



Central Coast Council  
Business Paper  
Ordinary Council Meeting  
**13 April 2021**





# COMMUNITY STRATEGIC PLAN 2018-2028

**ONE – CENTRAL COAST IS THE COMMUNITY STRATEGIC PLAN (CSP) FOR THE CENTRAL COAST LOCAL GOVERNMENT AREA**

**ONE – CENTRAL COAST DEFINES THE COMMUNITY'S VISION AND IS OUR ROADMAP FOR THE FUTURE**

**ONE – CENTRAL COAST BRINGS TOGETHER EXTENSIVE COMMUNITY FEEDBACK TO SET KEY DIRECTIONS AND PRIORITIES**

One - Central Coast will shape and inform Council's business activities, future plans, services and expenditure. Where actions are the responsibility of other organisations, sectors and groups to deliver, Council will work with key partners to advocate on behalf of our community.

Ultimately, every one of us who live on the Central Coast has an opportunity and responsibility to create a sustainable future from which we can all benefit. Working together we can make a difference.

## RESPONSIBLE

**WE'RE A RESPONSIBLE COUNCIL AND COMMUNITY, COMMITTED TO BUILDING STRONG RELATIONSHIPS AND DELIVERING A GREAT CUSTOMER EXPERIENCE IN ALL OUR INTERACTIONS.** We value transparent and meaningful

communication and use community feedback to drive strategic decision making and expenditure, particularly around the delivery of essential infrastructure projects that increase the safety, liveability and sustainability of our region. We're taking a strategic approach to ensure our planning and development processes are sustainable and accessible and are designed to preserve the unique character of the coast.

 **Good governance and great partnerships**

**G2** Communicate openly and honestly with the community to build a relationship based on transparency, understanding, trust and respect

There are 5 themes, 12 focus areas and 48 objectives



All council reports contained within the Business Paper are now aligned to the Community Strategic Plan. Each report will contain a cross reference to a Theme, Focus Area and Objective within the framework of the Plan.



# Meeting Notice

**The Ordinary Council Meeting  
of Central Coast Council  
will be held in the Council Chamber,  
2 Hely Street, Wyong on  
Tuesday 13 April 2021 at 6.30 pm,  
for the transaction of the business listed below:**

<b>1</b>	<b>Procedural Items</b>	
1.1	Disclosures of Interest.....	4
1.2	Confirmation of Minutes of Previous Meeting.....	6
1.3	Notice of Intention to Deal with Matters in Confidential Session.....	7
<b>2</b>	<b>Chief Executive Officer Report</b>	
2.1	Annual Review - Internal Ombudsman Charter.....	9
2.2	Lots 2 to 7 DP 249281 and Lot 11 DP598580 being 475 to 535 Pacific Highway Crangan Bay.....	11
<b>3</b>	<b>Community And Recreation Services</b>	
3.1	Terrigal Trojans Rugby Club Review of Cash Contributions - Loan Repayment Report.....	15
<b>4</b>	<b>Corporate Affairs Reports</b>	
4.1	External Loan Management.....	20
4.2	Audit, Risk and Improvement Committee membership.....	21
4.3	Meeting Record of the Audit, Risk and Improvement Committee (ARIC) meeting held 10 March 2021 and ARIC Annual Report 2020.....	26
4.4	Meeting Records of Advisory Group meetings held in January and February 2021.....	29
4.5	Grant Funding Budget Adjustment.....	30
4.6	Central Coast Car Parking Study and Implementation Plan - Public Exhibition.....	31
4.7	Warnervale Working Group - End of Term.....	32
4.8	Warnervale Aircraft Landing Area Signage.....	35
4.9	Proposal to purchase land known as Davistown Wetlands - Status Update.....	38
<b>5</b>	<b>Environment And Planning Reports</b>	
5.1	Meeting Record of the Coastal Open Space System (COSS) Committee Meeting held on 2 March 2021.....	42

Rik Hart  
**Acting Chief Executive Officer**

**Item No:** 1.1  
**Title:** Disclosures of Interest  
**Department:** Corporate Affairs

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13 April 2021 Ordinary Council Meeting

Trim Reference: F2021/00035 - D14538668

Chapter 14 of the *Local Government Act 1993* ("LG Act") regulates the way in which the councillors and relevant staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public functions.

Section 451 of the LG Act states:

- (1) *A councillor or a member of a council committee who has a pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.*
- (2) *The councillor or member must not be present at, or in sight of, the meeting of the council or committee:*
  - (a) *at any time during which the matter is being considered or discussed by the council or committee, or*
  - (b) *at any time during which the council or committee is voting on any question in relation to the matter.*
- (3) *For the removal of doubt, a councillor or a member of a council committee is not prevented by this section from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or member has an interest in the matter of a kind referred to in section 448.*
- (4) *Subsections (1) and (2) do not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting, if:*
  - (a) *the matter is a proposal relating to:*
    - (i) *the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or*
    - (ii) *the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and*
  - (a1) *the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person*

## 1.1 Disclosures of Interest (contd)

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*(whose interests are relevant under section 443) in that person's principal place of residence, and*

- (b) the councillor made a special disclosure under this section in relation to the interest before the commencement of the meeting.*
  
- (5) The special disclosure of the pecuniary interest must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and must:*
  - (a) be in the form prescribed by the regulations, and*
  - (b) contain the information required by the regulations.*

Further, the Code of Conduct adopted by Council applies to all councillors and staff. The Code relevantly provides that if a councillor or staff have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed as well as providing for a number of ways in which a non-pecuniary conflicts of interests might be managed.

### **Recommendation**

*That Administrator and staff now disclose any conflicts of interest in matters under consideration by Council at this meeting.*



**Item No:** 1.2  
**Title:** Confirmation of Minutes of Previous Meeting  
**Department:** Corporate Affairs

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13 April 2021 Ordinary Council Meeting

Reference: F2021/00035 - D14565081

Author: Maggie Rowland, Councillor and Meeting Support Officer

### **Summary**

Confirmation of minutes of the previous Ordinary Meeting of Council held on 23 March 2021.

### **Recommendation**

*That Council confirm the minutes of the previous Ordinary Meeting of Council held on 23 March 2021.*

### **Attachments**

- 1 Minutes - Ordinary Meeting - 23 March 2021 [Click here for Attachment](#) D14547582

**Item No:** 1.3  
**Title:** Notice of Intention to Deal with Matters in Confidential Session  
**Department:** Corporate Affairs

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13 April 2021 Ordinary Council Meeting

Trim Reference: F2021/00035 - D14538678

### **Summary**

It is necessary for the Council to adopt a resolution to formalise its intention to deal with certain matters in a closed and confidential Session. The report is incorporated in the "Confidential" business paper which has been circulated.

The *Local Government Act 1993* requires the Chief Executive Officer to identify those matters listed on the business paper which may be categorised as confidential in terms of section 10A of the *Local Government Act 1993*. It is then a matter for Council to determine whether those matters will indeed be categorised as confidential.

