

ADDITIONAL ITEM



Item No: 1.4
Title: Mayoral Minute - Minister's Notice of Intention to Issue a Suspension Order and Council's Submission in Reply - 26 October 2020
Department: Councillor

26 October 2020 Ordinary Council Meeting

Reference: F2020/00039 - D14260551
Author: Lisa Matthews, Mayor

Background

On Wednesday 21 October 2020, the Honourable Shelley Hancock MP, Minister for Local Government issued Central Coast Council with a Notice under s438K of the Local Government Act 1993.

The Minister intends to issue a suspension order, suspending Councillors from office for a period of three months and appointing an Administrator under section 438M of the Act. The Notice issued what is called a "Show Cause" Notice, requiring the elected body to provide a submission to the Minister in respect of the proposed suspension.

The Response is required to be submitted within 7 days of receipt of the Notice.

I formally move that:

- 1 That Council formally table the notice (Attachment 1) dated Wednesday 21 October from the Minister for Local Government issuing a notice of intention to issue a suspension order.***
- 2 That Council, subject to any final editorial amendments to ensure correctness and clarity of response, adopts as the response to the Notice, Attachment 2 – Draft Submission.***
- 3 That Council authorises the Mayor, in consultation with independent legal advisers, to finalise the attached draft submission to ensure correctness and clarity of the response.***
- 4 That Council provide the final submission to the Minister for Local Government on 27 October 2020.***

**1.4 Mayoral Minute - Minister's Notice of Intention to Issue a Suspension
Order and Council's Submission in Reply - 26 October 2020 (contd)**

Attachments

- | | | |
|----------|--|-----------|
| 1 | A737481 - MI - Central Coast - proposed suspension - Tab 1 - notice of intention | D14260562 |
| 2 | Attachment B - Draft Submission to the Notice to Suspend - 26 October 2020 | D14260561 |



The Hon. Shelley Hancock MP
Minister for Local Government

Ref: A737481
21 October 2020

Clr Lisa Matthews
Mayor
Central Coast Council

mayor@centralcoast.nsw.gov.au

NOTICE OF INTENTION TO ISSUE A SUSPENSION ORDER

Dear Clr Matthews

In accordance with section 438K of the *Local Government Act 1993* (the Act), I hereby give notice of my intention to issue a suspension order to suspend councillors of Central Coast Council for a period of three months and appoint an interim administrator under section 438M of the Act.

I am aware that there is evidence to suggest that Council is failing to meet its relevant legislative responsibilities and standards. Specifically, Council has accessed restricted funds without approval and used those funds for purposes other than for which they were intended. This is in breach of the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*.

Most recently, I am aware that Council, despite knowing of its growing deficit position, did not appear to take any decisive action to address this. The extent to which Council's decisions have contributed to the increase in the projected deficit for the 2019/20 year is yet to be determined. However, I am sufficiently concerned that the decisions of the elected body have contributed to this and as such cannot be allowed to continue while Council is in such a financial state. Council's current cash circumstance places it in the position where it cannot pay its debts and its wages without a significant injection of funds from an external source.

There is clearly a need for greater oversight and control over Council's budget and expenditure to ensure Council's liquidity is restored. Such a large council should not find itself in such a catastrophic financial position without knowing that this was likely or imminent.

These are serious matters. In circumstances where Council staff are faced with not receiving their wages and Council may be unable to meet its liabilities, I have formed the preliminary view that there are significant reputational and financial risks facing Council that must be addressed.

In light of the financial position of Council and the uncertainty surrounding the extent to which the decisions of the elected body have contributed to this, I do not presently believe that Council is in a position to satisfactorily identify and address these issues at this time. To assist Council to move forward, and to retain or restore public confidence in Council as a functional decision-making representative body, I presently consider that a period of independent administration may be required.

In accordance with clause 413E of the *Local Government (General) Regulation 2005*, I have considered the criteria listed before issuing this notice of intention. Having regard to the criteria, I have formed the preliminary opinion that the appointment of an interim administrator may be necessary to restore the proper and effective functioning of Council for the reasons set out above.

I hereby invite Council to make a submission in respect of the proposed suspension. I invite Council to provide its written response within 7 days of the date of service of this notice. It is suggested that Council table this notice of intention at an open Council meeting and provides its submission by way of resolution of the Council.

I have attached an information sheet about the process.

