accounting officer of a Council must prepare and submit to the Council a budget review statement that shows (by reference to the estimate of income and expenditure set out in the statement of the Council's revenue policy included in the Operational Plan for the relevant year), a revised estimate of the income and expenditure for that year. <p>This report is known as the <i>Budget Review for the Quarter Ended</i> (noting whichever quarter the report is for). This report is tabled quarterly to the FC&S Committee and is considered an Recommendation 'R' item, meaning it is then tabled at a future Council meeting where full Council gives consideration to the matters raised in the report and makes a final resolution/decision on the matter. The Budget Review for the Quarter Ended report is also presented to Council's Audit Risk & Improvement Committee (ARIC) for information.</p>

Central Coast Council Findings, Recommendations and Other Matters Relevant to Woollahra Council

Findings, Recommendations & Other Matters	Woollahra Council Response
	<p>Proposed Action/s:</p> <ol style="list-style-type: none"> 1) In light of the CCC Inquiry, it is considered that the monthly investments report should into the future be considered an Recommendation 'R' item where the recommendation from FC&S Committee is referred to Council for consideration, meaning that full Council will give consideration, can discuss the recommendation and makes a final resolution/decision on the matter. 2) As part of proposed changes being put forward as part of the review of the Woollahra Code of Meeting Practice (CoMP), there are several clauses in the Model CoMP from the Office of Local Government (OLG) (that are considered non-mandatory for inclusion in a Council's adopted CoMP) that relate to the funding of works and or services that might be included in a Notice of Motion (NOM) put forward by a Councillor for inclusion in a Council meeting agenda. <p>The relevant non-mandatory clauses state that for a NOM where there is anticipated to be an expenditure of funds on works and/or services other than those already provided for in the Council's current adopted Operational Plan, then a source of funding for the expenditure must be identified. If the NOM does not identify a funding source, then the General Manager is to undertake certain actions.</p> <p>The purpose of including this information here is not necessarily for a decision to be made now by Councillors on this matter, but to simply note that this is an option for consideration when Council works through proposed changes to the CoMP in the coming months, as it may provide another financial control for Council to give consideration to when submitting NOMs.</p>
<p>Paragraph 334: The repeated deficit budgets and outcomes were a significant factor in the deterioration of the financial position of CCC. The Councillors could have observed that actual results year on year were much worse than budgeted for. Instead of reigning in subsequent budgets, the deficits of subsequent budgets were increased. The absence of any rational reaction to the IPART determination in May 2019 permitted the deficit of that budget to balloon. The promised budget adjustments to take account of the decreased revenue from the determination never happened. No adequate explanation was provided to the Inquiry as to why the 2019-20 budget was not reviewed and expenditure reduced immediately upon the release of the IPART determination.</p>	<ul style="list-style-type: none"> - The key issue detailed here is in relation to a Council continuing to adopt deficit budgets. In the context of a deteriorating financial position, it is incumbent on the Council to take appropriate actions to address such a position. <p>It is considered that Woollahra Council has taken a range of measures to address our deficit budget position, through the range of budget repair work that has been undertaken during 2021 and into 2022, as previously reported to Council. This budget repair work will continue to be undertaken and implemented throughout 2022 and 2023 in an effort to ensure Council is financially sustainable into the future.</p>

Central Coast Council Findings, Recommendations and Other Matters Relevant to Woollahra Council

Findings, Recommendations & Other Matters	Woollahra Council Response
<p>Paragraph 335: It must be noted that the Council finance staff actively discouraged the Councillors from reviewing the budget in the presentation to the Councillor briefing on 3 June 2019 and the report to Council on 11 June 2019, even though there was still time to make adjustments. Nevertheless, it was a decision for the Councillors, not the staff, to adopt the budget with no significant changes.</p>	<ul style="list-style-type: none"> - Council finance staff and senior management across the organisation do not in any way discourage the involvement of Councillors in the budget process. To the contrary, there are a detailed range of budget-related briefings held throughout the year as well as a range of reports tabled at Committee (i.e. Finance, Community & Services Committee, Environmental Planning Committee and Strategic & Corporate Committee) and/or Council meetings, all with the intent of furnishing Councillors with relevant financial/budget information. <p>Whilst it is without doubt the role of Councillors to adopt budgets each year, the role of Council staff is to provide as much accurate and up-to-date information as possible so that Councillors can make informed decisions in the best interests of the community and the organisation.</p>
<p>Paragraph 337: In the view of the Commissioner, the budget decisions of the elected body did contribute, and in a significant way, to the financial crisis of CCC in 2020.</p>	<ul style="list-style-type: none"> - As noted directly above, ultimately the governing body / elected body (Councillors) are responsible for budget decisions through the annual budget adoption process and through the quarterly <i>Budget Review for the Quarter Ended</i> reports tabled quarterly at the FC&S Committee and subsequently at Council meetings. <p>As also noted above, the role of staff is to ensure Councillors are provided with as much accurate and up-to-date information as possible throughout the year when it comes to the financial sustainability of the organisation, so that decisions can be made in the best interests of the community and the organisation.</p>
Findings - Terms of Reference 2) Review of Financial Performance	
<p>Paragraph 341: The governing body had the means at its disposal to keep the financial performance of the Council under review, but it failed to do so adequately. The monthly investment reports were adopted en masse with other information reports, without comment, questions, or debate. The quarterly budget reviews were not used as opportunities to correct adverse trends.</p>	<ul style="list-style-type: none"> - Please refer to the responses and actions above as detailed in response to issues at Paragraph 332.
<p>Paragraph 342: The annual report summaries and the audited financial statements should have been used by the governing body to inform future budgets but did not appear to have been used to that effect. Even the warnings from the Audit Office and Grant Thornton Australia Ltd. did not appear to have been considered with the gravity they deserved.</p>	<ul style="list-style-type: none"> - Please refer to the responses and actions above as detailed in response to issues at Paragraph 332. <p>It should be stated that the Annual Report is not generally used as a document that informs future budgets, however there is definitely a role for the audited financial</p>

Central Coast Council Findings, Recommendations and Other Matters Relevant to Woollahra Council

Findings, Recommendations & Other Matters	Woollahra Council Response
	statements in this regard, noting that a Council budget is already adopted some months prior to the annual audited financial statements being available. However, this is where the <i>Budget Review for the Quarter Ended</i> reports can be used by Councillors for making any required amendments to the adopted budget.
Findings - Terms of Reference 3) – To be read with and as an adjunct to Terms of Reference 1) and 2)	
<p>Paragraph 348: Some submitters asserted that cost shifting to local government was a factor in the downfall of CCC. "Cost shifting" in this context means the transfer of responsibility for payment of certain costs or the removal of some revenue sources from local government. Some of the examples provided in the submissions included changes to waste services levies, emergency services levies and developer contributions within Gosford CBD. Whilst those changes impacted on CCC's income or expenditure, they were known quantities which were able to be and were budgeted for.</p>	<ul style="list-style-type: none"> - The issue of cost shifting has been included here as it is topical in light of the report on cost shifting from other levels of government that was tabled at the 21 March 2022 Strategic & Corporate Committee meeting of Council and then further considered at the 28 March 2022 Council meeting. As noted in that report to Council, whilst cost shifting impacts on Woollahra Council conservatively to the value of approximately \$3.977 million per annum, nothing takes away from the fact that Council needs to continue to do what it can to ensure its own financially sustainable future. The constraints on Council revenue are well known and this, along with effectively managing the expenses that are within Councils control, will continue to be a feature of the budget repair work Council is undertaking now and in future years.
<p>Paragraph 349: The knowledge and ability of the Councillors to perform their functions was also a focus of several submissions. The Councillors were provided with the opportunity to participate in an appropriate induction into their roles, though some Councillors chose to participate in very few of the briefings on offer. Once the induction briefings were complete the Councillors were given virtually free rein to choose professional development courses, or not, as they wished. This resulted in very few Councillors attending professional development courses which provided any substantial benefit to the performance of their roles, and particularly so in relation to financial management.</p>	<ul style="list-style-type: none"> - Following the election of Councillors in December 2021, a comprehensive induction program was implemented for all Councillors, noting that it is not mandatory in NSW for Councillors to attend any specific induction training. The induction program commenced in early January 2022 and will run until May / June 2022, covering a range of topics and matters suggested by the OLG and / or specifically relevant to Woollahra Council. Further to the Councillor Induction session, professional development opportunities are available to Councillors. - In relation to professional development, under section 232(1)(g) of the Act, Mayor and Councillors have a responsibility to make all reasonable efforts to acquire and maintain the skills necessary to perform their roles. To support this, the General Manager is required under the Regulation to ensure the delivery of: <ul style="list-style-type: none"> ○ An induction program for newly elected and returning councillors and a specialised supplementary induction program for the mayor within six months of their election, ○ And an ongoing professional development program for the mayor and each councillor over the term of the council to assist them to acquire and maintain the skills necessary to perform their roles.

Central Coast Council Findings, Recommendations and Other Matters Relevant to Woollahra Council

Findings, Recommendations & Other Matters	Woollahra Council Response
	<p>Councils are required to include information on induction training and ongoing professional development attended by the Mayor and Councillors as part of the Annual Report and requirements under the Integrated Planning & Reporting Framework (IP&R). Following the Councillors Induction Program it is intended that a further focus on the Councillors needs for professional development will occur throughout the term of Council.</p>
<p>Paragraph 352: The Commissioner agreed that some staff at CCC failed to adequately perform their duties, resulting in a situation where there was insufficient strategic financial direction and information provided to Councillors. Those staff members who were most responsible have departed CCC. CCC now has a highly competent and experienced GM and CFO and appears to be on track to recover from its financial woes, albeit at great cost to the community of the Central Coast.</p>	<ul style="list-style-type: none"> - Whilst there is often a challenge in ensuring any organisation has the appropriately skilled staff on hand to perform the tasks and duties required, Woollahra Council is fortunate in that it has very experienced staff across many areas of the organisation. In relation to the financial management of Council, the Executive Leadership Team and the Finance team combined have dozens of years of local government experience that provide for sufficient strategic financial direction to Councillors and the organisation. In addition to this, the General Manager, Directors and Managers have a range of performance plans in place that are used to monitor an individual's performance throughout the year.
Inquiry Report Recommendations	
<p>Recommendation 4): Prior to the next ordinary Council election involving CCC, information sessions for prospective candidates be conducted to provide information about the obligations and burdens on future councillors.</p>	<ul style="list-style-type: none"> - Amendments were made to the NSW Local Government Act 1993 (the Act) by the Local Government Amendment (Governance and Planning) Act 2016 in August 2016, which saw the inclusion in the prescribed role of Councillors under section 232 a responsibility "to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a Councillor". In support of this, Regulations were made for induction and other professional development for Mayors and Councillors. - A set of guidelines were produced by the OLG in line with the above, with the induction and professional development programs being required to consist of pre-election candidate sessions; an induction program and a professional development program. - In the lead up to the 4 December 2021 Council election, Council held a candidate information session in line with the guidance from the OLG, noting that attendance at such sessions is not mandatory for candidates.