### **Recommendation**

*That Council note that no matters have been tabled to deal with in a closed session.*

### **Context**

Section 10A of the *Local Government Act 1993* (the Act) states that a Council may close to the public so much of its meeting as comprises:

- 2(a) personnel matters concerning particular individuals (other than Councillors),*
- 2(b) the personal hardship of any resident or ratepayer,*
- 2(c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,*
- 2(d) commercial information of a confidential nature that would, if disclosed:*
  - (i) prejudice the commercial position of the person who supplied it, or*
  - (ii) confer a commercial advantage on a competitor of the Council, or*
  - (iii) reveal a trade secret,*
- 2(e) information that would, if disclosed, prejudice the maintenance of law,*

### **1.3 Notice of Intention to Deal with Matters in Confidential Session (contd)**

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- 2(f) matters affecting the security of the Council, Councillors, Council staff or Council property,*
- 2(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,*
- 2(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.*
- 2(i) alleged contraventions of any code of conduct requirements applicable under section 440.*

It is noted that with regard to those matters relating to all but 2(a), 2(b) and 2(d)(iii) it is necessary to also give consideration to whether closing the meeting to the public is, on balance, in the public interest.

Further, the Act provides that Council may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public (section 10A(3)).

As provided in the Office of Local Government Meetings Practice Note August 2009, it is a matter for the Council to decide whether a matter is to be discussed during the closed part of a meeting. The Council would be guided by whether the item is in a confidential business paper, however the Council can disagree with this assessment and discuss the matter in an open part of the meeting.

#### **Attachments**

Nil





**Item No:** 2.1  
**Title:** Annual Review - Internal Ombudsman Charter  
**Department:** Chief Executive Officer's

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13 April 2021 Ordinary Council Meeting

Reference: F2020/01696 - D14480152  
Author: Jade Maskiewicz, Assistant Internal Ombudsman  
Manager: Lilly Mojsin, Senior Internal Ombudsman  
Executive: Rik Hart, Acting Chief Executive Officer

### **Report purpose**

To review the Internal Ombudsman Charter pursuant to clause 1.7 of the Charter.

### **Executive Summary**

The Internal Ombudsman Charter must be reviewed annually. The charter has been reviewed for 2021 with one amendment proposed and detailed in this report.

### **Chief Executive Officer's Recommendation**

*That Council note the proposed change and adopt the revised Internal Ombudsman Charter that is Attachment 1 to this report.*

### **Background**

Council, at its meeting held 11 May 2020, resolved;

*378/20 That Council receive the report and adopt the draft Internal Ombudsman Charter with the following amendment to 8.1:*

*8.1 – The Internal Ombudsman is committed to managing people's expectations and will inform them of the progress of the complaint at a minimum on a monthly basis and, if there is any delay, will provide a reason, until the matter has been either resolved or closed*

Clause 1.7 of the Internal Ombudsman Charter states:

*This Charter has been agreed upon and adopted by Council and provides a framework for the operation of the office and relevant delegations. This Charter details the functions and powers of the Internal Ombudsman and these are subject to change. The Internal Ombudsman Charter will be reviewed annually.*

### **Current Status**

The Internal Ombudsman Charter has been useful for successfully managing the functions of the office.

The Charter has undergone its annual review and a change is proposed to remove cl. 8.1 from the Charter. Due to current resourcing of the office this function is not achievable.

Clause 8.1 of the Charter states:

*The Internal Ombudsman is committed to managing people's expectations and will inform them of the progress of the complaint at a minimum on a monthly basis and, if there is any delay, will provide a reason, until the matter has been either resolved or closed.*

### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

Should Council determine not to adopt the proposed deletion of clause 8.1 it will be necessary to review resource levels for the Office of the Internal Ombudsman as this function cannot be delivered with current resource levels.

### **Link to Community Strategic Plan**

Theme 4: Responsible

### **Goal G: Good governance and great partnerships**

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

### **Attachments**

- 1 Draft Internal Ombudsman Charter [Click here for Attachment](#) D14482324



**Item No:** 2.2  
**Title:** Lots 2 to 7 DP 249281 and Lot 11 DP598580 being 475 to 535 Pacific Highway Crangan Bay  
**Department:** Chief Executive Officer's

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13 April 2021 Ordinary Council Meeting

Reference: RZ/14/2009 - D14561372  
Executive: Malcolm Ryan, Chief Operating Officer

### **Report purpose**

Council at its meeting on 14 December 2020 resolved, among other things for Item 4.1 to:

- 1301/20 That Council resolve to engage an independent planning consultant to conduct a review of the current zoning of the Lots 2 to 7 DP249281 and Lot 11 DP 598580 475 to 535 Pacific Highway Crangan Bay and the submissions made by the owners of this property.*
- 1302/20 That Council requests the Chief Executive Officer to negotiate the funding for this review and its terms of reference with the current property owners.*
- 1303/20 That Council resolve to have this reported to Council in February 2021.*

### **Chief Operating Officer's Recommendation**

- 1 That council inform the landowners that Council has not made an "error" in the zoning of their land.*
- 2 The Bank Guarantee supplied by the landowners be used to cover Council's costs in the engagement of City Plan.*
- 3 That the landowners be informed that Council's planning staff will be reviewing zoning of all lands zoned for environmental protection and it is unlikely that this will be completed until the end of 2022.*
- 4 That Council refer the City Plan report and the submission from the landowners legal Counsel to the Department of Planning Industry and Environment under clause 3.35 of the EPA Act with a request that the Department consider the implications of both reports.*

### **Report**

Council wrote to the owners of the property and proposed that a suitably qualified experienced independent Planning consultant be engaged to carry out a study which would include the following tasks:

## 2.2 Lots 2 to 7 DP 249281 and Lot 11 DP598580 being 475 to 535 Pacific Highway Crangan Bay (contd)

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- a Review all recent correspondence from you and your consultants regarding this issue
- b Understand the history of the current and previous LEPs provisions that apply to this property by:
  - i. Reviewing Council documents
  - ii. Interviewing Council staff
  - iii. Interviewing you and your consultants
- c Carry out a detailed site inspection
- d Complete an analysis of the current planning controls
- e Complete an analysis of the current development approvals being used
- f Analysis of the strategic context of the property
- g Determine if Council has made an "error" in its determination of the current zoning for the property
- h Regardless of the conclusion in item "g", determine if there is a case for a change in the planning controls covering this land

The landowners agreed to this brief and provided Council a Bank Guarantee to cover the costs. The caveat on the costs were that if there was an "error" then Council would pay the costs, if there was not an "error" than the bank guarantee would be used to pay for the study. Finally, if the study was ambiguous then costs would be divided equally between both parties.

Council engaged the services of City Plan to carry out the study. The study has now been received and a copy is attached to this report.

