

ADDITIONAL ITEM



Item No: 3.8
Title: Budget Review Process
Department: Governance

12 October 2020 Ordinary Council Meeting

Reference: F2020/02840 - D14232048

Executive: Gary Murphy, Chief Executive Officer

Summary

The purpose of this report is to provide an overview summary of key actions taken in response to Council's Budget position. The report pulls together information previously provided to Councillors through various sources and forums.

While this report is not confidential it does relate to a confidential matter. Councillors and staff are reminded of their obligation under the Code of Conduct to appropriately manage confidential information. It is noted that Councillors received legal advice regarding this issue. Should Councillors wish to discuss this matter, including confidential information provided it is recommended that Council resolves as follows:

That Council resolve that this matter be dealt with in closed session pursuant to s. 10A(2)(g) of the Local Government Act 1993 for the following reason:

2(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,

And because consideration of the advice received in open Council would on balance be contrary to the public interest as it would affect Council's ability to manage legal matters effectively and in the best interests of Central Coast community.

Recommendation

- 1 That the report on Central Coast Council's serious financial situation be received and noted.**
- 2 That Council consider the draft 100-day recovery action plan and financial forensic scope documentation at a workshop to be held on Thursday 15 October 2020**
- 3 That Council request that the CEO write to the Minister for Local Government seeking urgent assistance with the following matters:**

- ***Seek approval to borrow from restricted funds including the Developer contributions under the EP&A Act, the Developer servicing plan contributions under the Water Management Act, Domestic Waste management funds and unrestricted cash within the water and sewer funds comprising income from user and service charges, and advice on the process to obtain such approval; or***
 - ***Secure necessary external borrowing up to \$100 million from TCorp or any other emergency funding sources for the purposes of maintaining liquidity in the Council until such time as the actions within the draft 100-day recovery action plan are implemented; and***
 - ***Confirmation on the timing, scope and terms of reference for the previously committed financial and human resources advisors***
- 4** ***That Council resolve to utilise current scheduled Councillor Workshops Saturday 31 October 2020 for the purposes of reviewing the actions taken to date.***
- 5** ***That should the Minister for Local Government not be able to assist in securing borrowing through TCorp that Council authorise the CEO to present a loan proposal for its consideration at a future meeting of Council for the sum of up to \$100 million.***

Context

The Council is in a serious financial situation and faces an immediate and serious liquidity issue.

Council has, in the course of a review of the council's financial situation that its budgetary position has deteriorated since the March quarter result in 2020 when a deficit of \$41 million was reported. Following a rigorous review of the Council's budget this deficit has now increased to \$89 million.

Last year was an exceptional year. In addition to the bushfires, floods, coastal erosion, followed by COVID -19 loss of income and impacts on service delivery, Council delivered an enormous number of projects, maintained staff resources and service levels.

Due to amalgamation Council also inherited an enormous asset backlog of works once merged, coupled with the costs of merging two very different organisations with different systems and programs. Council has been playing catch up since amalgamation which is why Council's long-term plan identified that in the first few years there would be a requirement to operate a deficit in order to catch up. The estimated costs for amalgamation have been underestimated and had a much greater impact on the Council's long-term financial plan.

Previous audits including the external audit of council finances for 2018/19 by the NSW Audit Office failed to pick up any discrepancies in the finances. A PWC report in 2019 in fact indicated that council had "a financially prudent plan" in place.

3.8 Serious Financial Situation (contd)

In April 2020, Grant Thornton was commissioned to undertake a review of Council's finances and systems this year due to COVID -19 impacts, including potential cashflow issues in relation to reduced revenue streams . The result of that review identified there were discrepancies.

On 2 September 2020, the Chief Executive Officer engaged an external provider, DMB Consulting Pty Ltd for the purpose of advising further on the discrepancy issues raised from the Grant Thornton review surrounding the use of Council reserves (internal restrictions) and specifically whether the reserves have been utilised in accordance with their approved purposes.

On 23 September 2020, DMB Consulting Pty Ltd met with Council's Executive Leadership Team and the acting Chief Executive Officer to present preliminary findings. The provider was requested to provide an Interim report as soon as possible.

As a preliminary measure, Council's Executive Leadership ceased all but essential recruitment and removed delegations from staff with regards to tenders and contracts as a prudent action.