Central Coast Council Findings, Recommendations and Other Matters Relevant to Woollahra Council

Findings, Recommendations & Other Matters	Woollahra Council Response
<p>Recommendation 5): Within three months of the next ordinary Council election involving CCC, mandatory training be provided to each Councillor, including training relating to financial management specific to local government.</p>	<ul style="list-style-type: none"> - In line with responses above to Paragraph 349 and Recommendation 4), a comprehensive Councillor induction program was implemented for all Councillors post the December 2021 Council election. The induction program commenced in early January 2022 and will run until May / June 2022, covering a range of topics and matters suggested by the OLG and / or specifically relevant to Woollahra Council. <p>The induction program does not focus on training on financial management specific to local government, however it has included any number of budget and Integrated Planning & Reporting (IP&R) briefings that have dealt with various aspects of local government financial management.</p> <p>Proposed Action/s:</p> <ol style="list-style-type: none"> 3) Council could give consideration to investigating a range of training opportunities for Councillors on local government finances not only immediately post a Council election, but ongoing throughout the term of Council. Once again it should be noted that attendance at such training is not currently mandatory in NSW.
<p>Recommendation 6: Consideration be given to introducing as a mandatory requirement for all Councillors, the completion of an accredited course for company directors, or a course of equivalent rigour developed specifically for local government Councillors, within the first twelve months of their election, with refresher courses for Councillors who have previously completed such courses.</p>	<p>Proposed Action/s:</p> <ol style="list-style-type: none"> 4) As noted in response to Recommendation 5) above, Council could investigate training opportunities for Councillors such as an accredited course as detailed in this recommendation, subject to any potential budgetary constraints. This could then form part of a professional development program for all Councillors.
<p>Recommendation 7: The Local Government Act 1993 be amended to eliminate any asserted ambiguity in section 409(3) of that Act to make it clear that money received as a result of levying rate or charges under any other Act may not be used otherwise than for the purpose for which the rate or charge was levied.</p>	<ul style="list-style-type: none"> - As noted in the accompanying Council report, the key reason an Administrator was appointed to CCC was due to a significant deterioration in its budgetary position and the possible use of restricted funds for purposes other than those for which they were restricted. Council staff support any strengthening of the Act that would make it clearer as to how rates or charges levied should be used.

Central Coast Council Findings, Recommendations and Other Matters Relevant to Woollahra Council

Findings, Recommendations & Other Matters	Woollahra Council Response
Other Matters	
<p>PricewaterhouseCoopers Report – April 2019: Expenses were the area where Council had greater control to impact on overall financial health.</p>	<ul style="list-style-type: none"> - As noted in a range of Councillor Briefings and via previous reports to Council Committees (i.e. Finance, Community & Service Committee, Environmental Planning Committee and the Strategic & Corporate Committee) and Council meetings. Woollahra Council has undertaken a range of measures to address our deficit budget position, through the range of budget repair work that has been undertaken during 2021 and into 2022, as previously reported to Council. This budget repair work will continue to be implemented throughout 2022 and 2023 in an effort to ensure Council is financially sustainable into the future, with one of the key initiatives being greater ongoing control over Council's expenses such as staff expenses.
<p>Grant Thornton Australia Ltd Report – August 2020: There are too many competing priorities that overshadow the need for a financially sustainable organisation. As a result, Council has reported deficits for the past three years and has severe cash constraints.</p> <p>There needs to be an immediate restructure of the cost base and a shift in culture to ensure Council is financially responsible and sustainable.</p>	<ul style="list-style-type: none"> - There will always be a range of competing priorities across any Council, however it is the role of Councillors and Council staff to ensure that any impacts on existing, adopted priorities of Council, from new initiatives / actions / services are well understood prior to a formal commitment being made. Plans do change throughout any given year, therefore the key in managing priorities and related budgets is about being as best informed as possible about the impacts (financial, resources or otherwise), so these can be taken into account and managed appropriately.
<p>DMB Consulting Report – October 2020: No minimum liquidity levels. No effective monitoring or reporting of liquidity. No effective control to prevent restricted monies from being accessed for the wrong purposes. No early warning mechanism for deteriorating liquidity or compromise of restricted funds. No liquidity contingency plan. No contingency funding. A large budget deficit in the 2019-20 financial year.</p>	<ul style="list-style-type: none"> - There are a range of liquidity issues raised in the DMB Consulting report and in general terms, liquidity in NSW Councils is measured by the Unrestricted Current Ratio benchmark which has been set by the OLG. This ratio is designed to represent a Council's ability to meet short term obligations as they fall due. The benchmark for this ratio is greater than 1.5x. the ratio is calculated as follows: $\text{Ratio} = \frac{\text{Current assets less all external restrictions}}{\text{current liabilities less specific purpose liabilities}}$ - In the latest Quarterly Budget Review Statement tabled at the FC&S Committee on 7 February 2022 and subsequently tabled at the 28 February 2022 Council meeting, the forecast Unrestricted Current Ratio for Woollahra Council for 2021-2022 is 3.20x which is well above the benchmark for this ratio, indicating that liquidity is not a current issue of concern for Council.

Central Coast Council Findings, Recommendations and Other Matters Relevant to Woollahra Council

Findings, Recommendations & Other Matters	Woollahra Council Response
	<ul style="list-style-type: none"> - As per the TCorp report from 2013 titled <i>Financial Sustainability of the New South Wales Local Government Sector</i>, to support our liquidity positions, Councils have three major categories of cash reserves: <ul style="list-style-type: none"> o Cash and cash equivalents – for working capital purposes and usually defined as maturity of less than three months. o Short term investments (includes term deposits of three to 12 months). o Longer term investments. <p>As noted earlier in this document, Councils have restrictions imposed on some of their cash reserves, as these are restricted funds and can only be used for specific purposes. As also noted earlier in this document, Council provide a monthly report to the FC&S Committee on investments held, which allows for Councillor scrutiny on Council investments, noting that all investments are made in line with the Council adopted Investment Policy.</p> <p>Councils has a number of processes in place to monitor short term and long term liquidity including:</p> <ul style="list-style-type: none"> • Daily cashflow forecasting to monitor future liquidity requirements and the maturity profile of Council's investments are matched accordingly. • The annual budget process includes an cash flow forecast for the year and a Cash & Investments projection which forecasts the breakdown of cash into restricted and unrestricted. This is updated on a quarterly basis as part of Council's Quarterly budget review. • Council's Long Term Financial Plan (LTFP) projects liquidity requirements over a 10-year horizon including a breakdown between restricted and unrestricted cash.
<p>Clayton Utz Report – April 2021:</p> <p>A long-standing practice of reallocating funds between the General Fund and restricted funds.</p> <p>Mismanagement of the bank account, general poor financial management and lack of early warning systems.</p>	<ul style="list-style-type: none"> - From a Woollahra Council perspective, funds can only be reallocated between General Fund and any restricted funds via a resolution of Council. <p>In addition to the items noted under the DMB Consulting Report section above, Council has a number of day to day controls and review processes over cash and liquidity including:</p> <ul style="list-style-type: none"> a) Bank reconciliations are completed daily and reviewed monthly by senior finance staff

Central Coast Council Findings, Recommendations and Other Matters Relevant to Woollahra Council

Findings, Recommendations & Other Matters	Woollahra Council Response
	<p>b) Monthly Finance Report to Council which includes the bank reconciliation and investment reporting</p> <p>c) Reserve accounting and monitoring is held within Council's Finance System where a separate account is established for each reserve. Transactions are processed on at least a monthly basis to ensure reporting is based on up to date information. Reserve balances are forecast to year end and these are reviewed and updated quarterly.</p> <p>d) Reconciliations of all relevant accounts are completed monthly by finance staff and reviewed by the Senior Corporate Accountant and the Chief Financial Officer.</p> <p>Council's annual audit managed by the NSW Audit Office (AO) reviews processes and internal controls over cash management and reporting. The most recent observation from the AO within their Annual Engagement Plan noted that '...there have been no prior year findings or any significant risks identified over treasury processes'.</p>
<p>NSW Auditor General Letter – May 2021:</p> <p>The Investment Report was not presented within time for November 2019 and February, April, July and September 2020, resulting in a breach of the Regulation.</p>	<p>- As detailed in the response to Paragraph 332 above, Clause 212 of the Regulation requires the responsible accounting officer to provide a written report to Council each month, setting out details of all monies invested. This report is currently tabled monthly at the Finance, Community & Services Committee (FC&S) as a Delegated 'D' item, meaning that it is a matter to be determined by the FC&S Committee. This report is generally known as the <i>Investments held as at...</i> report. The only exception to this monthly rule is when Council does not meet in January i.e. then there are two reports to the February Committee meeting, one being for the preceding December and one for the preceding January.</p> <p>In light of the CCC Inquiry, it is considered that the monthly investments report should into the future be considered an Recommendation 'R' item where the recommendation from FC&S Committee is referred to Council for consideration, meaning that full Council will give consideration, can discuss the recommendation and makes a final resolution/decision on the matter.</p>

Central Coast Council Findings, Recommendations and Other Matters Relevant to Woollahra Council

Findings, Recommendations & Other Matters	Woollahra Council Response
<p>Elton Consulting Report – January 2020:</p> <p>Greater enforcement of behavioural and procedural expectations between Councillors was suggested.</p> <p>Some Councillors and ELT members felt disrespected and personally attacked in formal meetings and briefings and were frustrated by politics trumping collaboration, particularly in relation to the focus on wards.</p> <p>The Council meetings were unreasonably long and characterised by lengthy and often irrelevant debate, interruptions and points of order. The behaviour of some Councillors was very challenging for those chairing the meetings and often went unchecked. The absence of consensus and the constant bickering may well have distracted the governing body from its role in managing the council finances and budgets.</p>	<ul style="list-style-type: none"> - It is critical to the success of any Council for Councillors, the General Manager, Directors and Managers to show mutual respect and tolerance across all the matters that a Council deals with, noting that Councillors as well as Management, have a role to play in ensuring a safe workplace for Councillors and staff. - There are well documented behavioural expectations detailed in the Act, in the Council adopted Code of Conduct, as well as in the Council adopted Code of Meeting Practice. Adhering to these requirements is paramount to having a successful Council. This is not about people having to be in agreement with others at all times, it is simply about mutual respect and ensuring everyone upholds the high levels of behaviours detailed in the above-mentioned documents and in line with general human decency. - As part of the Councillor induction process that Councillors are continuing to work through, training has been provided on the Code of Conduct, the Act, the Code of Meeting Practice and a session is planned around team building, with all of these focusing on the behaviours expected of Councillors and senior management.