I request that you provide a copy of this notice and the information sheet to each councillor.

Yours sincerely



The Hon. Shelley Hancock MP
Minister for Local Government

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Submission to Minister for Local Government

1. Overview

We firstly acknowledge the gravity of the current financial position of Central Coast Council.

Our community has suffered significant challenges over the past year including bushfires, natural disasters and COVID. These have had an impact on the community and have also caused unprecedented challenges for Council including a significant strain on Council's finances.

Clearly Council has had significant financial challenges over the past year. Aware that Council was entering the 2019/20 financial year facing some financial challenges, we engaged PWC to advise on financial planning and management. Decreased rates income, ongoing costs arising from the merger, other impacts of COVID, amongst other things, significantly impacted the budget as the year progressed. In order to directly address these challenges, early in 2020 Council engaged consultants Grant Thornton Australia to plan and advise on managing these impacts.

It is not the purpose of this submission to exhaustively list the many extraordinary circumstances and costs that Council has been presented with over the past year, or to identify the cause of what we now know to be a serious irregularity in Council's accounting practices. Council has appointed consultants to investigate those matters, and is also liaising with the OLG, as you are aware.

Since being made aware of the

Through our engagement of appropriate professional advisers Council is addressing the current financial and management challenges. We have been actively seeking and obtaining advice regarding the causes of and solutions to the situation – a complex task – whilst also ensuring the proper day to day management of Council.

Any significant risks to Council are being managed through receiving advice from these professional services teams:

- Council is being advised by Grant Thornton Australia and has urgently prepared, adopted and is implementing plans to address the financial deficit and accounting practices of Council;
- Council has engaged Clayton Utz to provide ongoing legal advice and oversight during this process
- Council is engaging KPMG to undertake a forensic audit 'with an estimated time frame of 6-8 weeks to complete the first two phases
- Council is actively liaising with the Office of Local Government;
- Council's Audit, Risk and Improvement Committee is providing independent oversight and fulfilling an advisory role
- Councillors are working cooperatively with management, staff and advisers to address the situation.

Having regard to the significant actions that Council is taking and plans that are being implemented to identify and address the issues, we submit that you could not form the view that an administrator is necessary to restore the proper and effective functioning of council. Council is clearly addressing the issues and risks and taking action to ensure proper fiscal management.

2. Response to stated basis for proposed suspension order

In the Notice of Intention, you state that you have formed the preliminary opinion that the appointment of an interim administrator may be necessary to restore the proper and effective functioning of Council for reasons including:

- *Council is failing to meet its relevant legislative responsibilities and standards. Specifically, Council has accessed restricted funds without approval and used those funds for purposes other than for which they were intended. This is in breach of the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979.*
- *Council, despite knowing of its growing deficit position, did not appear to take any decisive action to address this. The extent to which Council's decisions have contributed to the increase in the projected deficit for the 2019/20 year is yet to be determined. However, I am sufficiently concerned that the decisions of the elected body have contributed to this and as such cannot be allowed to continue while Council is in such a financial state. Council's current cash circumstance places it in the position where it cannot pay its debts and its wages without a significant injection of funds from an external source.*

There is no doubt that Council is in an extremely serious situation both with respect to its deficit and past financial management practices. Nevertheless, we submit that the proper and effective functioning of Council is now subject to significant overview and guidance.

With respect to the deficit, as explained above Council entered the 2019/20 financial year facing some financial challenges, and engaged PWC to advise on financial planning and management.

Early in 2020 Council then engaged consultants Grant Thornton Australia to plan and advise on managing the significant impacts arising from COVID including a significant decrease in rates.

In early October 2020 Council was also informed of a projected deficit significantly larger than previously anticipated, and the resulting serious liquidity issues.

Council immediately commenced taking urgent steps to address Council's financial position and ensure the proper and effective functioning of Council, as well as to properly understand the extent and cause of the accounting issues. Within a very short time after being informed of the serious issues Council had prepared and commenced implementing a plan (referred to as the 100 Day Plan). This was provided to the Office of Local Government on 13 October 2020.