The report from City Plan dealt with the items listed "a-h" above and concluded:

- 1 That Council had not made an "error" in its determination of the current zoning of the subject land; and
- 2 That the owners could make a case for a change in the current planning controls for the land.

The landowners through their legal Counsel responded to the City Plan report and that is also attached. This submission concludes that a different zone than the current zone would be more appropriate for the clients to operate the current quarry and they request that Council takes some immediate action to change the current zone.

There is a current approval to operate an extractive industry (quarry) on the land which is current notwithstanding that it was issued in 1983 and modified in 1984. There is also a consent for the operation of concrete recycling plant which was approved in 2000. Attached to this report is an aerial view of the site with the quarry approval superimposed on it. This shows clearly how much the site is available to be quarried under that approval.

## **2.2 Lots 2 to 7 DP 249281 and Lot 11 DP598580 being 475 to 535 Pacific Highway Crangan Bay (contd)**

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Council's strategic planning staff will be carrying out a review of all the environmentally zoned land in the Council area following the completion reports on all the "deferred" lands from the consolidating LEP. This review will include the subject land but is unlikely to be completed until the second half of next year given the current resourcing issues.

It is possible of course that the landowners could submit a Planning Proposal at any time however this will require the payment of Council's fees for this task which will involve the employment of contract staff to carry out the necessary studies.

The owners of the land are aware of their ability to make an application to Council to alter the zoning but are concerned about the time frames and the tax implications for them that may arise from making such an application.

They have requested that Council refers their issue to the Department of Planning Industry and the Environment (DPIE) under the provisions of clause 3.35 of the Environmental Planning and Assessment which allows Council to make a submission to the Minister to amend a draft LEP that is currently before the Department and awaiting gazettal.

It is considered that given the findings of the City Plan report and the Counsel's opinion that have been submitted as part of this process that the use of Clause 3.35 is appropriate in these circumstances.

The findings of City Plan's report should also be given serious consideration in the any review of the zoning of the subject land. Since there were no findings that Council has made an "error" in the zoning of this land the Bank Guarantee can be used to cover the costs incurred by Council.

### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

The Bank Guarantee supplied by the landowners will be used to pay for Council's costs in this matter

### **Link to Community Strategic Plan**

Theme 4: Responsible

**2.2 Lots 2 to 7 DP 249281 and Lot 11 DP598580 being 475 to 535 Pacific Highway Crangan Bay (contd)**

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**Goal G: Good governance and great partnerships**

R-G1: Build strong relationships and ensure our partners and community share the responsibilities and benefits of putting plans into practice.

**Attachments**

- |          |                           |   |           |
|----------|---------------------------|---|-----------|
| <b>1</b> | City Plan Report          | <a href="#">Click here for Attachment</a> | D14573778 |
| <b>2</b> | Matthew Fraser Submission | <a href="#">Click here for Attachment</a> | D14573780 |
| <b>3</b> | Overlay Map               | <a href="#">Click here for Attachment</a> | D14573785 |



**Item No:** 3.1  
**Title:** Terrigal Trojans Rugby Club Review of Cash Contributions - Loan Repayment Report  
**Department:** Community and Recreation Services

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13 April 2021 Ordinary Council Meeting

Reference: F2021/00035 - D14567832  
Author: Phil Cantillon, Unit Manager Leisure and Lifestyle  
Executive: Julie Vaughan, Director Community and Recreation Services

### **Report purpose**

To review the outstanding debt of \$554,014.35 from Terrigal Trojans Rugby Club ('the Club') and to reduce it based on their cash contribution of \$318,504.00 towards the maintenance and upgrades of the Council owned Clubhouse building. The Club would then have an outstanding loan balance of \$235,510.45.

### **Executive Summary**

In 22 June 2020, a report went to Council recommending that Council recognise the Trojans have contributed significantly to Council's assets by way of cash and capital grants and for Council to apply this total contribution of \$727,854 to the current outstanding amount owed by the Club (\$554,014.35), and that the loan has been satisfied entirely. Council did not support the recommendations and therefore the current status of the loan amount remained.

The Terrigal Trojans Club Executive met the Acting Chief Executive Officer and Acting Chief Operating Officer on 22 March 2021 and have requested that their cash contribution to building maintenance and upgrades (\$318,504.00) again be considered to be used towards the loan (excluding any grant contribution). This was an option provided in the Council Report of 22 June 2020. The Club would then have an outstanding loan balance of \$235,510.45, which would need to be reflected in a new Loan Repayment Deed. As part of their proposal, the Club requested a 15-year lease tenure to pay off the loan, followed by a an additional 15-year option.

This report has been requested by the Acting Chief Executive Officer for staff to again review the outstanding debt.

### **Community and Recreation Services Recommendation**

- 1 That Council apply the cash contribution only of \$318,504.00, to the current outstanding amount owed by Terrigal Trojans (\$554,014.35) to Central Coast Council, and therefore the loan balance to be repaid is \$235,510.45, and it be determined that this resolution, supersedes any previous resolution relating to the loan repayment.*

### **3.1 Terrigal Trojans Rugby Club Review of Cash Contributions - Loan Repayment Report (contd)**

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- 2 *That Council and Terrigal Rugby Club Pty Ltd enter into a Deed of Agreement to ensure an appropriate annual repayment schedule is adhered to with payments to commence from 1 July 2021 and continue annually until the loan is repaid.*
- 3 *That Council progress a further lease with Terrigal Trojans Rugby Club Pty Ltd in line with the current Facilities Leasing and Licensing Policy with a 10-year maximum tenure, once the revised Plan of Management is fully adopted for The Haven. The terms of the new lease will ensure that the agreed loan amount be repaid simultaneously with the expiry of the lease.*
- 4 *That Council include within both the Deed of Agreement and lease that any default on loan repayment will result in immediate termination of the lease.*

#### **Background**

The Former Gosford City Council (FGCC) loaned Terrigal Trojans Rugby Club a total of \$700,000, following a Council resolution on 5 October 2004. The loan was to allow the Club to build a Clubhouse, with supporting changing rooms and amenities, at Terrigal Haven. An initial grant of \$300,000 was also provided to support the construction of community public toilets on the site. It is not common practice for community sporting groups or organisations to apply for a loan from Council to build community facilities. This responsibility is usually provided and funded by Councils to benefit the wider community with safe affordable facilities, whilst additional upgrades and enhancements are supported by securing external grants or fundraising.

There were numerous resolutions from FGCC over the years linked to the loan payment with the latest being in October 2015. This resolution recommended that the Club enter into a repayment plan and a Deed agreement with Council. The current outstanding loan balance is \$554,014.35

Currently Terrigal Trojans pay an annual rental fee of \$2,689 for the leasing of the Clubhouse, which is situated on Crown land. The initial lease was executed in 2006 for a term of 10 years, with a 10-year option, which has an end date of 20 April 2026. Terrigal Trojans are required to pay all outgoings, utilities, and waste in accordance with the lease.