Item No: 12.2
Subject: **AUDIT, RISK & IMPROVEMENT COMMITTEE (ARIC) MINUTES - 22 MARCH 2022**
Author: Tremayne Lilly, Insurance & Risk Coordinator
Approver: Sue Meekin, Director Corporate Performance
File No: 22/83265
Purpose of the Report: To present the Audit, Risk & Improvement Committee (ARIC) meeting minutes of 22 March 2022.
Alignment to Delivery Program: Strategy 11.6 Minimise risk for Council and the community.

Recommendation:

THAT the Minutes of the Audit, Risk & Improvement Committee (ARIC) meeting held on 22 March 2022 be received and noted.

Executive Summary:

The purpose of this report is to present the Audit, Risk & Improvement Committee (ARIC) meeting minutes of 22 March 2022.

Discussion:

The Council's ARIC met on the 22 March 2022.

The minutes of this meeting have been circulated to all Committee Members and the Committee Chair has endorsed the minutes as an accurate record of the proceedings.

The minutes of the meeting are submitted as **Attachment 1** for noting by the Council. Submission of minutes to the Council is simply a procedural matter for notation.

Options:

Nil

Community Engagement and / or Internal Consultation:

Consultation in relation to this report has taken place with the member of the Audit, Risk & Improvement Committee, General Manager, Director Corporate Performance and Manager Governance. No external consultation has taken place in the development of this report.

Policy Implications:

There are no direct policy implications as a result of this report.

Financial Implications:

There are no direct financial implications as a result of this report.


Resourcing Implications:

There are no direct resourcing implications as a result of this report.

Conclusion:

The Minutes of the Audit, Risk & Improvement Committee (ARIC) meeting held on 22 March 2022 are attached for noting by the Council.

Attachments

1. Audit Risk & Improvement Committee Minutes - Meeting of 22 March 2022 [↓](#) 



Audit, Risk and Improvement Committee

Tuesday 22 March 2022
1.00pm to 4.00pm

Minutes



Audit, Risk and Improvement Committee Meeting

Tuesday 22 March 2022

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Audit, Risk and Improvement Committee Meeting

**Minutes of the Meeting held on
22 March 2022 at 1.00pm to 4.00pm
using teleconferencing technology.**

Present:	John Gordon Jason Masters	(Chair)
Staff:	Sasha Athitakis Craig Swift-McNair Sue Meekin Paul Ryan Helen Tola	(Business Assurance Officer) (General Manager) (Director – Corporate Performance) (Chief Financial Officer) (Manager – Governance & Council Support)
Also in Attendance:	Mark Griffiths Unaib Jeoffrey Luke Malone Beverly Colaco	(Contract Internal Auditor, BDO) (Audit Office of NSW) (External Auditor, Prosperity Advisers Group) (Consultant, O'Connor Marsden)

1 Opening

Nil

2 Acknowledgement of Country

Note: The Chair, Mr Jason Masters acknowledged the traditional custodians of the land administered by Woollahra Municipal Council (the Gadigal and Birrabirragal people) and the traditional custodians of the various lands upon which we meet virtually.

3 Apologies

Apologies were received and accepted from Councillor Peter Cavanagh and Tremayne Lilly (Coordinator – Risk & Improvement).

4 Declarations of Interest

Mr Masters advised that he was appointed as an Independent member to Tamworth Regional Council.

Mr Gordon advised the Committee that he has retired from Central Coast Council, Audit Risk and Improvement Committee.

5 Late Correspondence

Late correspondence was tabled in relation to Item 7.1 (Progress Status Report for ARIC Action Plan and Short Term Internal Audit Plan), Item 10.1 (Review of Risk Management Framework) and Item 18 (General Business).

Woollahra Municipal Council
Audit, Risk and Improvement Committee Meeting Minutes

22 March 2022

6 Confirmation of Minutes

Item No: 6.1
Subject: **MINUTES OF THE AUDIT, RISK & IMPROVEMENT COMMITTEE
HELD ON 1 DECEMBER 2021**
Author: Sasha Athitakis, Business Assurance Officer
File No: 22/50265
Reason for the Report: The Minutes of the Audit, Risk and Improvement Committee of 1
December 2022 be adopted.
Alignment to Delivery Program: Strategy 11.6: Minimise risk for Council and the community.

Discussion:

The minutes from the Committee meeting dated 1 December 2021 were taken as read and noted with no further comments made.

(Resolved Unanimously)

Recommendation:

THAT the Minutes of the Audit & Assurance Committee Meeting of 1 December 2021 be adopted.

Woollahra Municipal Council
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22 March 2022

7 Committee Action Items

Item No: 7.1
Subject: **PROGRESS STATUS REPORT FOR ARIC ACTION PLAN AND SHORT TERM INTERNAL AUDIT PLAN**
Author: Sasha Athitakis, Business Assurance Officer
Approvers: Cheryle Burns, Manager - Business Assurance & Improvement
Sue Meekin, Director Corporate Performance
File No: 22/11588
Reason for Report: To table the ARIC Action Plan Progress Report and Short Term Internal Audit Plan Status Report as at 15 March 2022.

Note: Late correspondence was tabled by Helen Tola, Manager Governance & Council Support.

Discussion:

The Progress Status Action Plan Report and Short Term Internal Audit Plan was taken as read and noted.

Mr Gordon suggested that Council consider looking at all the line items which have been completed, tick them off the list and remove them from future reports, noting that would be dependent on how long Council wishes to track them for.

Mr Masters suggested that staff investigate the categorisation, deadlines and status on certain line items in the Progress Status Action Plan Report where there were dependencies with other items to ensure consistency and logical sequencing of actions.

(Resolved Unanimously)

Recommendation:

- A. THAT the ARIC Action Plan Progress Report as at 15 March 2022 be received and noted.
- B. THAT the ARIC 3 Year Internal Audit Plan Status Report as at 15 March 2022 be received and noted.
- C. THAT a performance assessment be tabled at the June 2022 ARIC meeting.

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22 March 2022

Item No: 7.2
Subject: **ADVISING - INTERNAL AUDIT OF ENVIRONMENTAL MANAGEMENT SYSTEM REPORT COMPLETED BY BDO**
Author: Micaela Hopkins, Team Leader Environment & Sustainability
Approver: Tom O'Hanlon, Director - Infrastructure & Sustainability
File No: 22/40595
Purpose of the Report: To provide further information supporting the management response for Recommendation 1 and 2 as detailed in the BDO report 'Internal Audit of Environmental Management System (EMS) Framework February 2020' item 2.1.
Alignment to Delivery Program: Strategy 8.2: Monitor and strategically manage environmental risks and impacts of climate change.

Discussion:

The report was taken as read and noted.

Mr Griffiths from BDO confirmed that he was comfortable in terms of the responses in the report which the Committee confirmed it was in agreement with.

The Chair, Mr Masters suggested that moving forward, when conducting this internal audit again in future, that the scope include reference to ISO14001 so Council is able to understand any potential gaps within the reviews.

Mr Gordon suggested that staff contact State Wide Mutual as they offer of a free consulting (once per year) service. He noted that Shoalhaven City Council recently chose their free consulting to conduct a deep dive into their own assessment of their environmental risks and control options.

Council staff were in agreement with the suggestions and advised they will take this into consideration moving forward.

(Resolved Unanimously)

Recommendation:

- A. THAT the Committee receive and note the report with further detail regarding Council's environmental management framework.
- B. THAT the environmental management framework currently in place is sufficient and development of an ISO14001 certified environmental management system is not required.

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22 March 2022

8 General Manager's Update

Item No: 8.1
Subject: GENERAL MANAGERS UPDATE

Author: Craig Swift-McNair, General Manager
Approver: Craig Swift-McNair, General Manager
File No: 22/47305
Purpose of the Report: For the General Manager to provide an update on a range of matters to the Committee.
Alignment to Delivery Program: Strategy 11.2: Develop and maintain effective reporting systems that enable Council to measure and report on performance.

Discussion:

The report was taken as read and noted.

The Committee asked whether there was any change of focus in relation to the ARIC as a result of changes in the organisation following the December Council election. The General Manager advised that there was some interest from Councillors in understanding the role of the ARIC, whether the Committee needs to be expanded particularly in light of the new anticipated guidelines, and what level of involvement from Councillors was appropriate (taking into consideration restrictions in the Local Government Act).

(Resolved Unanimously)

Recommendation:

THAT the Audit, Risk & Improvement Committee receive and note the General Managers Update report dated 22 March 2022.

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9 Compliance

Item No: 9.1
Subject: **GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009 NSW (GIPA) QUARTERLY REPORT STATISTICS**
Authors: Marcia Garrido, GIPA Officer
Judy McClymont, Access to Information Officer
Helen Tola, Manager - Governance & Council Support
Approver: Sue Meekin, Director Corporate Performance
File No: 22/50201
Purpose of the Report: To table GIPA statistics for noting by the ARIC Committee.
Alignment to Delivery Program: Strategy 11.3: Maintain community access and effective participation in Council committees.

Discussion:

The report was taken as read and noted.

Mr Masters asked whether Council understood what may be driving the informal GIPA growth and whether there had been any formal GIPA appeals.

The Manager Governance & Council Support advised that the number of informal GIPA requests has increased and that there has been growth in certain enquiries from residents in terms of development applications, post COVID-19. The Manager Governance & Council Support confirmed that there has been no formal GIPA appeals at this time.

(Resolved Unanimously)

Recommendation:

THAT the GIPA year to date statistics for the period 1 July to 11 March 2022 and statistics for the quarter ended September 2021 and quarter ended December 2021, be received and noted.