The significant steps taken by Council in the short time prior to and since being informed of the situation have been practical and directed at addressing both understanding what has occurred/how it has occurred, as well as a plan to address the issues. Urgent steps taken by Council in response to the situation, in addition to the many communications with your office and the Office of Local Government include:

- On 21 August 2020, Grant Thornton Australia was appointed to provide interim financial function support for Council. The detailed scope of work included to assist with:
 - o the pre-planning, review and implementation of the Council's COVID19 response financial plan,
 - o forward looking budget processes with a view to long term financial planning in a more business as usual environment

as set out in letter from GTA dated 21 August 2020.

- These consultants then identified some potential problems with accounting practices, and a specialist, Mr Dennis Banicevic of DMB Consulting, was immediately engaged to conduct a review of the accounts with respect to the allocation of reserved funds. On 2 September 2020, the Chief Executive Officer engaged DMB Consulting Pty Ltd (DMB Consulting) for the purpose of advising on questions surrounding the use of Council reserves (internal restrictions) and

specifically whether the reserves have been utilised in accordance with their approved purposes. This was undertaken at the recommendation of Grant Thornton Australia.

- On 23 September 2020, DMB Consulting met with Council's Executive Leadership Team and the acting Chief Executive Officer to present preliminary findings. As a result of those discussions, immediate preliminary measures were taken including the ceasing of all but essential recruitment and removal of delegations from staff with regards to tenders and contracts.
- On 3 October 2020, DMB Consulting submitted a draft interim report to the Chief Executive Officer. This 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*, and also brought to Council's attention serious liquidity issues. On the information available to him, Mr Banicevic reported to identify the root causes of the accounting issues, and immediate action required. Council took the steps necessary to implement those recommendations which it could do immediately.
- 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 also met privately with MBM Legal and Council's General Counsel for the purpose of asking legal questions in a closed session.
- On Tuesday, 6 October 2020 the Chief Executive Officer formally notified the Office of Local Government of the DMB report and sought assistance. The Chief Executive Officer updated Councillors following this notification.
- Following this, on 6 October the Minister for Local Government instructed the OLG to appoint an independent financial expert and human resources adviser (according to a media release by the Minister). These people have not as yet been appointed to our knowledge.
- Council established a Tactical Team on Tuesday, 6 October 2020 for the purpose of implementing actions determined by the Executive Leadership team. Councillors do not have a presence on the Tactical Team.
- On Wednesday, 7 October 2020, a briefing was provided to members of the Audit, Risk and Improvement Committee with attendance from both Grant Thornton and DMB Consulting
- On Wednesday, 7 October 2020, the Mayor, Deputy Mayor and CEO met to discuss the establishment of a Finance Committee to oversee Council's response including the Forensic Audit and 100 Day Action Plan
- Councillors were consulted and advised regarding the following actions to be implemented by Council in response to Council's financial situation:
 - 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
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- On Thursday, 8 October 2020, the Mayor, Deputy Mayor, CEO and Director of Connected Communities met to discuss the communications plan in order to keep our community and stakeholders informed.
 - In this period Council staff have met with OLG Departmental staff on a number of occasions.
 - On Monday, 12 October 2020, a Mayoral Minute was adopted to establish a Finance Committee to oversee Council's Forensic Financial Audit and 100-Day Action Plan to Recovery.
 - On Monday 12 October 2020, Council's 100 Day Recovery Plan commenced, incorporating advice from GTA. We invite you to be fully briefed on this comprehensive action plan.
 - On 13 October 2020, the Acting Chief Executive Officer sent a letter to the OLG seeking assistance. A copy of the 100-day plan was provided to the OLG. On 19 October 2020 the OLG initiated preliminary inquiries to assess what action may be required.
 - On Wednesday, 14 October 2020, Council's Audit Risk and Improvement Committee suspended normal business and held an Extraordinary Meeting to receive further updates and consider Council's response including the 100 Day Plan and Forensic Audit Scope.
 - On 14 October 2020, Mayor Matthews sent a letter to you seeking your advice regarding the appointment of the independent financial expert and Human Resources adviser (referred to in your media release dated 6 October 2020).
 - A Councillor workshop to discuss the 100 Day Plan and Forensic Audit Scope took place on 15 October 2020.
 - On 16 October 2020 Clayton Utz was engaged by Central Coast Council to, amongst other things, undertake an investigation in relation to the circumstances giving rise to the Council's financial crisis.
 - Council has appointed a new Chief Financial Officer, to commence this week (26 October 2020).

A chronology of actions taken by Council is set out in more detail in Annexure A.

