

Amended Item



Item No: 2.5
Title: Central Coast Airport Review (Phase 2) Final Report
Department: Chief Executive Office

27 July 2020 Ordinary Council Meeting

Reference: F2019/01600 - D14066781
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Executive: Gary Murphy, Chief Executive Officer

Summary

This report provides Council with the final report from Phase Two of the Airport Review conducted by independent consultants, Morrison Low.

Recommendation

That consideration of this matter be deferred to allow for the conduct of a Councillor Briefing.

Context

Council resolved to engage Morrison Low to undertake a review of key decisions made around the Central Coast Airport, as a result of Council resolutions 773/19 and 774/19 of 26 August 2019, below.

773/19 That as provided under clause 178(3)(e) of the Local Government (General) Regulation that Council request the Chief Executive Officer enter into negotiations with appropriate providers to conduct the forensic audit of Central Coast Airport pursuant to the resolution of Council made on 29 January 2019 Council Meeting and based on the Tender documentation that was released to the market previously.

774/19 That pursuant to 773/19 above, a pre-qualified contractor on the Local Government Procurement (LGP) panel be engaged to undertake Phase 1 of the audit as detailed in the report at an estimated cost of \$30,000 (ex GST).

The first phase of this engagement was to confirm the scope and objectives of the Airport Review. This phase was completed and provided to Council on 25 November 2019.

The scope of the project included a review of the Airport decision-making processes to understand the timeline, documentation and different roles individuals played in the decision-making for:

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- a) The project to establish a regional airport at Kiar Ridge;
- b) The development of an Aviation Hub at Central Coast Airport;
- c) Any activities, including works and development applications lodged, by the current Council or former Wyong Shire Council relating to works at the Airport site; and
- d) Processes and decision-making relating to the Airport and Wyong Employment Zone.

The objectives of Phase Two was to:

- 1 Understand the different roles individuals played in the decision-making;
- 2 Consider the decisions making process, document the background, investment decision processes, due diligence processes; and
- 3 Learn from these events to better inform future decisions on the Airport.

The key activities of Phase Two was to:

- Review the decision-making processes, reports, agreement, and general documentation on the above four projects.
- Construct a timeline of the key decisions and processes with the above four projects.
- Review the delegations and authorities for any associated decisions.
- Document the decisions, identify the primary information associated with those decisions, the decision-makers, reports (internal and external), agreements, legal opinions, key stakeholders, public engagement processes.
- Identify any gaps in the information, process issues or concerns.
- If warranted by the review's findings, identify the approach, skill requirements, and processes required for a more detailed investigation(s) in Phase Three.
- Prepare a timeline and formal report on the findings.

The outcome of Phase Two is a detailed timeline of the decision making associated with the above four projects and a report identifying any areas of concern requiring more detailed investigation.

On 25 November 2019, Council resolved:

1152/19 That, as provided under clause 178 (3)(e) of the Local Government (General) Regulations 2005, Council request the Chief Executive Officer to continue negotiations with the current consultant to complete Phase Two of the Airport Review as no compliant tender responses were received by Council and this continuation represents the best value for money in completing the proposed works.

1153/19 That pursuant to the recommendation above, that the consultant be instructed to undertake the works in line with Option Two, which partners the consultant with a Council Officer, who has experience in Council's record

system and no direct or indirect association with the Airport at an estimated cost of between \$30,000 and \$45,000, with the addition of the key activity - invite and consider public submissions (including the ability for confidential submissions if necessary).

1154/19 *That Council request the Chief Executive Officer provide a further confidential report to Council following the completion of Phase Two that outlines findings and provides recommendations on any further investigations, along with associated cost estimates for Phase Three.*

Current Status

Phase Two of the Review is now completed and the final report from the consultant is attached.

Given the nature and sensitivity of this review, Council staff will not provide any options analysis, interpretation or recommendation in relation to the report.

Public Submissions

As per resolution 1153/19, Council invited public submissions for this review. Public submissions opened on 3 February 2020 and closed on 17 March 2020. Members of the community were directed to provide submissions through the Your Voice, Our Coast engagement platform or email directly to Morrison Low.

Consultation and support provided by Council Staff

Resolution 1153/19 required that a Council Officer, with no direct or indirect association with airport, partner with the consultant to support the interrogation of Council systems for the information required to inform the review.

As indirect association, particularly, can have such a broad meaning as to exclude all Central Coast Council employees, a definition was developed and approved by the then Director Governance for both direct and indirect association (see Attachment 2). This was then provided to Council Officers identified to support the information gathering. They then advised whether there was any direct or indirect association.