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22 March 2022

10 Risk Management

Item No: 10.1
Subject: REVIEW OF RISK MANAGEMENT FRAMEWORK

Author: Sue Meekin, Director Corporate Performance
Approver: Craig Swift-McNair, General Manager
File No: 22/49443
Purpose of the Report: To present the independent report on Council's Risk Management Framework to the Committee
Alignment to Strategy 11.6: Minimise risk for Council and the community.
Delivery Program:

Note: Late correspondence was tabled by Sue Meekin, Director Corporate Performance.

Discussion:

The confidential item report was taken as read and noted as per late correspondence.

Beverly Colaco from O'Connor Marsden (OCM) provided an overview of the report to the Committee, noting that the New South Wales Treasury Framework had been applied as the basis for the review.

OCM noted that the existing framework and culture for risk management was embraced on an operational or management level and was subsequently quite operational rather than strategically focussed. They therefore recommend that there be more focus from a strategic level. OCM also recommended that consideration be given to the development of a risk appetite document however that this should not be undertaken until further work had progressed in relation the recommendations outlined in the report.

The Committee noted that to effectively implement the recommendations a realistic timeframe of at least 2 years would be required and that:

- External assistance be engaged to assist with the strategic implementation and mapping of objectives.
- That Statewide Mutual, could provide some templates, reference material etc to assist in the development of suitable a roadmap and to plan objectives.
- The risk appetite work be considered at the appropriate time,
- A regular update for each department's risk management is undertaken by the Executive Leadership Team (ELT),

(Resolved Unanimously)

Recommendation:

- A. THAT the Committee note the report and that the Independent Report on Council's Risk Management Framework.
- B. THAT a progress update on the Risk Management Framework be reported to ARIC in June 2022.

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Item No: 10.2
Subject: **RISK MATRIX**

Author: Tremayne Lilly, Insurance & Risk Coordinator
Approver: Sue Meekin, Director Corporate Performance
File No: 22/49557
Purpose of the Report: To provide the ARIC with an update on the Risk Matrix
Alignment to Delivery Program: Strategy 11.6: Minimise risk for Council and the community.

Discussion:

The report was taken as read and noted.

Mr Griffiths from BDO provided an update to the Committee on the Risk Matrix and advised that a Risk Matrix workshop was conducted with ELT on 9 March 2022 to review Council's current matrix. Revisions were developed in relation to consequences and likelihood within the Risk Rating Matrix. An updated Risk Matrix will be finalised by the ELT during April 2022.

The Committee requested that the revised Risk Matrix is presented to the next meeting in June 2022.

(Resolved Unanimously)

Recommendation:

- A. THAT the update from Mr Griffiths from BDO in relation to the Risk Matrix be received and noted.
- B. THAT a further report on the Risk Matrix be presented to the ARIC meeting in June 2022.

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11 Fraud & Corruption Control

Item No: 11.1
Subject: PUBLIC INTEREST DISCLOSURES (PID) LEGISLATION UPDATE
Author: Patrick Brown, Governance
Approvers: Helen Tola, Manager - Governance & Council Support
Sue Meekin, Director Corporate Performance
File No: 22/10639
Purpose of the Report: To provide the Audit, Risk and Improvement Committee (ARIC) with an update on the Public Interest Disclosures Bill 2021 before NSW Parliament.
Alignment to Delivery Program: Strategy 11.2: Develop and maintain effective reporting systems that enable Council to measure and report on performance.

Discussion:

The report was taken as read and noted.

Mr Masters asked whether people are confident in the process of making a Public Interest Disclosure (PID) request. The Manager, Governance & Support confirmed that Council has rolled out Code of Conduct and Public Interest Disclosures (PID) eLearning modules to all staff recently to reinforce the process and further advised that Council will be continuously reminding staff of the processes in place via staffing news, emails etc.

(Resolved Unanimously)

Recommendation:

THAT:

- A. The Audit, Risk and Improvement Committee (ARIC) note the update of the proposed new Public Interest Disclosure Bill 2021 before the NSW Parliament.
- B. A further report be submitted to the Committee once the Public Interest Disclosures Legislation is passed by the NSW Parliament and information is provided by the NSW Ombudsman on its implementation.

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Item No: 11.2
Subject: **ELEARNING MODULES - CODE OF CONDUCT AND PUBLIC INTEREST DISCLOSURES**
Author: Helen Tola, Manager - Governance & Council Support
Approver: Sue Meekin, Director Corporate Performance
File No: 22/49834
Purpose of the Report: To provide the Committee with an update of the eLearning Modules as rolled out across Council.
Alignment to Delivery Program: Strategy 11.6: Minimise risk for Council and the community.

Discussion:

The report was taken as read and noted.

The Manager, Governance & Support confirmed that Council has rolled out Code of Conduct and Public Interest Disclosures (PID) eLearning modules to all staff recently to reinforce the process and further advised that Council will be continuously reminding staff of the processes in place via staffing news, emails etc. Further it was advised that eLearning modules were also rolled out the Councillors and will be rolled out the ARIC Committee.

(Resolved Unanimously)

Recommendation:

- A. THAT the Committee receive and note the rollout of the eLearning Modules for the Code of Conduct and Public Interest Disclosures.
- B. THAT a further report on the rollout of eLearning be presented to the ARIC meeting in June 2022.

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12 Financial Management

Item No: 12.1
Subject: **PROGRESS ON COVID-19 INITIATIVES**

Author: Sue Meekin, Director Corporate Performance
Approver: Craig Swift-McNair, General Manager
File No: 22/44375
Purpose of the Report: To provide the Audit, Risk & Improvement Committee with a report which details the progress on Council's support initiatives and activities including their budget impact in light of the current and ongoing lockdown due to the COVID-19 pandemic
Alignment to Delivery Program: Strategy 11.4: Maintain Council's strong financial position.

Discussion:

The report was taken as read and noted.

The Chair, Mr Masters asked whether there had been any further impacts in terms of Work, Health and Safety and working from home and what actions Council may take if there was another outbreak.

The General Manager confirmed that if another outbreak were to occur, processes which have been previously in place, would be the way Council would action, such as operational staff to return to flexible rotating rosters and splitting teams in two to meet the appropriate guidelines. Further the General Manager advised that Woollahra Café has been implemented since the COVID-19 pandemic and is generally held every two (2) weeks for staff to join in on. Various topics were presented including those focussed on providing tools and support to staff on working from home, feelings of isolation, maintaining good health and hygiene etc,

Mr Masters expressed that staff may have experienced a struggle with the return to the office and whether anything was in place to support staff with the transition. The General Manager acknowledged this and advised that Council does encourage staff to reach out and speak with the recommended EAP.

(Resolved Unanimously)

Recommendation:

THAT the Audit, Risk & Improvement Committee note the report on Progress on COVID-19 Initiatives.

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Item No: 12.2
Subject: **DECEMBER 2021 QUARTERLY BUDGET REVIEW STATEMENT**
Author: Paul Ryan, Chief Financial Officer
Approver: Sue Meekin, Director Corporate Performance
File No: 22/48339
Reason for Report: To provide the Committee with an update on Council's current financial position

Discussion:

The report was taken as read and noted.

Mr Gordon raised a key risk item of Financial Sustainability and whether Council has reached the stage of going for an Special Rate Variation (SRV). The General Manager confirmed that Council held a Strategic & Corporate Committee Meeting on the 21 March 2022 and information in relation to a potential SRV was included that should Council decide to proceed with a formal SRV a decision would need to be made by November 2022.

(Resolved Unanimously)

Recommendation:

THAT the December Quarterly Budget Review Statement and Council's ongoing management of the financial impacts of COVID-19 be noted.

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22 March 2022

Item No: 12.3
Subject: **EXTERNAL AUDIT MANAGEMENT LETTER POINTS PROGRESS UPDATE**
Author: Paul Ryan, Chief Financial Officer
Approver: Sue Meekin, Director Corporate Performance
File No: 22/49650
Purpose of the Report: To update the Audit, Risk & Improvement Committee on Management's implementation of the External Audit Recommendations included in the Management Letter
Alignment to Delivery Program: Strategy 11.4: Maintain Council's strong financial position.

Discussion:

The report was taken as read and noted.

Segregation of duties within Vendors Masterfile:

The Chair, Mr Masters questioned whether Council has any other internal controls which may be appropriate.

Mr Malone from Prosperity Advisers Group confirmed that other mitigating controls that were in place had been advised by Council and that they are in the process of looking at these to determine whether there are any significant risks in terms of segregation duties.

New IT Transformational Strategy:

The Chair, Mr Masters requested that the ARIC be provided with a briefing on the new IT Transformational Strategy. The Director, Corporate Performance advised an update will be provided to the next ARIC meeting in June 2022.

Digital Transformational Strategy:

The Chair, Mr Masters suggested that internal audit costs should be part of the project associated costs with the new upgrades.

Penetration Testing:

The Chair, Mr Masters suggested that ELT with exclusion of the Chief Information Officer, should consider appointing a penetration firm and manage the production system during day time hours of work and the IT department are unaware when it would be taking place, noting that this process would allow Council to understand whether the IT department gets an alert when such things are taking place.

Council staff were in agreement with the suggestions and advised they will take this into consideration moving forward.

(Resolved Unanimously)

Recommendation:

- A. THAT the Audit, Risk & Improvement Committee note the report on the Progress of Management's implementation of the External Audit Recommendations included in the Management Letter.
- B. THAT a further report on the status of the IT rollout be presented to the ARIC meeting in June 2022 (including a briefing of the ITC Strategy).

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13 Governance

Item No: 13.1
Subject: **MODEL CODE OF CONDUCT COMPLAINT STATISTICS -
REPORTING PERIOD 1 SEPTEMBER 2020 TO 31 AUGUST 2021**
Author: Helen Tola, Manager - Governance & Council Support
Approver: Sue Meekin, Director Corporate Performance
File No: 21/231498
Purpose of the Report: To provide Council with a report on Model Code of Conduct Complaint Statistics as required by the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW for the reporting period 1 September 2020 to 31 August 2021.
Alignment to Delivery Program: Strategy 11.1: Facilitate community led decision-making that is open, honest and ethical and benefits the broad community.

Discussion:

The report was taken as read and noted.

(Resolved Unanimously)

Recommendation:

- A. THAT Council receives and notes the report on the statistical data relating to Code of Conduct complaints for the period 1 September 2020 to 31 August 2021 presented as **Attachment 1**.
- B. THAT, as required by the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, the statistical report has been forwarded to the Office of Local Government for the period 1 September 2020 to 31 August 2021.