Restricted Funds

With respect to the use of restricted funds specifically, as you can see from above that is a matter which has very recently come to the attention of Councillors.

Council's finances are audited by the NSW Audit Office as required. Council has implemented recommendations of the Audit Office.

Since January 2017 Council has had an Audit, Risk and Improvement Committee comprising eminent external audit experts. This committee has an audit, risk and improvement function, but had not identified the recently identified issue with use of reserved funds.

Despite the fact that Council's finances had been audited, financial planning and assistance had been provided by professional services specialists, and the ARIC had oversight of council's finances these accounting practices were apparently undetected until Mr Banicevic's letter in early October 2020.

Mr Banicevic's investigation did not identify any actions of councillors that caused the accounting irregularities. His observations about the cause of the problem all relate to accounting practices.

Whilst there has clearly been a failure in Council's accounting systems which must be urgently addressed, in the circumstances of multiple levels of audit and accounting oversight, this is not a failure that would warrant suspension of the elected representatives.

Councillors are of the view that they have not knowingly passed a resolution to allow the use of restricted funds for non-approved purposes. This accounting practice is not a matter councillors directed, to their knowledge.

Upon becoming informed about the Council's accounting practices Council obtained legal and accounting advice and reached out to appropriate government authorities including yourself.

Council took decisive action, promptly. Specific short term and long term plans are now being implemented to manage the Council's finances. Immediate steps taken since being informed of the issue in early October include:

- Daily cash flow monitoring to understand unrestricted cash balance;
- No payments of any suppliers, contractors, or staff without confirmation that there is adequate unrestricted cash available;
- Detailed breakdown of source of funds for payment of all invoices to confirm sufficient balances available when authorising payments;
- Investigating possibility of establishing separate bank accounts to separate each of the five funds (General, Water, Sewer, Drainage and Waste funds). This will be dependant on establishing a 'starting balance' for each.

In order to better understand what gave rise to the practices, and steps that are required to rectify any non-compliances and mitigate risks, the matter is under investigation by Council's legal advisers and Council is appointing KPMG to undertake a forensic audit.

Through these actions you can be assured that Council is managing the risks and taking steps necessary to rectify accounting practices for compliance with all requirements of the LG Act.

3. Criteria

In considering whether to issue an order to temporarily suspend Council you must take into account the criteria set out in s413E LG Regulation (pursuant to s438J LG Act). We address these below.

- (a) *whether the council has failed to comply with its legislative responsibilities, standards or guidelines*

Council has appointed lawyers and advisers to advise on any such failures and steps which must be taken to rectify any such failures. Council is implementing advice and a management plan with the aim of ensuring compliance with all requirements.

- (b) *whether there are significant risks facing the council that are not being addressed*

Any significant risks facing Council are being addressed by the implementation of current plans, and obtaining and acting on professional advice. The significant risks posed by Council's deficit are being addressed through these plans.

- (c) *whether previous intervention attempts have failed*

The Minister has not undertaken any previous intervention attempts. The Office of Local Government is conducting preliminary enquiries as indicated in their letter of 19 October 2020. It is incumbent on the Minister to consider taking intervention steps before commencing a suspension of elected representatives

- (d) *whether council business is being disrupted and the council failing to exercise its functions*

Council has taken immediate steps in order to stop any non-essential spending whilst addressing immediate liquidity issues. In spite of this, our community is not directly impacted in terms of essential service delivery. Council core business is not being disrupted, and the Council is not failing to exercise its functions in meetings. Essential services are being maintained, non-essential spend has been cut.

- (e) *whether the appointment of an interim administrator is necessary, in the opinion of the Minister, to restore the proper or effective functioning of the council*

Council's CEO is currently on personal leave, and an acting CEO, Mr Loader is in place. A new Chief Financial Officer will commence this week. Together with Council's professional services and legal advisers, the proper and effective functioning of Council is being restored. However should the Minister have concerns in this regard, the most productive way to address it would be through a management order and appointing an adviser.

- (f) *whether there is a pattern of poor or inappropriate behaviour by one or more councillors that has not been rectified*

Councillors have robust debates and do not always agree – that is proper in a democratic body. This is not a case of a council with a pattern of inappropriate behaviour that is impeding the proper functioning of Council.

- (g) *whether an ordinary election of councillors occurs within 3 months after the making of the order*

The next ordinary election is not within 3 months.