On 3 October 2020, DMB Consulting Pty Ltd submitted a draft interim report to the Chief Executive Officer. This draft report (dated 3 October 2020) highlighted that some expenditure over the past 12-18 months may have resulted in restricted funds being used contrary to the provisions of the Local Government Act 1993.

Subsequent Actions

Over the long weekend between Saturday, 3 October 2020 and Monday, 5 October 2020, Council's Executive Leadership Team and relevant Unit Managers, convened to consider the findings of the draft interim report from DMB Consulting Pty Ltd. The Chief Executive Officer and Executive Leadership Team determined that despite having concerns regarding the accuracy of detail within the draft Interim report, and noting that the draft Interim report expressed concerns as to the reliability of the financial information provided to DMB Consulting on which the draft interim report was based, that there was enough substance for Councillors and the Office of Local Government (OLG) to be notified.

Over the course of the long weekend, the Executive Leadership instructed Council's General Counsel to engage MBM Legal and seek advice regarding Council's position and the legal implications of the information received to date. MBM Legal was also requested to provide advice to the Councillors on Tuesday, 6 October 2020.

On Monday, 5 October 2020, the Chief Executive Officer rang all Councillors to advise them on the briefing to be conducted on 6 October 2020. The members of Council's Audit, Risk and Improvement Committee were also contacted and advised of a briefing on Wednesday, 7 October 2020.

3.8 Serious Financial Situation (contd)

On Tuesday, 6 October 2020 a briefing was conducted for all Councillors. At this briefing DMB Consulting Pty Ltd presented the analysis in the draft interim report provided on 3 October Councillors met privately with MBM Legal and Council's General Counsel.

On Tuesday, 6 October 2020 the Chief Executive Officer formally notified the Office of Local Government and sought assistance. The Chief Executive Officer updated Councillors following this notification.

On Tuesday, 6 October 2020, the Chief Executive Officer spoke to the following people/agencies for the purpose of personally advising them of Council's position:

- Chief of Staff – Minister for Local Government
- Parliamentary Secretary Central Coast – Adam Crouch MP
- David Harris MP

Those who were not able to be contacted that day were emailed:

- Yasmin Catley MP
- Leisel Tesch MP
- David Mehan MP
- Taylor Martin MLC
- Department of Planning
- NSW Water
- Chief of Staff – Minister for Water
- NSW Audit Office

A media statement was also issued to local media outlets and placed on Council's website.

All staff were notified and a meeting was conducted with the Council's larger Leadership Group. Council's Employee Assistance Provider was available to all staff. Meetings were scheduled for staff engagement up to Friday 9 October 2020.

On Tuesday, 6 October 2020, a second meeting was conducted with representatives from the Office of Local Government.

A Tactical Team was established and met on Tuesday, 6 October 2020 for the purpose of implementing actions determined by the Executive Leadership team.

A summary email of action taken was provided to Councillors after 5pm on Tuesday, 6 October 2020.

The NSW Ombudsman was formally notified by the Chief Executive Officer on Wednesday, 7 October 2020.

On Wednesday, 7 October 2020, the Chief Executive Officer spoke to the following people/agencies for the purpose of personally advising them of Council's position:

3.8 Serious Financial Situation (contd)

- CEO and President of Local Government NSW
- Lucy Wicks MP
- Emma McBride MP
- Representatives from the relevant Unions

On Wednesday, 7 October 2020, the Chief Executive Officer met with the Mayor and Deputy Mayor.

On Wednesday, 7 October 2020, Council updated IPART.

On Wednesday, 7 October 2020 a briefing was conducted with Council's Audit, Risk and Improvement Committee to seek an understanding of how they will be able to assist Council.

Those who were not able to be contacted that day were emailed:

- Senator Deborah O'Neill

On Wednesday, 7 October 2020, the Chief Executive Officer and Executive Leadership Team met with representatives from the Office of Local Government.

On Wednesday, 7 October 2020, the Chief Executive Officer and Executive Leadership Team decided that future grant funding received would be quarantined in separate accounts.

A summary email was provided to Councillors after 5pm on Wednesday, 7 October 2020.

On Thursday, 8 October 2020, the Chief Executive Officer and Executive Leadership Team met with representatives from Grant Thornton to formulate the key actions as part of a 100 day for recover. This plan will be in place for implementation from 12 October 2020 and will be reviewed following councillor input.

On Thursday, 8 October 2020, certain members of the Executive Leadership Team were available at Council Depots to speak with staff.