Following their redevelopment of the Clubhouse and in line with their approved Development Application, the Club operate a restaurant/café, which is operated directly by the Club not under a sublease. Prior to the facility redevelopment in 2019/20, the Club did have a café operation (Splash) that was subleased.

#### **Current Status**

On 22 June 2020, a report went to Council recommending that Council acknowledges that the Club have contributed significantly to Council's assets by way of cash and capital grants.



### **3.1 Terrigal Trojans Rugby Club Review of Cash Contributions - Loan Repayment Report (contd)**

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The recommendation also requested Council to apply this total contribution of \$727,854 towards the outstanding loan balance. The report detailed the history of loans and historical resolutions. Staff recommended that

- 1 Council to support the recommendations, that Terrigal Trojan's cash and grant contributions towards Council's asset are utilised to satisfy the loan in full.

The staff recommendations were not supported, the loan repayment remains, as per the last resolution by FGCC in October 2015.

*2015/448*

- A Council accepts the repayment plan and associate conditions outlined in this report.*
- B The position and obligations of the parties are recorded in a Deed or such other legal instrument as recommended by Council's General Counsel.*
- C That appropriate legal or other mechanisms are included to ensure Council has maximum ability to recover the loan proceeds, or enforce payment, should the club default on its obligations.*

The Terrigal Trojans Rugby Club Executive met the Acting Chief Executive Officer and Acting Chief Operating Officer on 22 March 2021. They have requested that Option two from the 22 June 2020 report is reconsidered and that their cash contribution to building maintenance and upgrades (\$318,504.00) be used towards the loan balance (excluding any grant contribution). Terrigal Trojan's would then have an outstanding loan balance of \$235,510.45, which would need to be reflected in a new Loan Repayment Deed. A report has been requested by Acting Chief Executive Officer to again review the loan repayment and the potential consideration of the Club's financial contribution.

As part of their proposal the Club requested a 15-year lease tenure to pay off the loan, followed by a 15-year option. The linking of payment terms to a lease date assists with enforcement and allows for potential lease termination if necessary.

Council adopted a Facilities Leasing and Licensing Policy in August 2020, to provide a consistent and transparent approach to leasing in tenure, fees and process. The maximum lease tenure proposed would be ten years under this Policy. A further 10-year lease would be proposed in line with the Policy, once their current tenure expires, noting that all loan repayments would need to be made upon the expiry of the Club's new lease.

### 3.1 Terrigal Trojans Rugby Club Review of Cash Contributions - Loan Repayment Report (contd)

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#### Consultation

Leisure Recreation and Community Facilities Unit Manager and Director Community and Recreation Services last met with the Trojans Executive on 5 February 2021, who requested a meeting with the Acting Chief Executive Officer.

#### Financial Considerations

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

The Terrigal Trojans loan repayment has been an ongoing legacy matter from the former Gosford City Council resolutions since 2004, and the loan repayment is not budgeted in the current 20/21 budget or future years budget projections.

#### Link to Community Strategic Plan

Theme 5: Liveable

#### Goal L: Healthy lifestyle for a growing community

L-L1: Promote healthy living and ensure sport, leisure, recreation and aquatic facilities and open spaces are well maintained and activated.

#### Risk Management

Council staff have spent considerable due diligence and time reviewing all received documentations and evidence from the Club in providing the proposed recommendations.

#### Options

- 1 Council to support the recommendations, that Terrigal Trojan's cash contributions (\$318,504) towards Council's asset are utilised to partially satisfy the loan. **This is the recommended option**
- 2 Council could decide that Terrigal Trojan's cash contributions towards Council's asset are not to be used towards the loan and the current debt remains. **Not recommended**

### 3.1 Terrigal Trojans Rugby Club Review of Cash Contributions - Loan Repayment Report (contd)

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#### Attachments

- 1 Council report 22 June 2020 - Terrigal Trojans Rugby Club -Outstanding Loan Repayment [Click here for Attachment](#) D13984737



**Item No:** 4.1  
**Title:** External Loan Management  
**Department:** Corporate Affairs

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13 April 2021 Ordinary Council Meeting

Reference: F2017/01727 - D14550072  
Author: Devini Susindran, Team Leader  
Manager: Peter Correy, Financial Controller  
Executive: Natalia Cowley, Director, Corporate Affairs

Due notice is given of this matter in accordance with Council's Code of Meeting Practice. The report and any relevant attachments will be provided prior to the Ordinary Meeting of 13 April 2021. The reason for providing this report as a late item is so that it can reflect as far as practicable the current situation.



**Item No:** 4.2  
**Title:** Audit, Risk and Improvement Committee membership  
**Department:** Corporate Affairs

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13 April 2021 Ordinary Council Meeting

Reference: F2018/00028-002 - D14413512  
Author: James Taylor, Section Manager Governance  
Manager: Shane Sullivan, Unit Manager, Governance and Risk  
Executive: Natalia Cowley, Director, Corporate Affairs

### **Report purpose**

To recommend that Council undertake a further recruitment process to appoint a new Independent External Member to the *Audit Risk and Improvement Committee* (ARIC) and to amend Council's [ARIC Charter](#) to remove Councillors from the Committee.

### **Executive Summary**

The appointment of one of three Independent External Members ceases on 27 April 2021, resulting in a vacancy on ARIC. A recruitment process was undertaken, however no suitable candidate was identified. This report sets out the Interview Panel's recommendation that Council undertake a further recruitment process.

The report also recommends changes to Council's [ARIC Charter](#). The current adopted ARIC Charter provides for two Councillor members. This report recommends changes to the ARIC Charter to remove Councillor members.

### **Corporate Affairs Recommendation**

- 1 *That Council resolve to undertake a new recruitment process and establish an Interview Panel to select a new Audit, Risk and Improvement Committee Independent External Members as set out in this Report.*
- 2 *That Council write to each of the applicants to the previously conducted recruitment process for the Audit, Risk and Improvement Committee Independent External Member and advise them of the outcome.*
- 3 *That Council resolve, pursuant to section 11(3) of the Local Government Act 1993, that Attachment 1 to this report remain confidential in accordance with section 10A(2)(a) of the Local Government Act as they contain personnel matters concerning particular individuals (other than Councillors).*
- 4 *That Council adopt the amended Audit, Risk and Improvement Committee Charter as attached to this report.*

- 5 *That Council resolve, pursuant to section 11(3) of the Local Government Act 1993, that Attachment 1 to this Report remain confidential in accordance with section 10A(2)(a) of the Local Government Act as it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

### **Appointment of Independent Member**

Clause 15 of the [ARIC Charter](#) states:

15. *The three Independent External Members will be appointed, by resolution of the Council for up to an initial period no less than three years and not exceeding five years, after which they will be eligible for extension or re-appointment following a formal review of their performance by Council (noting that the total term on the Committee will not exceed eight years).*

The initial three-year appointment of the three Independent External Members made at the [26 July 2017 Ordinary Council Meeting](#) expired on 26 April 2020, and a formal review (as required under Clause 15 of the ARIC Charter) was undertaken and presented to Council for consideration at the [27 April 2020 Ordinary Council Meeting](#).