Council Officers from Corporate Information Services, Council's records management team, who confirmed they had no direct or indirect association, worked directly with the Morrison Low consultant to provide the information they requested. Some additional information was also provided directly to the consultant by the Internal Ombudsman's Office, as this information was only accessible to the Internal Ombudsman's Office.

The final report was reviewed for readability only by a member of Council's Legal unit who also confirmed that they had no direct or indirect association with the airport.

Additionally, the Unit Manager Business Enterprise, who has a direct association having managed Airport Operations since February 2019, continued to support the Review, by facilitating the engagement and payment of the consultant, ensuring the consultant had access to appropriate staff, and setting up the public submission process through Council's engagement team. The Unit Manager, however, did not provide information to inform the review's findings or undertake any review of the consultant's final report.

Financial Impact

The initial estimated of consultant's costs for Phase Two of the Review was between \$30,000 and \$45,000. However, at the time of this estimate, there was no inclusion for the review of public submissions.

With the variation for review and assessment of the public submissions, the total consultant's costs came to \$60,378.09. This does not include Council staff time and costs of hosting public submission platform, as this was absorbed in current operational budgets.

Link to Community Strategic Plan

Theme 2: Smart

Choose Focus Area

S-C3: Facilitate economic development to increase local employment opportunities and provide a range of jobs for all residents.

Attachments

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| 1 | Airport Review - Phase Two Final Report - CONFIDENTIAL | D14057556 |
| 2 | Definition - Direct and Indirect Association | D14070687 |

Definition - Direct and Indirect Association

Background

Council is undertaking a review of decision made in respect to the Central Coast Airport, formerly called the Warnervale Airport (the Airport).

Council has resolved to engage an external consultant to undertake this review (Resolution 1153/19 on 25 November 2019). Resolution 1153/19 also resolved to *“partner the consultant with a Council Officer, who has experience in Council’s record system and no direct or indirect association with the Airport”*.

In order to identify an appropriately skilled Council Officer to provide this support to the review, clearer definitions of direct and indirect associations are required. While heavy reliance is placed on the conflict of interest definitions in the Code of Conduct, further clarity around what an indirect association is and is not is required to ensure that current staff members of Council are not simply excluded en masse by definition.

The below presents proposed definitions of direct, indirect associations, as well as a definition on what is not included as an indirect association, to be used in identifying an appropriate Council Officer to support this review.

Direct Association

An individual would have a direct association as per resolution 1153/19 if they have either significant or pecuniary conflict of interest, as defined under Council’s Code of Conduct, in respect to the operation and management of the Airport. This includes, but is not limited to the following:

- Having undertaken a role in direct management or operation of the Airport either through employment with Council or any other organisation.
- Having directly reported to the following roles in the former Wyong Shire Council:
 - General Manager or Chief Executive Officer
 - Director Property and Economic Development
 - Unit Manager
 - General Counsel
- Having directly reported to the following roles in the Central Coast Council:
 - Administrator
 - Chief Executive Officer
 - Director Assets Infrastructure and Business
 - Unit Manager Economic Development and Project Delivery
 - General Counsel

- Director Governance
- Unit Manager Business Enterprise
- A current or former member or employee of the Central Coast Aero Club or any other organisation operating out of the Warnervale Airport
- Having had the responsibility to make a decision, provide a legal advice or provide a recommendation to make a decision in relation to the management or operations of Central Coast Airport.

Indirect Association

An individual would have a indirect association as per resolution 1153/19 if they have a non-pecuniary, non-significant conflict of interest that would require the individual to remove themselves for the review of the Airport to effectively manage the conflict, as defined in Council's Code of Conduct. This includes but is not limited to the following:

- A close personal relationship with an individual who would be defined as having either a significant or pecuniary conflict of interest in respect the Airport.
- Having undertaken a project or provided substantial ongoing support to the Airport as part of employment with Wyong or Central Coast Council.

Not considered an Indirect Association

An individual would not be considered to have an indirect association if the following applies so long as no other definition of direct or indirect associations above applies:

- Having been an employee of either Wyong, Gosford or Central Coast Council.
- Having undertaken occasional, ad-hoc tasks associated with employment with either Council that was related to the Airport (e.g. undertaking searches in Council systems for information in response to GIPA or other information requests, filing of information associated with the Airport, meeting administration for meetings involving the Airport, etc)
- Having interacted with individual who may have a direct or indirect association with the airport in a social or work setting, unless defined as a conflict of interest as per Council's Code of Conduct, as listed in the definitions of direct and indirect associations.