On Thursday, 8 October 2020, the Chief Executive Officer spoke to the following people/agencies for the purpose of personally advising them of Council's position:

- NSW Audit Office
- Department of Planning
- David Mehan MP
- Chief of Staff – Minister for Planning
- Taylor Martin MLC
- NSW Water

On Thursday, 8 October 2020, the Chief Executive Officer met with the Mayor and Deputy Mayor.

3.8 Serious Financial Situation (contd)

A media statement was also issued to local media outlets and placed on Council's website.

On Thursday, 8 October 2020, the Chief Executive Officer and Executive Leadership Team met with representatives from the Office of Local Government. The Chief Executive Officer and Executive Leadership Team met with Councillors as part of the CEO Weekly Update.

First response

The following actions were agreed in response to Council's financial situation for immediate implementation:

- Ceasing recruitment for all roles except those for which there is a safety requirement or statutory requirements.
- Significantly reducing staff delegations to limit those staff with authority to spend to Unit Manager level.
- Ceasing all unnecessary spending on operational expenditure.
- Review of Council's contingent workforce to reduce expenditure on temporary staff or contractors.
- Management and reduction of overtime with regular reporting.
- Review of all capital projects and halting where practicable to allow further review
- Establishment of Tactical Team to deliver 100-day plan.
- Review of controls over Council's financial systems to develop improved and more regular reporting.
- Daily monitoring of Council's cash balances to understand Council's current position.
- Dashboard reporting of key financial indicators

The Council will also engage a forensic accounting firm to investigate and report on the matters raised in the draft interim report of DMB Consulting and to establish the correct position in respect of those matters. The Terms of Reference for the engagement of the forensic accounting firm will be provided to the Office of Local Government and NSW Audit Office for their comment.

Immediate Funding Needs

As a First Response, Council has established a Tactical Team to implement actions which will immediately preserve cash while a broader restructure is planned and implemented via the 100 Day Plan. It is acknowledged that working capital and funding for committed and necessary capital projects will be required during this period to avoid any further utilisation of restricted funds in the absence of unrestricted funds.

As such, immediate funding is required so that the current restricted funds position can be preserved as at 1 October 2020, with ongoing operations and necessary capital projects funded by only unrestricted funds received post 1 October 2020 and the immediate funding currently being sought (or from restricted funds for those capital projects which are duly authorised to utilise restricted funds).

3.8 Serious Financial Situation (contd)

A high-level assessment of the cash flow needs for the four-month period from 1 October 2020 to 31 January 2021, which will encompass the period required for the 100-Day Plan, was undertaken, supported by external financial advisers and provided to Council staff on 11 October. The high-level assessment has focused on:

- The approved operating and capital budgets for the 2020/21 year and the expected phasing from a cash flow perspective; and
- Perceived risks to achieving the budget as a result of a number of internal and external factors which cannot necessarily be controlled by Council.

Based on the high-level assessment, the external financial advice received estimates that Council will require between \$24 million and \$60 million for working capital and funding for necessary capital projects for the four-month period. The \$24 million figure is based on Council achieving its Operational and Capital budgets, however does not make any allowance for unforeseen events. The \$60 million figure assumes a number of unfavourable risks that could materialise, including delays in confirming external loans and in rates collections.

Based on this information, external financial advisors recommend that Council seek up to an additional \$100 million working capital to pursue the 100-day plan and develop and start implementation of a longer-term financial sustainability strategy beyond that initial period.

100 Day Recovery Plan – Workshop with Councillors

On Monday, 12 October 2020, Council's 100-day Recovery Plan will commence implementation, but the plan will be reviewed as it is implemented and Councillor input is critical.

The plan has been developed incorporating the advice of Grant Thornton and the draft was provided to all Councillors on 12 October.

Councillor input is critical in the finalisation of the plan. In addition, feedback will be sought from Council's Audit, Risk and Improvement Committee regarding the plan. The OLG will also be consulted for their comment.

To facilitate Councillor involvement it is recommended that two Workshops be conducted with Councillors on Thursday, 15 October and Saturday, 31 October 2020 with further Workshops to be scheduled as required.

Link to Community Strategic Plan

Theme 4: Responsible

Goal G: Good governance and great partnerships

3.8 Serious Financial Situation (contd)

R-G2: Communicate openly and honestly with the community to build a relationship based on transparency, understanding, trust and respect.

Attachments

Nil.