At that meeting, Council resolved, in part:

- 317/20 *That Council recognise the contribution of the three Independent External Members of Audit, Risk and Improvement Committee for their assistance and contribution over the past three years and make the following phased re-appointments:*
- a *Dr Colin Gellatly (AO) be re-appointed for a period of one year;*
  - b *John Gordon be re-appointed for a period of two years; and*
  - c *Carl Millington be re-appointed for a period of three years.*

The re-appointment of Dr Gellatly for a period of 12 months to ARIC will cease on 27 April 2021, resulting in a vacancy on ARIC. This vacancy and the recruitment and selection process engaged was considered by Council at the [30 November 2020 Ordinary Council Meeting](#). At that meeting Council resolved the following:

- 1244/20 *That the Council resolve to establish the Interview Panel to select a new Audit Risk and Improvement Committee Independent External Members as set out in this Report.*

The Interview Panel consisted of the following four members:

## 4.2 **Audit, Risk and Improvement Committee membership (contd)**

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- 1 the Chief Executive Officer;
- 2 the Director of Corporate Affairs;
- 3 the Chief Internal Auditor; and
- 4 the Executive Manager People and Culture.

The *Independent External Member of ARIC* Role was advertised by an [Expression of Interest](#) process which opened on Friday 15 January 2021 and closed on Friday 19 February 2021.

A total of 24 Applications were received and a review of these was then undertaken by the Interview Panel and a shortlist of possible candidates was created. The confidential Attachment 1 to this report contains the details of each of the candidates shortlisted.

Interviews were then held with the shortlisted candidates by the Interview Panel who determined that there was no preferred candidate amongst the applications. As a result, it is now recommended that Council undertake a further recruitment process along the same lines of that undertaken previously.

The Panel noted that there needs to be a focus on 'improvement' as set out in the ARIC Charter. It is also important that the third member complement the skills of the current members and not replicate them. Council is seeking a new Independent External member of ARIC who understands local government and the broad spectrum of enterprise risk.

The Panel has not recommended that any of the applicants from the process conducted to date be considered as part of this new process.

As such a new process with a focus on these elements would be conducted. The new process would commence following the commencement of the appointed Chief Executive Officer to allow him to be involved.

### **Changes to Audit, Risk and Improvement Committee Charter**

In 2016, the NSW Government made it a requirement under the *Local Government Act 1993* that each Council have an *Audit, Risk and Improvement Committee*. This requirement takes effect from March 2022. Central Coast Council has had a Committee in place since amalgamation.

The Charter for the ARIC currently provides for three Independent members and two Councillors.

In September 2019, the Office of Local Government issued a Discussion Paper: *A New Risk Management and Internal Audit Framework for Local Councils in NSW*. Consultation on the Discussion Paper closed on 31 December 2019. In addition, there is legislation regarding the establishment of Committees under *Local Government (Planning & Governance) Amendment Act 2016*.

## 4.2 Audit, Risk and Improvement Committee membership (contd)

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This discussion paper included proposals on how Councils should establish and implement an *Audit, Risk and Improvement Committee*. The discussion paper notes that an ARIC should operate as a third line of defence to continuously review and provide independent advice. The provision of truly independent advice is a key requirement for a successful and valuable Audit, Risk and Improvement Committee.

The Discussion Paper recommends that an ARIC have only independent external members. Although the requirements of the Discussion Paper have not yet been implemented or finalised, it is recommended that Council amend the Charter to reflect that the ARIC have only independent external members.

It is noted that the Guideline issued under Section 23A of the *Local Government Act 1993* suggests (not requires) that an Audit Committee (former terminology) include one or two Councillor members (excluding the Mayor). This Guideline was issued in September 2010 and it is anticipated that it will be replaced with new requirements after consideration of feedback on the Discussion Paper.

The proposed changes to the Charter are set out in Attachment 2. Additions are shown in **bold italics** and deletions are show in ~~striketrough~~. The attached draft ARIC Charter will also need to be reviewed due to administrative changes in the paragraph numbers because of deletions.

### Financial Considerations

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

The recommendations contained in this report will not impose any additional spending by Council in the current or following financial year over and above what is already planned and resolved by Council at the [27 April 2020 Ordinary Council Meeting](#) which stated, in part:

*318/20 That Council determines that the current remuneration for the three Independent External Members be maintained for the term of their re-appointment, with the Independent External Members receiving \$20,920 per annum and the Chair receiving an additional 15% or \$3,138 per annum.*

It is expected that there will be savings on the abovementioned figures as the EOI process was run, and will again be run, on the basis that the new *Independent External Members* will be paid as follows:



## 4.2 Audit, Risk and Improvement Committee membership (contd)

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Remuneration for the Chairperson is an annual fee and for Independent Members is a flat, per meeting fee in accordance with the NSW Treasury and NSW Department of Finance, Services and Innovation [Prequalification Scheme: Audit and Risk Committee Independent Chairs and Members December 2020](#) guide (Large Agency), which includes attendance at up to five meetings per year.

The standard fee will be paid for attendance is:

- \$20,920 (ex GST) per annum for the Chairperson; and
- \$2,092 (ex GST) per meeting for other Independent Members.

Fees are inclusive of travel, preparation and all other costs associated with attending the meetings.

### Link to Community Strategic Plan

Theme 4: Responsible

### Goal G: Good governance and great partnerships

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

### Attachments

- |   |  |   |           |
|---|--|---|-----------|
| 1 | Confidential - Applications for Independent ARIC Member March 2021 - |   | D14543966 |
| 2 | Audit, Risk and Improvement Committee revised Charter - April 2021   | <a href="#">Click here for Attachment</a> | D14546515 |



**Item No:** 4.3  
**Title:** Meeting Record of the Audit, Risk and Improvement Committee (ARIC) meeting held 10 March 2021 and ARIC Annual Report 2020  
**Department:** Corporate Affairs

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13 April 2021 Ordinary Council Meeting

Reference: F2021/00030 - D14548434  
Author: James Taylor, Section Manager Governance  
Manager: Shane Sullivan, Unit Manager, Governance and Risk  
Executive: Natalia Cowley, Director, Corporate Affairs

### **Report purpose**

To note the Meeting Record of the Audit, Risk and Improvement Committee (ARIC) meeting held on 10 March 2021 and the ARIC Annual Report for 2020.

### **Executive Summary**

The ARIC held a meeting on 10 March 2021. The Meeting Record was approved by the Convenor and Chair, then circulated to members via email. A copy of the [Meeting Record is available on Council's website here](#).