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14 Implementation of Strategic Plan, Delivery Program & Strategies

Item No: 14.1
Subject: PROGRESS REPORT ON INTEGRATED PLANNING & REPORTING

Author: Petrina Duffy, Coordinator Strategy & Performance
Approvers: Cheryle Burns, Manager - Business Assurance & Improvement
Sue Meekin, Director Corporate Performance
File No: 22/44925
Purpose of the Report: To update the ARIC on Integrated Planning and Reporting matters.
Alignment to Delivery Program: Strategy 10.2: Plan for the future for Woollahra.

Discussion:

The report was taken as read and noted.

Mr Gordon commented that in other Councils, there has been an Internal Audit of the reporting framework relating to this and made further comments around the inclusion of the colour coding and notes on the report.

He suggested that in due course Council takes into consideration to include a high level review comment in order to justify the status of the particular KPI's and objectives.

(Resolved Unanimously)

Recommendation:

- A. That the ARIC note the timeline for delivery of Council's new suite of IP&R Documents;
- B. That the ARIC note the Progress Report for July – December 2021 for Councils' adopted Delivery Program 2018 to 2022 and Operational Plan 2021/22.

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Audit, Risk and Improvement Committee Meeting Minutes

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17 Internal Audit

Item No: 17.1
Subject: **INTERNAL AUDIT OF EMPLOYEE LICENCES, PERMITS AND QUALIFICATIONS**
Author: Cheryle Burns, Manager - Business Assurance & Improvement
Approver: Sue Meekin, Director Corporate Performance
File No: 22/49909
Purpose of the Report: For the ARIC to consider the Internal Audit findings in relation to Employee Licenses, Permits and Qualifications.
Alignment to Delivery Program: Strategy 11.6: Minimise risk for Council and the community.

Discussion:

The report was taken as read and noted.

Mr Griffiths from BDO provided background for this report in terms of the reasoning and justification as to why it is necessary. He confirmed that COVID-19 did not have any impact on the overall assessment and that Council is tracking extremely well.

Mr Gordon questioned what prompted this report to be addressed and Mr Griffiths clarified that the report was as part of the 3 year Internal Audit Plan (originally intended to conclude as at 30 June 2021).

Mr Gordon raised a question around the staff population and how many of those operational-based employees hold the certain types of credentials to qualify and whether employees get notified when their specific license is due to be provided to Council.

Mr Masters raised questions around the storage of evidence for the verification of ID, potential breaches of privacy and identity theft. Mr Griffiths took this question on notice to action in the future particularly as this area was not addressed within the scope as a primary focus.

(Resolved Unanimously)

Recommendation:

THAT ARIC:

- A. Receive and note the "Internal Audit of Employee Licenses Permits and Qualifications 2022" report as **ANNEXURE 1**.
- B. Note the Report's conclusion that:

"Based on our assessment of the residual risks in the area of Employee Licences, Permits & Qualifications, we have assigned an overall rating of LOW for the Internal Audit."

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Item No: 17.2
Subject: 4 YEAR INTERNAL AUDIT PLAN 2022 TO 2026

Author: Cheryle Burns, Manager - Business Assurance & Improvement
Approver: Sue Meekin, Director Corporate Performance
File No: 22/39099
Purpose of the Report: To adopt the Strategic Internal Audit Plan to cover the period 1 July 2022 to 30 June 2026 and the Annual Internal Audit Plan for FY 2022/2023.
Alignment to Delivery Program: Strategy 11.6: Minimise risk for Council and the community.

Discussion:

The report was taken as read and noted.

Mr Griffiths from BDO provided an overview of this report.

The Committee discussed whether an additional audit should be included as part of the process. This was noted by General Manager and Mr Griffiths. The General Manager also noted that work was progressing within the ELT to better structure any action plans or responses. This should then lead to a more useful scaling of priorities and reduction in the number of action items overall.

(Resolved Unanimously)

Recommendation:

THAT the Strategic Internal Audit Plan for the period 1 July 2022 to 30 June 2026 (including the Annual Internal Audit Plan for the period 1 July 2022 to 30 June 2023) be adopted, subject to the report being amended where it reads "Be adopted", to "Be adopted in line with the recommendations for management to review the capability for additional reviews a year and recognising that as a plan in the outer years, it may change depending on the changes in risk profile of the Council.

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22 March 2022

18 General Business

Note: Late correspondence was tabled by Mr Malone, Prosperity Advisers Group.

The Annual Engagement Plan (AEP):

Mr Malone from Prosperity Advisers Group provided the Committee with an overview of the Annual Engagement Plan, noting that the scope of the annual audit has remained the same as recent years, with the same for the key issues.

The Plan was taken as read and noted and further endorsed for management sign off.

Next ARIC meeting:

Mr Masters requested a change of date for the next upcoming ARIC Meeting which was originally placed in the diary for Tuesday 21 June 2022. The Committee was in agreement to move the ARIC meeting to Wednesday 22 June 2022 instead.

There being no further business the meeting concluded at 4:05pm.

Item No: 12.3

Subject: **DRAFT CODE OF MEETING PRACTICE (COMP)**

Author: Helen Tola, Manager - Governance & Council Support

Approvers: Sue Meekin, Director Corporate Performance
Craig Swift-McNair, General Manager

File No: 22/77236

Purpose of the Report: To present the Draft Code of Meeting Practice for consideration by Council for the purpose of public exhibition.

Alignment to Delivery Program: Strategy 11.1: Facilitate community led decision-making that is open, honest and ethical and benefits the broad community.

Recommendation:

- A. THAT Council endorses the Draft Woollahra Municipal Council Code of Meeting Practice for the purpose of public exhibition for a period of 42 days from 11 May 2022 to 22 June 2022, as presented as **Attachment 1**.
- B. THAT Council note that the Draft Woollahra Municipal Council Code of Meeting Practice includes all mandatory provisions of the prescribed Model Code of Meeting Practice issued by the Office of Local Government; the inclusion of a range of non-mandatory clauses as presented in **Attachment 2** and the inclusion of a range of additional Woollahra-specific supplementary provisions as also presented in **Attachment 2**.
- C. THAT a further report be prepared to Ordinary Council meeting on the 27 June 2022 following the close of the public exhibition period to consider public submissions received.

Executive Summary:

The purpose of this report is to present a Draft Code of Meeting Practice and to seek endorsement from Council to publicly exhibit the Code for a period of 42 days as required by legislation.

Discussion:

By way of background, the Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is made under section 360 of the Local Government Act 1993 (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).

The Office of Local Government (OLG) released *Circular 21-35* notifying councils of the prescription and commencement of a new Model Code of Meeting Practice to apply to all councils across NSW from 19 November 2021. The Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) was published in the Gazette on 29 October 2021 and Councils must ensure that their new Code complies with the provisions of the Model Code as soon as possible and no later than 12 months after each Ordinary Council election.

Until Council adopts a new Code of Meeting Practice, its existing Code of Meeting Practice will remain in force. If Council fails to adopt a new Code of Meeting Practice, any provisions of the council's adopted meeting code that are inconsistent with the mandatory provisions of the Model Meeting Code prescribed under the Regulation will automatically cease to have any effect to the extent that they are inconsistent with the mandatory provisions of the Model Meeting Code.

The Model Code applies to all meetings of Council and Committees of Council of which all the members are Councillors (i.e. Council and the Finance, Community & Services, Environmental Planning and Strategic & Corporate Committees) and does not refer to advisory committees or working parties.

Key points

The Model Code of Meeting Practice issued by the OLG has two elements:

- **mandatory provisions** (indicated in **black font**)
Mandatory provisions must be included in the Draft Code of Meeting Practice. These provisions reflect existing meetings provisions of the Act and update/enhance meeting provisions previously prescribed under the Regulation to reflect contemporary meeting practices by councils and to address ambiguities and areas of confusion in the existing provisions based on feedback from councils. **Blue text** denotes changes made by the OLG in 2021, therefore these are also mandatory.
- **non-mandatory provisions** (indicated in **red font**)
Non-mandatory provisions detail areas of meeting practice that are common to most Councils, but where there may be a need for some variation in practice between Councils based on local circumstances. The non-mandatory provisions also operate to set a benchmark based on what OLG sees as best practice for the relevant area of practice.

Historically, the Woollahra Code of Meeting Practice has also included supplementary provisions specific to Woollahra, noting these are not inconsistent with the mandatory provisions. These supplementary provisions include matters such as late correspondence, safeguards and tabling of petitions to name a few.

The draft Code as presented in **Attachment 1** incorporates some of the Woollahra supplementary provisions (indicated in **green font**) as well as incorporating mandatory and non-mandatory provisions for consideration by Council and the community. An explanatory note is also provided on the cover page of the Draft Code of Meeting Practice to highlight the changes proposed to the Model Code and to assist readers in identifying the changes proposed.

Key Changes

The key changes as noted by the OLG to the new Model Code include the following:

1. New provisions that allow Councils to permit individual Councillors to attend meetings by audio-visual link and to hold meetings by audio-visual link in the event of natural disasters or public health emergencies. The provisions governing attendance at meetings by audio-visual link are non-mandatory, therefore Councils can choose not to adopt them or to adapt them to meet their own needs. Staff do recommend the inclusion of these provisions given the necessity to hold Council and Committee meetings during the COVID-19 pandemic.

It is important to note that the repeal date for section 237 of the Regulation which exempts Councils from the requirement under clause 5.2 of the previous iteration of the Model Meeting Code for Councillors to be personally present at meetings in order to participate in them has been extended to **30 June 2022**. If Councils have not adopted a new meeting code that allows Councillors to attend meetings by audio-visual link by the 30 June 2022, Councillors will not be permitted to attend and participate in meetings.

2. Amendments have also been made to the provisions governing the webcasting of meetings and disorder at meetings to reflect amendments to the Regulation since the previous iteration of the Model Meeting Code was prescribed.

3. An amendment has also been made to the Model Code implementing recommendation 6 in ICAC's report in relation to its investigation of the former Canterbury City Council (Operation Dasha). ICAC recommended that the Model Meeting Code be amended to require that Council business papers include a reminder to Councillors of their oath or affirmation of office, and their conflict of interest disclosure obligations.

In preparing the Draft Code of Meeting Practice, Councillors were provided with a Councillor Briefing note and the proposed changes for consideration at a Councillor Briefing Session on the 20 April 2022. Councillors were also invited to provide feedback on key changes proposed in the Draft Code of Meeting Practice by close of business on 28 April 2022 and some of the feedback received has been incorporated into the Draft Code, provided as **Attachment 1**.