- (h) *any other matter that, in the opinion of the Minister, is relevant to the suspension of the council.*

The other matters relevant to the making of the order and which should be considered by the Minister are the detailed plans and steps put in place by Council to address the current situation.

Having regard to the cl413E criteria, and the significant actions taken, and being taken, by Council there is clearly no basis on which to form the requisite opinion under s438I LG Act that the appointment of an administrator is necessary.

Way Forward

We invite you to consider our actions and plans in detail, and to meet with us to discuss these so that you can properly consider the steps we are taking to ensure the proper and effective functioning of Council.

It is clearly incumbent on you to have regard to the these current actions and plans, as well as the significant resources that have been deployed to both identify and address the financial and accounting issues, in order to satisfy the requirement that you consider the criteria in cl413E *Local Government (General) Regulation* prior to making an order.

If, after carefully considering the plans and actions in place to address the situation, you remain concerned that the actions are not adequate for some specific reasons, Council strongly encourages you to issue a performance improvement order requiring specified action and requiring reporting to you regarding that action.

Specifically the Minister should (pursuant to sections 438A-438HC and clauses 413D, 413DA and 413 DB of the Regulation):

- Issue a performance improvement order
- Appoint a temporary adviser to assist the Council to comply with, or implement actions under, the performance improvement order
- Appoint a financial controller for that purpose.

The appointment of a temporary adviser and financial controller would give you assurance that specific mandatory actions are being carried out. Council would be accountable to them and to you for complying with the order.

The significant effort of Council in developing and implementing action plans should continue (subject to the requirements of a performance improvement order), whilst allowing continuity of representation of a community which, as you know, has been impacted over the past 12 months by bushfires, natural disasters and the impacts of COVID.

It is imperative that during this challenging time the continuity of community representation on Council continue, whilst ensuring that the serious matters raised are being addressed.

Annexure A to Submission to Minister

Background

On 18 April 2019 Central Coast Council (**Council**) commissioned a Financial Planning Support Information Request from PricewaterhouseCoopers (**PWC**). PWC provided a Final Report to Council dated July 2019.

PWC was commissioned to assist in developing a longer-term financial budget aligned to Council's strategy. The objective of the work was to develop a high level 10-year financial projection which would form the basis of a renewed strategic financial plan. This involved:

- projecting the Council's financial result;
- modelling key scenarios and altering sensitivities; and
- developing options if needed to achieve financial sustainability.

In February 2020 a draft budget was presented to Councillors.

In April 2020 Council's then CFO resigned from Council. At this time, Unit Manager, Financial Services, became Council's Acting CFO until mid-August 2020 when he elected to step down and focus on his substantive role.

On 14 April 2020, Council engaged Grant Thornton Australia (**GTA**) to assist with the pre-planning, review and implementation of the Council's COVID19 response financial plan and forward looking budget processes with a view to long term financial planning in a more business as usual environment.

On 24 May 2020 the scope of GTA was amended to remove the 'interim role appointments'.

In July a revised budget was presented to Councillors, with COVID-related impacts identified. Councillors were not notified of any mismanagement of funds.

On 28 August 2020, Grant Thornton Australia was appointed to provide interim financial function support for Council. The detailed scope of work included to assist with the pre-planning, review and implementation of the Council's COVID19 response financial plan, forward looking budget processes with a view to long term financial planning in a more business as usual environment, as set out in letter from GTA dated 21 August 2020.

On 2 September 2020, following indications made by GTA that further investigations were required of Council's finances, the Chief Executive Officer engaged an external provider, DMB Consulting Pty Ltd (DMB Consulting) for the purpose of advising on questions 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 met with Council's Executive Leadership Team and the acting Chief Executive Officer to present preliminary findings. As a result of those discussions, Councillors understand preliminary measures were taken including the ceasing of all but essential recruitment and removal of delegations from staff with regards to tenders and contracts.

Through the year up to and including September Councillors passed financial and investment reports as assumed accurate records, and were not alerted to accounting irregularities.

On 3 October 2020, DMB Consulting submitted a draft interim report to the Chief Executive Officer. This 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*.

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.

On Tuesday, 6 October 2020 a briefing was conducted for all Councillors in person at Gosford. At this briefing DMB Consulting Pty Ltd presented the analysis in the draft interim report provided on 3 October. Councillors also met privately with MBM Legal and Council's General Counsel for the purpose of asking legal questions in a closed session.