At the meeting it was agreed the ARIC Annual Report for 2020 would be reported to Council and placed on the website. The [Annual Report is available on the website here](#).

It is recommended that Council note the Meeting Record and the Annual Report.

### **Corporate Affairs Recommendation**

- 1 *That Council note the Meeting Record of the Audit, Risk and Improvement Committee meeting held 10 March 2021.*
- 2 *That Council note the Audit, Risk and Improvement Committee Annual Report for 2020.*

### **10 March 2021 Meeting**

The Audit, Risk and Improvement Committee (ARIC) held a meeting on 10 March 2021. The [Meeting Record is available on Council's website here](#).

The following were considered at the meeting:

- Internal Audit (Quarterly progress report, implementation of management actions and balanced scorecard report)
- External Audit (Update)

### **4.3 Meeting Record of the Audit, Risk and Improvement Committee (ARIC) meeting held 10 March 2021 and ARIC Annual Report 2020 (contd)**

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- Governance (Internal Ombudsman Office report, legal matters, governance and risk activities)
- Finance (General update, forensic audit report, SRV application)
- Performance (Complaints and compliments, organisational performance)
- General Business (2020 Annual report, recruitment for Committee)

As this meeting was the last for the current Chairperson, Dr Col Gellatly AO, an interim Chair was appointed being Mr Carl Millington. Dr Col Gellatly AO was thanked for his service to the Audit, Risk and Improvement Committee.

It is noted that the recruitment for the ARIC is the subject of another report on the Agenda Paper.

#### **2020 Annual report**

Each year the ARIC provides an Annual Report to summarise key achievements in accordance with the adopted [ARIC Charter](#). The [Annual Report for 2020 is available on Council's website here](#).

The [Annual Report for 2020](#) documents the operation and activities of the Audit, Risk and Improvement Committee for Central Coast Council during the 2020 calendar year in which ARIC meet a total of six times:

- Thursday 20 February 2020 (Financial meeting postponed from November 2019)
- Tuesday 17 March 2020 (Ordinary Meeting)
- Wednesday 17 June 2020 (Ordinary Meeting)
- Wednesday 14 October 2020 (Financial Scenario Planning Workshop)
- Friday 6 November 2020 (Ordinary Meeting) and
- Thursday 10 December 2020 (Ordinary Meeting).

The Committee's oversight and support role in 2020 was initially focused on the business-as-usual issues (taking into account COVID-19) and this expanded given the challenges that 2020 presented to include:

- support for management in improving the immature risk management framework in the context of continuing merger issues and ongoing management changes
- assisted management in engaging a consultant to help identify the possibility of inappropriate use of restricted cash
- External Audit for the 2018/2019 year which was again delayed due to a number of issues
- follow-up of outstanding Internal Audit recommendations and proposed four-year Internal Audit plan and
- reviewing Council's Cyber Security actions, training and unedified risks (including Australian Signals Directorate Essential Eight Review).

### **4.3 Meeting Record of the Audit, Risk and Improvement Committee (ARIC) meeting held 10 March 2021 and ARIC Annual Report 2020 (contd)**

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The variety of topics covered by the ARIC, which ranged from reviewing Council's Environmental Management System, Council's Complaints and Compliments system, updates on major Council projects, legal matters and IT issues, reviewing IA outcomes, plans and actions and reviewing a diverse range of Council policies, are all outlined in the [Annual Report for 2020](#).

#### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

There are no financial implications associated with the recommendations in this report.

#### **Link to Community Strategic Plan**

Theme 4: Responsible

#### **Goal G: Good governance and great partnerships**

R-G3: Engage with the community in meaningful dialogue and demonstrate how community participation is being used to inform decisions.

#### **Attachments**

*Nil.*

**Item No:** 4.4  
**Title:** Meeting Records of Advisory Group meetings held in January and February 2021  
**Department:** Corporate Affairs

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13 April 2021 Ordinary Council Meeting

Reference: F2018/00220 - D14531065  
Author: Zoie Magann, Advisory Group Support Officer  
Manager: James Taylor, Section Manager Governance  
Shane Sullivan, Unit Manager Governance and Risk  
Executive: Natalia Cowley, Director, Corporate Affairs

Due notice is given of this matter in accordance with Council's Code of Meeting Practice. The report and any relevant attachments will be provided prior to the Ordinary Meeting of 13 April 2021.



**Item No:** 4.5  
**Title:** Grant Funding Budget Adjustment  
**Department:** Corporate Affairs

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13 April 2021 Ordinary Council Meeting

Reference: F2020/00039 - D14497332  
Author: Christine Jarvis, Business and Tourism Development Manager  
Manager: Jamie Barclay, Unit Manager, Economic Development and Property  
Executive: Natalia Cowley, Director, Corporate Affairs

Due notice is given of this matter in accordance with Council's Code of Meeting Practice. The report and any relevant attachments will be provided prior to the Ordinary Meeting of 13 April 2021. The reason for providing this report as a late item is so that it can reflect as far as practicable the current situation.

**Item No:** 4.6  
**Title:** Central Coast Car Parking Study and  
Implementation Plan - Public Exhibition  
**Department:** Corporate Affairs

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13 April 2021 Ordinary Council Meeting

Reference: CPA/1392 - D14092024  
Author: Deb Streit, Project Design Officer  
Manager: Jamie Barclay, Unit Manager, Economic Development and Project Delivery  
Executive: Natalia Cowley, Acting Director, Corporate Affairs

Due notice is given of this matter in accordance with Council's Code of Meeting Practice. The report and any relevant attachments will be provided prior to the Ordinary Meeting of 13 April 2021. The reason for providing this report as a late item is so that it can reflect as far as practicable the current situation.



**Item No:** 4.7  
**Title:** Warnervale Working Group - End of Term  
**Department:** Corporate Affairs

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13 April 2021 Ordinary Council Meeting

Reference: F2020/01705 - D14513596  
Author: Joe O'Connor, Property Development Manager  
Manager: Jamie Barclay, Unit Manager Development and Property  
Executive: Natalia Cowley, Director, Corporate Affairs

### **Report purpose**

To determine the status of the Warnervale Working Group noting its term is complete.

### **Executive Summary**

At its meeting held 27 April 2020, Council resolved to establish the Warnervale Working Group for a period of three months. The group first met on 22 May 2020 and then fortnightly as practicable. This term was extended by agreement with the former Chief Executive Officer, to be reconsidered in November 2020. It is now recommended that the Working Group be disbanded as it has completed its term and that the work identified as outstanding has been transitioned to the relevant Directorate.

### **Corporate Affairs Recommendation**

*That Council wind up the Warnervale Working Group noting it has now completed its term as resolved by Council.*

### **Background**

The Warnervale Working Group was established in accordance with resolution of Council of 27 April 2020 (Attachment 1) to:

- Oversee the activities to permanently protect Porters Creek wetland;
- Progress the development of Industrial or Business in the Warnervale area as an employment precinct.