The General Manager, Director Corporate Performance and Manager Governance and Council Support have reviewed the proposed new Draft Revised Code of Meeting Practice and this is now presented for consideration by Council.

A summary of all the changes proposed has been prepare and is provided as **Attachment 2**.

Options:

Council in its consideration of the Draft Code of Meeting Practice, may consider the inclusion of the non-mandatory provisions and also to determine whether Council wishes to include the additional supplementary provisions within the Draft Code of Meeting Practice (specific to Woollahra).

Pending Council's consideration and feedback, staff will arrange the public exhibition of the Code for a period of 42 days as required by legislation.

Community Engagement and / or Internal Consultation:

Public exhibition is proposed for a period of 42 days from 11 May to 22 June 2022, via the following means:

- advertising in the Wentworth Courier;
- advertising at Council's Customer Service Centre and Woollahra Libraries; and
- promotion and advertising via the 'Your Say' engagement portal on Council's website.

It is recommended that public exhibition be Submissions received will be reported back to the Finance, Community & Services Committee meeting for consideration.

As mentioned previously, Councillors were provided with a Councillor Briefing note and the proposed changes for consideration at a Councillor Briefing Session on the 20 April 2022. Councillors were invited to provide feedback on key changes proposed in the Draft Code of Meeting Practice by close of business on 28 April 2022.

Key issues raised at the Councillors Briefing and by Councillor feedback post session included reference to the introduction of public forums, limitation on the number and duration of speeches, use of mobile phones, late correspondence submission timeframes, access to late correspondence, identification of budgeting/funding sources, deadlines for submission of Notices of Motion and/or Questions with Notice to name a few.

Feedback received has been considered by staff and incorporated into the Draft document for consideration by Council prior to the public exhibition (where possible).

Policy Implications:

The Draft Code of Meeting Practice once adopted following public consultation will replace the current Code of Meeting Practice.

Financial Implications:

Existing budget is available for the cost of advertising of the Code of Meeting Practice.

Resourcing Implications:



Nil

Conclusion:

All Councils are required to adopt a new Model Code of Meeting Practice by 30 June 2022, based on the Model Code of Meeting Practice produced by the Office of Local Government. The new Code must be publicly exhibited for a period of 28 days and public submission period of 42 days.

It is recommended, subject to consideration by Council, the Draft Code of Meeting Practice, as presented in **Attachment 1**, be publicly exhibited from 11 May to 22 June 2022. A further report will then be prepared for consideration by Council following the public exhibition period.

Attachments

1. Draft Code of Meeting Practice (CoMP) - based on Model Code of Meeting Practice for Local Councils in NSW 2021 (*circulated under separate cover*) 
2. Summary of changes to the Draft Code of Meeting Practice (CoMP) [↓](#) 



**Summary of Changes
Draft Code of Meeting Practice – May 2022**

A summary of the key changes to the Code of Meeting Practice for consideration by Council is shown below, noting this does not include all the changes however lists the more significant ones for consideration by Council.

Clause numbering may change as a result of Council's consideration of the CoMP.
Relevant page numbers are also provided for ease of reference.

- **Blue text** denotes changes made by the OLG in 2021, therefore these are mandatory.
- **Red text** denotes provisions of the Model Meeting Code that are not mandatory (for consideration by Council).
- **Green text** denotes additional provisions that are already included in our existing Code of Meeting Practice or are new suggestions, which are recommended to be included to provide supplementary provisions/policy positions, noting that these are not considered to be inconsistent with the mandatory provisions. **Yellow highlighted text** is also supplementary for consideration by Council.

Type of Change (i.e. mandatory, non-mandatory, or additional supplementary provision)	Category	Clause/s	Page/s
Additional Provision (WMC)	Timing of ordinary council meetings	3.1	5
Non-Mandatory	Notice of Motion – consideration of legal, strategic, financial or policy implications	3.11 to 3.12	7
Additional Provision (WMC)	Alteration of Committee Meeting commencement time	3.13	7
Mandatory OLG changes 2021 CoMP	Statement of ethical obligations	3.23	9
Additional Provision (WMC)	Confidential agendas, business papers and annexures for council/committee meetings	3.33 to 3.36	10
Non-Mandatory	Pre-meeting briefing sessions	3.37 to 3.42	10 & 11
Additional Provision (WMC)	Public Forums (Matters not on the Council Agenda)	4.1 to 4.2	11 & 12
Non-Mandatory	Public Forums (Matters on the Council Agenda)	4.3 to 4.26	12 to 14
Mandatory OLG changes 2021 CoMP	Attendance by Councillors at meetings	5.2	15
Non-Mandatory	Coming together – cancellation of meeting due to quorum or health & safety	5.14 to 5.15	16 & 17

Type of Change (i.e. mandatory, non-mandatory, or additional supplementary provision)	Category	Clause/s	Page/s
Mandatory OLG changes 2021 CoMP	Meetings held by audio-visual link	5.16 to 5.18	17
Mandatory OLG changes 2021 CoMP	Attendance by councillors at meetings by audio-visual link	5.19 to 5.30	17 to 19
Mandatory OLG changes 2021 CoMP	Webcasting of meetings	5.34 to 5.39	19 to 20
Additional Provision (WMC)	Transcripts and Audio Recordings	5.40	20
Mandatory OLG changes 2021 CoMP	Attendance of the General Manager and other staff at meetings via audio link	5.45	21
Additional Provision (WMC)	Modes of Address	7.1 to 7.5	23
Additional Provision (WMC)	Order of Business	8.1 to 8.5	23 & 24
Additional Provision (WMC)	Councillor Reports/Councillor Updates	8.4	24
Additional Provision (WMC)	Seating arrangements	8.5	24
Non-Mandatory	Mayoral Minutes (source of funding)	9.10	26
Additional Provision (WMC)	Submission of late correspondence	9.14	26
Additional Provision (WMC)	Reading late correspondence at committee meetings	9.15	26
Non-Mandatory	Motions requiring expenditure of funds	10.9	29
Additional Provision (WMC)	Limitations on the number and duration of speeches.	10.22 & 10.23	30
Non-Mandatory	Voting at Council Meetings	11.11	33
Additional Provision (WMC) – recommended for deletion	Voting on planning decisions	11.16	33
Additional Provision (WMC)	Extend or restrict number and duration of speeches	12.5	34
Non-Mandatory	Dealing with items by exception	13.1 to 13.7	35
Mandatory OLG changes 2021 CoMP	Obligations of councillors attending meetings by audio-visual link	14.20	39
Non-Mandatory	Expulsion from meetings	15.15 & 15.16	42
Mandatory OLG changes 2021 CoMP	How disorder by councillors attending meetings by audio-visual link may be dealt with	15.21 & 15.22	43
Mandatory OLG changes 2021 CoMP	Use of mobile phones and the unauthorised recording of meetings	15.25	43
Mandatory OLG changes 2021 CoMP	Conflicts of Interest	16.2	44

Type of Change (i.e. mandatory, non-mandatory, or additional supplementary provision)	Category	Clause/s	Page/s
Non-Mandatory	Rescinding or altering council decisions	17.12 to 7.14	46
Non-Mandatory	Recommitting resolutions to correct an error	17.15 to 17.20	46 & 47
Non-Mandatory	Time Limits on Council Meetings	18.1 to 18.5	47
Mandatory and Additional Provision (WMC)	Minutes of meeting (reference to declarations of interest)	19.2 (a) & (f)	48
Additional Provision (WMC)	Access to late correspondence	19.8	48
Additional Provision (WMC)	Referrals on requests of Councillors to Full Council	20.23	52
Additional Provision (WMC)	When a Committee substantially changes a staff recommendation	20.24	52
Additional Provision (WMC)	Submission of late correspondence	20.25	52
Additional Provision (WMC)	Reading late correspondence at committee meetings	20.26	52
Additional Provision (WMC)	Representation to committee meetings by the public	20.27	52
Mandatory and Additional Provision (WMC)	Minutes of meeting (reference to declarations of interest)	20.28 (a) & (f)	53
Non-Mandatory	Minutes of council committee meetings (all voting at Committees)	20.29	53
Additional Provision (WMC)	Petitions	22.1 to 22.4	54
Additional Provision (WMC)	Disclosure and Misuse of Information	23.1 to 23.6	55
Additional Provision (WMC)	Procedural Motions	24.1	56
Additional Provision (WMC)	Revision of the Code of Meeting Practice	25.1	57

15. Councillor Reports/Councillor Updates (Section 8.4)

Note: Councillor Reports/Councillor Updates are to be confined to condolences, congratulations, presentations and matters ruled by the Chair to be of extreme urgency (in accordance with Section 8.4 of Council's Code of Meeting Practice).

16. Notices of Motion

Item No: 16.1
Subject: NOTICE OF MOTION - LOCAL CHARACTER
From: Councillors Merrill Witt, Luise Elsing and Lucinda Regan
Date: 20 April 2022
File No: 22/84526

Recommendation:

THAT Council:

- A. Note that in February 2019 the Department of Planning and Environment (DPE) prepared a Discussion Paper - Local Character Overlays which identified a proposed approach for introducing local character overlays in to the standard instrument Local Environmental Plan (LEP). <https://www.planning.nsw.gov.au/-/media/Files/DPE/Discussion-papers/Local-character-discussion-Paper-2019-02-26.pdf?la=en>
- B. Note that Council resolved on 11 November 2019 to undertake an investigation and prepare a report on the manner in which special local character areas could be identified and protected in the Woollahra Local Government area (WLGA), and that in response, a planning proposal was developed by WLGA and submitted to DPE in December 2020 for this purpose. https://www.woollahra.nsw.gov.au/_data/assets/pdf_file/0018/210933/Council_Minutes_-_11_Nov_2019.pdf#page37
- C. Note that in November 2020 DPE placed a draft local character clause and overlay on public exhibition for comment. The proposed clause change would allow for the insertion of local character statements into LEPs using a standardised approach and could lead to partial exclusion of certain State Environmental Planning Policies (SEPPs).
- D. Write to the New South Wales Minister for Planning and Homes seeking:
 - (i) clarification on the position in relation to the mechanism to insert local character overlays into the WLGA LEP, and for dealing with the exclusion of operation of relevant SEPPs on this matter; and
 - (ii) clarification on the status and likely date for approval of the WLGA planning proposal to define local character, which has been with the DPE since December 2020; and
 - (iii) confirmation from the Minister that the delay in New South Wales Government State-led reforms on local character matters will not prevent the WLGA from progressing this issue of local importance, consistent with WLGA's local strategic planning framework (noting that local issues are able to be refined at a later date should State-led initiatives supersede them).