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.

Councillors have been advised that 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 and David Harris MP. Those people/agencies that were not able to be contacted that day were emailed as follows: Yasmin Catley MP; Liesel Tesch MP; David Mehan MP; Taylor Martin MLC; Department of Planning; NSW Water; Chief of Staff – Minister for Water and NSW Audit Office.

Council issued a media statement on 6 October 2020 advising that Council faces an immediate and serious liquidity issue with some expenditure over the past 12-18 months possibly resulting in restricted funds being used contrary to the purposes for which these funds were collected.

Councillors have been advised that on Tuesday, 6 October 2020, a second meeting was conducted with representatives from the Office of Local Government. The meeting was to discuss and seek the urgent assistance of the Office in formulating and implementing a response to these matters.

Council established a Tactical Team on Tuesday, 6 October 2020 for the purpose of implementing actions determined by the Executive Leadership team. Councillors do not have a presence on the Tactical 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.

Councillors have been advised that 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:

- 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.

Councillors have been advised that on Wednesday, 7 October 2020, Council updated IPART.

Councillors have been advised that on Wednesday, 7 October 2020 a briefing was conducted with Council's Audit, Risk and Improvement Committee (**ARIC**) to seek an understanding of how they will be able to assist Council. The ARIC committee consists of 5 voting members comprised of 2 councillors and 3 independent external members.

Councillors have been advised that on Wednesday, 7 October 2020, the Chief Executive Officer and Executive Leadership Team met with representatives from the Office of Local Government.

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

Councillors have been advised that 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.

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.

Councillors were consulted and advised regarding the following actions to be implemented by Council in response to Council's financial situation:

- 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

On Monday 12 October 2020, Council's 100 Day Recovery Plan commenced, incorporating advice from GTA.

On 12 October 2020 the Chief Executive Officer went on leave and currently remains on leave.

At the Council meeting on 12 October 2020, Council resolved, amongst other things:

That Council request that the Chief Executive Officer 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

On 13 October 2020, the Acting Chief Executive Officer sent a letter to the OLG seeking the above.

A Councillor workshop to discuss the 100 Day Plan and Forensic Audit Scope took place on 15 October 2020.

On 16 October 2020 Clayton Utz were engaged by Central Coast Council to, amongst other things, undertake an investigation in relation to the circumstances giving rise to the Council's financial crisis.

At the Council meeting on 19 October 2020, the Council resolved, in part as follows:

963/20 ***That Council defer all items with the exception of the following to an Extraordinary meeting to be conducted remotely on Monday, 19 October 2020 at 6.30pm:***

- ***Item 1.3 – Notice of Intention to Deal with Matters in Confidential Session***
- ***Item 1.4 - Mayoral Minute – Staff Matter***
- ***Item 1.5 - Mayoral Minute – Establishment of a Finance Committee to Oversee Council's Forensic Financial Audit and 100-Day Action Plan to Recovery***
- ***Item 3.7 – Council Representative for Hunter and Central Regional Planning Panel (Late Report)***
- ***Item 3.8 – Serious Financial Situation (Late Report)***
- ***Notice of Motion 6.2 – Collapse of Confidence in Council's Internal Controls and Financial Management***

At the extraordinary meeting of Council on 20 October 2020, following a confidential session, Council resolved, in part as follows (Unconfirmed minutes):

1045/20 ***That Council conduct an Extraordinary Meeting (remotely) at 1.30pm on Wednesday, 21 October 2020 for the purpose of making a determination with regard to the use of restricted funds.***

1046/20 ***That Council make urgent representations to the Minister for Local Government seeking permission for the partial utilisation of restricted funds to make staff payroll for the week ending 18 October 2020 and that should the Minister's permission not be forthcoming 2,157 Council staff may not be paid.***

1047/20 ***That Council request that the acting Chief Executive Officer take immediate action to secure a commercial loan including an overdraft as well as pursue the State Government for emergency financial support.***

1048/20 ***That Council resolve that this matter be dealt with in close session pursuant to s10A(2)(g) of the Local Government Act 1993 for the following reason, it concerns:***

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

In accordance with section 10A(2)(g) of the Local Government Act and because consideration of the matter 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 the Central Coast community.

Annexure B: 100 Day Plan