The Membership of the Working Group included five Councillors, the former CEO, the Unit Manager Governance and Risk and General Counsel.

### **Current Status**

The overarching objectives of the Working Group were firstly the protection of the Porters Creek Wetlands, and secondly, the development of the neighbouring education, industrial and business zoned lands. The actions and status have been summarised below:



- 1 *Oversee the activities to permanently protect Porters Creek wetland and engage a consultant to progress the activities required to put in place a Conservation Agreement on Porters Creek Wetland.*

The Conservation Agreement has been finalised and a final map has been developed in conjunction with the Biodiversity Conservation Trust, to allow for both external and community consultation. These works are ongoing and being overseen by Council's Environmental Management Unit.

- 2 *Progress the development of Industrial or Business in the Warnervale area as an employment precinct and engage a project manager to oversee the development of employment lands.*

These works have been discontinued as Council's current financial situation has removed the necessary budget for these works. Council is in discussions with various government agencies to consider partnership arrangements to achieve the aspiration for these sites from other funding models.

### **Consultation**

Internal consultation has occurred with the following Council Unit's: Water Services and Design, Flood Strategy and Planning, Natural Assets and Biodiversity, Local Planning and Policy, Roads Business Development and Technical Services, and Estuary Management.

Further, external consultation with TfNSW, Ausgrid, Jemena and the Biodiversity Conservation Trust.

### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

- 1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

Winding up the Warnervale Working Group, would not require any additional budget expenditure given the works have been mostly completed and are being managed by staff within their existing work programs.

Continuation of the Warnervale Working Group would require additional staff resources to plan, meet, brief and coordinate with Councillors.

## Link to Community Strategic Plan

Theme 4: Responsible

### Goal G: Good governance and great partnerships

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

### Risk Management

The land being considered by the Conservation Agreement is approximately 600ha and there are various risks associated with the Agreement. This is being managed through internal, external and community consultation. Further, a risk register has been developed to manage these risks appropriately.

### Options

Option 1: Wind up the Warnervale Working Group noting the term has now been completed and the final actions have been allocated to the various Units to manage and close out - **Recommended**.

Option 2: Continue the Warnervale Working Group, and allow for further meetings as required from Councillors and Staff.

### Critical Dates or Timeframes

Given that the Warnervale Working Group was established for a period of 3 months in April 2020, and then extended to November 2020 by the former CEO, it is now appropriate to wind up the Warnervale Working Group.

### Attachments

- 1 Council Resolution 27 April 2020 [Click here for Attachment](#) D14557835



**Item No:** 4.8  
**Title:** Warnervale Aircraft Landing Area Signage  
**Department:** Corporate Affairs

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13 April 2021 Ordinary Council Meeting

Reference: F2004/06700-002 - D14543165  
Author: Joe O'Connor, Property Development Manager  
Manager: Jamie Barclay, Unit Manager Development and Property  
Executive: Natalia Cowley, Director, Corporate Affairs

### **Report purpose**

To seek Council resolution to delay budget expenditure for new signs for the Warnervale Aircraft Landing Area.

### **Executive Summary**

At its Ordinary Meeting of 10 August 2020, Council resolved to purchase and erect new signage to reflect the name change of the Warnervale Aircraft Landing Area.

These costs are currently unable to be met due to Council's financial situation and as such it is recommended that Council does not purchase new signs at this time.

### **Corporate Affairs Recommendation**

*That having regard to the resolution of Council on 10 August 2020 (757/20(b)(ii)) and noting Council's financial position, that the change in signage from "Central Coast Airport" to "Warnervale Aircraft Landing Area (ALA)" be delayed until funds are available..*

### **Background**

At its Ordinary Meeting of 10 August 2020 Council resolved:

*757/20(b)(ii) That "Central Coast Airport" be officially renamed to "Warnervale Aircraft Landing Area (ALA)" to remove any doubt, with identifying signage and other materials to be amended by the end of October 2020.*

Council has sought quotes to replace the signage which is unbudgeted in the current financial year and do not have sufficient budget to cover the costs of \$3,000 (ex GST). For all intents and purposes the Warnervale Aircraft Landing Area (ALA) operates and is known as an ALA and the change in signage while appropriate, would have little consequence to its operation. This signage can be included in future budgets once Council's financial position allows for such costs.

### **Current Status**

No signs have replaced "Central Coast Airport" with "Warnervale Aircraft Landing Area (ALA)" however, in all other forms (including correspondence and other documentation) the name change is referenced.

### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council:

The expenditure of \$3,000 (ex GST) for the replacement of signage was not included in the 2020/21 budget. Should Council reaffirm the resolution to purchase and replace the previous signage and erect new signage, this will need to be budgeted for in a future yearly operational budget of Council.

### **Link to Community Strategic Plan**

Theme 4: Responsible

### **Goal G: Good governance and great partnerships**

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

### **Risk Management**

There is potential reputational risk should Council proceed to expend resources on new signage given its current financial situation. The signage can be changed at a future time once Council's financial situation has improved and it is deemed appropriate to allocate expenditure on non-essential items.

### **Options**

Option 1: Do not change the signage at the present time.

In this situation, the current identifying signage remain in place until such time as funds are available to replace it. **Recommended.**

#### **4.8 Warnervale Aircraft Landing Area Signage (contd)**

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Option 2: Change the signage at a cost of \$3,000 (ex GST). In this option Council will need to source the expenditure for the signage at the cost of other essential items in one of Councils future operational budgets. **Not Recommended.**

#### **Critical Dates or Timeframes**

Resolution 757/20(b)(ii) requested that these works be completed by October 2020, however this was not achieved due to the change in Council's financial situation and removal of budgets. As such, a resolution is required to either delay the replacement of the signage for the time being, or to approve the expenditure for the 2021/22 operational year.

#### **Attachments**

*Nil.*



**Item No:** 4.9  
**Title:** Proposal to purchase land known as Davistown Wetlands - Status Update  
**Department:** Corporate Affairs

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13 April 2021 Ordinary Council Meeting

Reference: F2020/00878 - D14542851  
Author: Joe O'Connor, Property Development Manager  
Manager: Jamie Barclay, Unit Manager Development and Property  
Executive: Natalia Cowley, Director, Corporate Affairs

### **Report purpose**

To consider the discontinuation of the purchase or compulsory acquisition of the land known as the Davistown Wetlands.

### **Executive Summary**

In a report put to Council on 30 November 2020 it was recommended that due to various reasons, Council discontinue the purchase by agreement or through any compulsory acquisition of the Davistown Wetlands. However, the owners of the land requested that Council defer the matter to allow further time to discuss a range of options. Subsequent to meeting with the owners, both parties agreed that a purchase by agreement was not possible given the difference between Council's valuation and the offer price of the land from the owners. As such, it is recommended that Council discontinue the purchase of the Davistown Wetlands to allow the owners time to consider their options which may include lodging a Voluntary Planning Agreement to resolve land dedication and planning requirements.