Item No: 16.2
Subject: **NOTICE OF MOTION - IDAHOBIT**
From: Councillors Matthew Robertson and Harriet Price
Date: 29 April 2022
File No: 22/82978

Recommendation:

THAT Council:

- A. Notes that International Day Against Homophobia, Transphobia, Biphobia and Interphobia (IDAHOBIT), is marked annually on 17 May to:
 - i) recognise the World Health Organisation's removal of homosexuality from the Classification of Diseases and Related Health Problems on this day in 1990;
 - ii) celebrate LGBTQIA+ people globally;
 - iii) reflect on the important work done towards eradicating such phobias;
 - iv) acknowledge the challenges and discrimination experienced by many in the LGBTQIA+ community; and
 - v) raise awareness of the work still needed to combat such discrimination.
 - B. Notes and reaffirms its resolution of 14 February 2022:
 - i) That Council fly the Progress Pride Flag annually during Sydney Mardi Gras, in recognition and celebration of the vibrancy and diversity of our community.
 - ii) Recognises the Woollahra community and Council's long standing support for its local LGBTQIA+ community including our young transgender residents.
 - C. Resolves to fly the Progress Pride Flag at Council Chambers on 17 May this year and each year thereafter in:
 - i) recognition of IDAHOBIT;
 - ii) celebration of Woollahra's LGBTQIA+ community; and
 - iii) promotion of diversity and inclusion.
 - D. Requests the Mayor and staff publicise this initiative through Council's communications and relevant media.
 - E. Notes Council's long standing commitment to supporting the LGBTQIA+ community and work currently underway by Council's Community Services Division to develop a Diversity Strategy and requests staff incorporate IDAHOBIT in this plan.
-

Item No: 16.3
Subject: NOTICE OF MOTION - #STANDWITHUKRAINE
From: Councillor Luise Elsing
Date: 30 April 2022
File No: 22/85624

Recommendation:

THAT Council undertake the necessary processes to:

- A. Initiate and report on road renaming of Fullerton Street to Ukraine Street, and
- B. Write to Mr David Sharma MP – Member for Wentworth to request that the number of humanitarian visas be increased.

Discussion:

Woollahra Council Condemns Russian Invasion of Ukraine

On 28 February 2022 Councillor Shapiro tabled a report in relation to the Russian invasion of Ukraine (pages 147 - 149 of the minutes).

We have all been shocked and saddened to see the unfolding situation in Ukraine. We are a long way from Ukraine but we all know that the residents of Woollahra, many of whom are of Eastern European descent, desire safety and peace for their families, friends and communities at home.

The current escalation and unfolding situation has left many citizens of Ukraine in fear of their lives and livelihoods. Citizens around the world, including Russian communities, have expressed their condemnation of these acts, and Woollahra (in our small way), also speaks loudly in condemning them, noting that these are not the actions of the Russian people but of the Russian Government. Council supports the Russian community in the Woollahra Local Government Area.

Woollahra Council has bipartisan support for the people of Ukraine and their President Zelenskyy and formally condemns the Russian invasion of Ukraine.

On 28 February 2022 Woollahra Council unanimously supported the following motion:

“THAT the Statement which acknowledged Council’s bipartisan support for the people of Ukraine and formally condemns the Russian invasion of Ukraine and that the Mayor writes to the Prime Minister, Minister for Foreign Affairs, Member for Wentworth, Member for Vaucluse and Member for Sydney advising of Woollahra Council’s position enclosing a copy of the Statement.”

On 26 April 2022 Woollahra Council unanimously supported the following motion:

“THAT Council undertake the necessary committee processes, with a view to altering the parking restrictions which permit use only by the Russian Consulate on Fullerton Street, Woollahra such that the parking spaces be returned to use for the general public.”

The support of Ukraine can continue with more public show of support and helping displaced people from Ukraine

RENAMING FULLERTON STREET

Russian Embassies in Europe and all over the world are having their street names changed to showcase their support of Ukraine and its people.

It has been reported that the following countries have changed or are in the process of changing street names:

- England (London) street renamed to "Zelensky Avenue"¹
- Scotland (Edinburgh) street renamed street to "Zelensky Street"²
- Denmark (Copenhagen) street renamed to "Ukraine Street"³
- Canada (Toronto) street renamed to "Free Ukraine Square"
- Norway (Oslo) renames street "Ukraine Square"⁴
- Lithuanian (Vilnius) renamed street to "Ukrainian Heroes' Street"⁵
- Latvia (Riga) renamed street to "Independent Ukraine Street"⁶
- Czech (Prague) renamed street to "Ukrainian Heroes' Street"⁷
- Albania (Tirana) renamed street to "Free Ukraine Street"⁸

Under the **NSW Address Policy and User Manual**⁹ the process for changing street names in NSW can be initiated by local government and involves seeking approval from the Geographical Names Board following consultation with affected parties including residents, the public and all affected authorities.

There is currently a change.org petition to rename Fullerton Street to Ukrainians Heroes Street.

The proposed motion has the support of the Embassy of Ukraine in Australia, the Australian Federation of Ukrainian Organisations (AFUO) and the Ukrainian Council of NSW (UCNSW), umbrella bodies respectively for national and NSW-based Ukrainian community organisations. They represent Ukrainian churches, youth and women's organisations, the credit co-operative movement, educational, returned service, language and other organisations. Please see attached letters of support.

INCREASING NUMBER OF HUMANITARIAN VISAS

On the 20 March 2022, the Federal Government made available a subclass 786 Temporary Humanitarian Concern visa for all Ukrainian nationals who are in Australia on temporary visas, and those who will arrive in the coming months, other than maritime crew visa holders. The visa will be valid for three years and allow people to work, study and access Medicare.¹⁰

As at 30 April 2022 I understand that about 700 visas have already been granted. With the Russian invasion of the Ukraine continuing (over 70 days) it is likely that more visas will be needed.

¹ <https://www.washingtonpost.com/world/2022/03/10/road-names-russian-embassies-zelensky-rebrand/>

² <https://www.washingtonpost.com/world/2022/03/10/road-names-russian-embassies-zelensky-rebrand/>

³ <https://9gag.com/gag/aXrPg16>

⁴ <https://thebarentsobserver.com/en/life-and-public/2022/03/oslo-names-street-russian-embassy-ukraine-square>

⁵ <https://www.theguardian.com/world/2022/mar/10/lithuania-names-road-leading-to-russian-embassy-ukrainian-heroes-street>

⁶ <https://www.theguardian.com/world/2022/mar/10/lithuania-names-road-leading-to-russian-embassy-ukrainian-heroes-street>

⁷ <https://www.rferl.org/a/prague-russian-embassy-street-renamed-ukraine/31816610.html>

⁸ https://en.wikipedia.org/wiki/List_of_street_names_changed_around_diplomatic_mission_buildings_for_political_reasons

⁹ https://www.gnb.nsw.gov.au/__data/assets/pdf_file/0004/229216/NSW_Address_Policy_and_User_Manual_2021.pdf

¹⁰ <https://www.homeaffairs.gov.au/help-and-support/ukraine-visa-support/australian-government-offer-for-temporary-humanitarian-stay-in-australia>



Ukrainian Council of NSW Inc.

Об'єднання Українських Громад НПВ

Post: PO Box 270 Lidcombe NSW 1825

Email: ucnswinc@gmail.com



4 May 2022

Attention: Woollahra Councillors

RE: Proposal to rename Fullerton Street to Ukraine Street

Dear Councillors,

I write to you from the Ukrainian Council NSW Inc (the umbrella body for Ukrainian organisations in NSW), formally seeking WMC's support to rename Fullerton Street to Ukraine Street. The UCNSW is a member of the Australian Federation of Ukrainian Organisations (AFUO), which I believe has also written to you on this issue.

The entire nation of Ukraine is fighting for its freedom against Russian aggression. People of various professions are being armed to protect their native cities, and thousands are volunteering to join the Armed Forces to bravely protect their country. Civilians spend their nights in bomb shelters because numerous cities and towns in Ukraine are being shelled from army-grade missiles.

In alignment with the Ukrainian Ministry of Foreign Affairs campaign called "Ukraine Street", WMC can support Ukraine by renaming Fullerton Street to "Ukraine Street". This would be an incredibly meaningful act of symbolic support for the courageous Ukrainian people who defend the values of freedom and democracy from the 2nd strongest military power in the world.

Ukraine is the homeland of people whose long struggle for independence has been a testament to their unyielding, indomitable spirit and free will. Walking down Ukraine Streets for Russian representatives to their consulate would be a daily reminder of Ukraine's sovereignty with democracy and freedom as its highest values.

Several European countries have already changed the Russian embassy's address line for Ukraine. Albania gave part of a street a new name "Free Ukraine Street," Lithuania renamed a street to "Ukrainian Heroes Street" and Latvia – "Independent Ukraine Street".

The UCNSW gratefully acknowledges the Council's support on 28 February 2022 for a motion formally condemning the Russian invasion, and its support on 26 April 2022 for a motion revoking the consular car parking spaces outside the Russian Consulate.

We hope the Council can again show its support for peace, freedom and basic human rights.

Kind regards,

Daniel Wolody
President Ukrainian Council of NSW
0401 311 596



AUSTRALIAN FEDERATION OF UKRAINIAN ORGANISATIONS
СОЮЗ УКРАЇНСЬКИХ ОРГАНІЗАЦІЙ АВСТРАЛІЇ

Representing 22 Peak Ukrainian Organisations in Australia
Member of Ukrainian World Congress

Woollahra Councillors
Woollahra Municipal Council
Via email

Wednesday 4 May 2022

Dear Woollahra Councillors,

Re: Proposal to rename Fullerton Street to Ukraine Street

The [Australian Federation of Ukrainian Organisations \(AFUO\)](#) strongly supports the motion being put forward by Councillor Luise Elsing to rename Fullerton St, Woollahra to Ukraine Street, Woollahra.

The AFUO is the peak body for 22 peak Ukrainians organisations throughout Australia, such as churches, state community organisations, youth and women's organisations, the credit co-operative movement, educational, returned service, language and other organisations. As such, the AFUO is widely regarded as the Ukrainian community voice on matters concerning relationships within the Ukrainian community, and between Australia and Ukraine.

The AFUO is also a member of the [Ukrainian World Congress](#), the peak body for Ukrainian organisations in the diaspora.

Following the invasion of Ukraine on 24 February 2022, the Ukrainian Ministry of Foreign Affairs launched a campaign called "Ukraine Street", which called for nations to change the name of the streets where the Russian embassy or consulate is located to "Ukraine Street". The campaign is part of an effort to remind Russia that its actions have brutally violated internationally accepted rules of behaviour and are not accepted by the international community; act as a daily reminder to Russian consular staff and Australians that Ukrainian sovereignty and identity will always be remembered; and send a strong signal of support to the people of Ukraine as they fight against Russia's attempts to destroy the Ukrainian state and deny Ukrainian people their right to self-determination and human dignity.

We note that many countries in the world have joined this initiative, including Canada, Norway, the Czech Republic, Lithuania, Latvia and Albania.

We gratefully acknowledge the Council's support on 28 February 2022 for a motion formally condemning the Russian invasion, and its support on 26 April 2022 for a motion revoking the consular car parking spaces outside the Russian Consulate. We hope the Council can again show its support for peace, freedom and basic human rights.

Yours sincerely,

Mr Stefan Romaniw OAM
Co-Chair

Ms Kateryna Argyrou
Co-Chair

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**Embassy of Ukraine
in Australia**

Level 12, 60 Marcus Clarke Street,
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australia.mfa.gov.ua

Woollahra Councillors

Woollahra Municipal Council

04 May 2022

Dear Councillors,

It's been almost two months since Russian Federation started the unprovoked and unjust war against Ukraine. Australia immediately showed solidarity with Ukraine and keeps providing humanitarian, economical, and diplomatic support. Ukrainian community in Australia also provides humanitarian aid to Ukraine, which today is essential as the country remains under attack by Russia.

Russia, with its leader Vladimir Putin, intends to erase Ukraine from the map and deny the Ukrainian nation's right to exist. We are grateful to the Ukrainian community that promotes Ukrainian culture and language and builds a bridges between Australian and Ukrainian societies.

We hope that Woollahra Municipal Council would consider joining the international Ukraine Street initiative by renaming Fullerton Street to "Ukraine Street", that will serve as powerful act of support for Ukrainians, defending their independence in the Russia-led war.

Ukraine Street initiative encourages people worldwide to make Ukraine part of their cities and put Ukraine on the mental and geographical maps so no one ever doubts its existence again. Walking down Ukraine Street for Russian representatives to their consulate would be a daily reminder of Ukraine's sovereignty, with democracy and freedom as its highest values.

We also would like to extend appreciation to the Council for its support on 28 February 2022 of the motion that formally condemn the Russian invasion to Ukraine, and its support on 26 April 2022 for a motion revoking the consular car parking spaces outside the Russian consulate.

Sincerely,

Deputy Head of Mission

V. Shalkivskyi

Item No: 16.4
Subject: **NOTICE OF MOTION - LIFELINE**
From: Councillors Sean Carmichael and Isabelle Shapiro
Date: 03 May 2022
File No: 22/83794

Recommendation:

THAT Council:

- A. Note Lifeline is opening its first crisis support centre in the Eastern Suburbs (located in Westfield Bondi Junction);
- B. Recognise the value a locally based Lifeline centre brings to our own community; and
- C. Explore how Woollahra can best help the centre successfully establish itself, with a report brought to a future Council meeting detailing opportunities and recommended action.

Discussion:

The following article provides information relevant to Lifeline:

<https://www.smh.com.au/national/nsw/daisy-turnbull-calls-on-eastern-suburbs-set-to-volunteer-at-lifeline-20220421-p5af5o.html>

Item No: 16.5
Subject: **NOTICE OF MOTION - UPPER COOPER DOG OFF LEASH**
From: Councillors Nicola Grieve and Sarah Swan
Date: 04 May 2022
File No: 22/84743

Recommendation:

- A. THAT staff undertake community consultation to determine community views on changing the current status of “Dogs On Leash” to “Dogs Off Leash” on the Upper Cooper Field (the amphitheater flat field) in Cooper Park.
- B. THAT a further report and recommendation be prepared following the community consultation.

Discussion:

Dog ownership in Woollahra Municipal Council has increased in recent times, which has given rise to an increased demand for areas to allow these dogs to run off leash.

However Cooper Park bush land is an important biodiversity area with several endangered species and is a haven for wildlife which needs to be protected from dogs running off leash. Many people walk their dogs off leash in the bushland area as they are out of sight of rangers.

Currently there is timed off leash in Lower Cooper and Lough parks but there is none at the top end of the park. If the park was topped and tailed with dog “off leash” areas then the restriction of “on lead” in the bush will be easier to justify and enforce as a more equitable and a better balance.

On 28 February 2022 Council unanimously resolved to also consider the inclusion of a bubbler and dog waste bag dispenser in the Upper Cooper field, and the consideration of off-leash in this area aligns with the likely future use of this open space.

17. Questions With Notice

Recommendation:

THAT the Questions with Notice be received and noted.

Background:

A Councillor may, by way of notice, ask a question for response by the General Manager or their nominee, in accordance with Council's adopted Code of Meeting Practice. Where a response, or an update will be provided at the Council Meeting, a response of 'On Notice' is listed in the Council Agenda.

The following Questions with Notice for the Council Meeting on 9 May 2022 have been received.

QWN: 17.1
From: Councillor Price
Subject: Questions with Notice - Recent announcement by Dave Sharma MP concerning federal funding of \$500,000 to 'improve disability access to Redleaf Beach'.

Councillor Price asking:

Can the General Manager please provide particulars of the funding and:

1. Confirm when Council made an application for funding and provide details of the terms of the Commonwealth Grant Scheme;
2. Confirm if the funding is contingent on a Council contribution and if so, the quantum of that contribution;
3. Detail the scope and timing of the works and confirm if the works will include wheelchair access to the Murray Rose Pool; and
4. If Council did not apply for funding, please provide details of how the funding was secured.

Acting General Manager in response:

Responses the questions raised are provided in italics below.

1. Confirm when Council made an application for funding and provide details of the terms of the Commonwealth Grant Scheme;

On 11 April 2022, Council's General Manager was advised in a letter from the Deputy Prime Minister, in his capacity as Minister for Infrastructure, Transport and Regional Development, that up to \$500,000 would be made available to Woollahra Municipal Council under the Community Development Grants Programme, for the Redleaf Access Project.

This offer of funding is the culmination of discussions which took place in October and November 2021 between The Mayor, the General Manager and David Sharma MP, Member for Wentworth. Further to those discussions, Council staff prepared a list of suitable projects which could attract grant funding from the Australian Government. The Redleaf Access project was one of the projects on that list.

2. Confirm if the funding is contingent on a Council contribution and if so, the quantum of that contribution;

It is not clear from the information provided in the letter of 11 April whether the grant is contingent on a Council contribution. In the coming weeks, Council staff will be liaising with officers of the Department of Infrastructure, Transport and Regional Development to clarify this and other details of the funding offer. It is noted that the estimated cost of the Redleaf Access Project is in the order of \$1.2 - \$1.4m and our understanding at this stage is that the grant funding is limited to \$500k. Completion of the project will therefore require additional funding of approximately \$700k - \$900k.

3. Detail the scope and timing of the works and confirm if the works will include wheelchair access to the Murray Rose Pool; and

The Redleaf Access Project will be known to some Councillors as it is essentially the same as a project endorsed by Council in February 2021 for submission to the NSW Government Public Spaces Legacy Program. The broad scope of the project is to enhance accessibility from New South Head Road, through Blackburn Gardens to the Redleaf café area providing wheelchair/pram access. The scope will include regrading and widening of the existing pathway from the St Brigid's lift, leading down to a new lift which will allow people access to the promenade to utilise the Redleaf Café and change rooms. Other landscaping works including retaining walls and changes to footpath connections are also proposed. A viewing platform with seating will be constructed adjacent to the new lift.

The current scope of the project does not provide for wheelchair access to the water but this is envisaged as a possible future link. It is anticipated that the project would be completed within 12 months of the full funding for the project being available.

4. If Council did not apply for funding, please provide details of how the funding was secured.

See response to Q1.

QWN: 17.2
From: Councillor Grieve
Subject: Questions with Notice - DAs for demolitions

Councillor Grieve asking:

How many DAs for demolitions without a plan for the replacement building have been approved in the last 5 years?

1. How many of these demolitions were approved under staff delegation?
2. How many of these were for RFBs?
3. How many of these were interwar RFBs?

Manager Development Control in response:

The table below indicates the number of Development Applications including Complying Development Certificates consented to/issued in the last 5 years where the scope of the development was for **demolition only**.

	2017	2018	2019	2020	2021	2022
Development Applications (DAs)	0	1	0	0	1	0
Complying Development Certificates (CDCs)	1	1	5	2	5	4

Note: The CDCs for **demolition only** have been facilitated via SEPP (Exempt and Complying Code) 2008 and been issued by Private Certifiers.

In total, only 2 DAs were approved where the scope of the development was for **demolition only**. These DAs are listed below and were approved under Staff Delegation.

1. DA 296/2021/1 - 590 New South Head Road and 2A Wunulla Road, Point Piper (Inter-War flat Buildings not listed as heritage items nor considered to meet the threshold for heritage listing by Council's Heritage Officer)
2. DA 29/2018/1 - 590 New South Head Road and 2A Wunulla Road, Point Piper (Inter-War flat Buildings not listed as heritage items nor considered to meet the threshold for heritage listing by Council's Heritage Officer).

QWN: 17.3
From: Councillor Grieve
Subject: Questions with Notice - DA Approvals

Councillor Grieve asking:

When will we receive the advice on what restrictions we can impose on the delegation from the General Manager to staff to approve Development Applications (DAs) at S34 conference that was committed to in the first meeting of the Council on the 5 January 2022?

Manager Governance & Council Support in response:

The Council at its Extraordinary Council Meeting on the 5 January resolved in part that:

- C. *THAT Council:*
- (i) *notes in accordance with statutory requirements a further review and report to Council of the delegations to the Mayor and General Manager will be undertaken within 12 months of the 4 December 2021 local government election; and*
 - (ii) *requests that in that review the General Manager give consideration to the introduction of criteria for the exercise of the delegation to resolve and settle section 34 conferences in the Land and Environment Court; and*
 - (iii) *requests the General Manager to present the further review to Council by 30 June 2022.*

In line with the resolution it is anticipated that a report will be presented to Council for consideration by 30 June 2022.

Political Donations: Matters to be considered by Councillors at Council and/or Committee Meetings