### **Corporate Affairs Recommendation**

- 1 *That Council discontinue any negotiations to purchase by agreement the land known as the Davistown Wetlands.*
- 2 *That Council not commence compulsorily acquisition of the land known as the Davistown Wetlands.*

### **Background**

The Davistown Wetlands (the land) includes the following lots:

- 11 Lilli Pilli Street Davistown - Lot 1 DP547660
- 51 Pine Avenue Davistown - Lot 30 DP 456234
- 1 Cross Road Davistown - Lot 31 DP 5820
- 3 Cross Road Davistown - Lot 32 DP 5820

#### **4.9 Proposal to purchase land known as Davistown Wetlands - Status Update (cont.)**

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- 10-20 Kincumber Crescent - Lot 52 DP 6014
- 11-29 Kincumber Crescent Davistown - Lot 53 DP 6014
- 108A Malinya Road Davistown - Lot 92 DP 12206
- 83 Malinya Road Davistown - Lot 93 DP 12206

At its meeting of 30 November 2020 Council resolved as follows:

- 1256/20 That Council note that this report will not be considered at the Council Meeting of 30 November 2020, to allow the landowners of Davistown Wetlands further time to discuss an alternative proposal with Council staff.

Following the deferral of the report, Council met with the owners' representative as well as the landowners to consider any agreeable solutions. The owners' position remains the same; that they are keen to sell the land, but this needs to reflect a value which is well above the various market valuations which Council has received. The difference of opinion regarding the land value is due to the severe environmental and flooding constraints affecting the site. While these have been discussed with the owners, they are of the opinion that these constraints should not impact the market valuation given historical approvals and developments of neighbouring sites in Davistown. Notwithstanding, an agreement on price is unattainable and Council is bound by both its adopted Land Transaction Policy and appropriate governance, which prevent Council from purchasing land for more than its market valuation.

The previous report is attached.

#### **Current Status**

The owners of the Davistown Wetlands and Council are at an impasse with regards to price, and the owners are now considering their options which may include lodging a Voluntary Planning Agreement to resolve land dedication and planning requirements.

#### **Consultation**

A meeting occurred between the landowners, the owner's representative, Council's Economic Development and Property Unit, and Chief Operating Officer on 10 March 2021.

#### **Financial Considerations**

At its meeting held 19 October 2020, Council resolved the following:

- 1108/20 *That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

## 4.9 Proposal to purchase land known as Davistown Wetlands - Status Update (cont.)

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The decision to discontinue the purchase of the Davistown Wetlands does not have any financial impact upon Council. However, should Council resolve to purchase the land, then these funds would need to be sourced from Council's restricted funds. Currently, Council has overspent its restricted funds and this purchase would place greater financial strain on Council in repaying its restricted funds reserves.

### Link to Community Strategic Plan

Theme 4: Responsible

### Goal G: Good governance and great partnerships

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

### Risk Management

There is considerable reputational risk should Council proceed to acquire the Davistown Wetlands given Council's financial situation it may be considered unnecessary by the community. This is given:

- the unsuccessful negotiations to date;
- the uncertainty as to whether Council can demonstrate that a compulsory acquisition would be pursuant to s186(1) of the Local Government Act 1993, and lastly;
- the existing environmental and planning legislation that restricts the development of the site.

### Options

Option 1: That Council discontinue any purchase or compulsory acquisition of the Davistown Wetlands. **Recommended.**

Option 2: That Council proceed to compulsory acquire the land. Given the option to purchase by agreement has reached an impasse, the last option available to Council is through a compulsory acquisition. However, it is unclear if Council could demonstrate that this would be pursuant to s186(1) of the Local Government Act 1993. **Not recommended.**

### Critical Dates or Timeframes

Council staff actively sought a meeting following the November 2020 resolution but the owners were not in a position to discuss their options until March 2021.



**4.9 Proposal to purchase land known as Davistown Wetlands - Status Update (cont.)**

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**Attachments**

- 1 Previous report of 30 November 2020 [Click here for Attachment](#) D14543028



**Item No:** 5.1  
**Title:** Meeting Record of the Coastal Open Space System (COSS) Committee Meeting held on 2 March 2021  
**Department:** Environment and Planning

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13 April 2021 Ordinary Council Meeting

Reference: F2018/00099 - D14544885  
Manager: Luke Sulkowski, Unit Manager, Environmental Management  
Executive: Scott Cox, Director Environment and Planning

### **Report purpose**

To receive the Meeting Record of the Coastal Open Space System (COSS) Committee Meeting held on 2 March 2021 and consider a recommendation from the Committee.

### **Executive Summary**

The COSS Committee held a meeting on 2 March 2021. The Meeting Record of that meeting is attached for the information of Council.

There is one recommendation for consideration by Council in relation to tree removal and land clearing on deferred matters lands.

### **Environment and Planning Recommendation**

- 1 *That Council note the Meeting Record of the Coastal Open Space System (COSS) Committee Meeting held 2 March 2021 that is Attachment 1 to this report.*
- 2 *That the Acting Chief Executive Officer write to the NSW Premier requesting strengthening of legislation to allow prosecution for tree removal and land clearing on deferred matters lands.*

### **Background**

The COSS Committee held a meeting on 2 March 2021. The Meeting Record of that meeting is Attachment 1 to this report.

At that meeting, the Advisory Committee considered the agenda items and have made a recommendation to Council. Staff comments on this recommendation have also been included for Council's information.

### **Advisory Committee Recommendation**

At its meeting held 2 March 2021 the COSS Committee discussed the need for strengthening of policy and legislation to enable better regulation of tree and vegetation

## 5.1 Meeting Record of the Coastal Open Space System (COSS) Committee Meeting held on 2 March 2021 (contd)

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removal and clearing activities on deferred matters zoned land and as a result made the following recommendation:

*The Advisory Group recommends to Council that the Administrator write to the NSW Premier requesting strengthening of legislation to allow prosecution of tree removal and land clearing on deferred matters lands.*

Staff Comments:

Staff support the Advisory Committee's recommendation.

### Financial Considerations

At its meeting held 19 October 2020, Council resolved the following:

*1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.*

The following statement is provided in response to this resolution of Council.

There is no financial implication associated with the meeting record and recommended action.

### Link to Community Strategic Plan

Theme 4: Responsible

### Goal G: Good governance and great partnerships

R-G3: Engage with the community in meaningful dialogue and demonstrate how community participation is being used to inform decisions.

### Attachments

- |   |  |   |           |
|---|--|---|-----------|
| 1 | COSS Committee Meeting Record - 2 March 2021 | <a href="#">Click here for Attachment</a> | D14544810 |
|---|--|---|-----------|