



Central Coast Council
Business Paper
Ordinary Council Meeting
08 February 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.

The infographic is a large teal-colored grid divided into five main sections representing themes. Each theme contains several focus areas, each with a list of objectives. The themes are: BELONGING, SMART, GREEN, RESPONSIBLE, and LIVEABLE. The 'RESPONSIBLE' theme is highlighted in a darker teal and includes focus areas like 'Good Governance and Great Partnerships', 'Belonging to Our Region', and 'Balanced and Sustainable Development'. The 'LIVEABLE' theme includes focus areas like 'Reliable Public Connections', 'Safe and Healthy Places', and 'Healthy Living and Wellbeing'. The 'SMART' theme includes focus areas like 'A Growing and Competitive Region' and 'A Place of Opportunity for People'. The 'GREEN' theme includes focus areas like 'Environmental Stewardship for the Future' and 'Sustainable and Resilient Infrastructure'. The 'BELONGING' theme includes focus areas like 'One Community, One Future' and 'Collective Connection and Local Identity'. The 'COMMUNITY VISION' section at the top right states: 'WE ARE ONE CENTRAL COAST. A SMART, GREEN AND LIVEABLE REGION WITH A SHARED SENSE OF BELONGING AND RESPONSIBILITY.'



Meeting Notice

**The Ordinary Council Meeting
of Central Coast Council
will be held in the Council Chamber,
2 Hely Street, Wyong on
Monday 8 February 2021 at 6.30 pm,
for the transaction of the business listed below:**

1 Procedural Items

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Rik Hart

Acting Chief Executive Officer

Item No: 1.1
Title: Disclosures of Interest
Department: Governance



8 February 2021 Ordinary Council Meeting

Trim Reference: F2021/00035 - D14435353

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)

(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: Governance

8 February 2021 Ordinary Council Meeting

Trim Reference: F2021/00035 - D14435345

Summary

Confirmation of minutes of the Extraordinary Meeting of Council held on 3 February 2021.

At the time of publishing the Minutes for the Extraordinary Meeting of Council held on 3 February 2021 will not be available. These will be provided in an Amended report prior to the 8 February 2021 meeting.

Recommendation

That Council confirm the minutes of the Extraordinary Meeting of Council held on the 3 February 2021.

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



8 February 2021 Ordinary Council Meeting

Trim Reference: F2021/00035 - D14435318

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 receive the report and 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)

- 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: Securing Your Future: Consideration of Rate Rise
Department: Chief Executive Officer's



8 February 2021 Ordinary Council Meeting

Reference: F2020/03181 - D14425719
Author: Sharon McLaren, Section Manager, Corporate Planning and Reporting
Shane Sullivan, Unit Manager, Governance and Business Services
Natalia Cowley, Acting Director, Corporate Affairs
Executive: Rik Hart, Acting Chief Executive Officer

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 8 February 2021. The reason for providing this report as a late item is to allow as much time as practicable for public comment through Council's survey, and consideration of feedback received, prior to any potential submission to IPART due on 8 February 2021.



Item No: 3.1
Title: Surf Life Saving Central Coast and Surf Club
Financial Partnership Support 2020-21
Department: Community and Recreation Services

8 February 2021 Ordinary Council Meeting

Reference: F2021/00035 - D14438118
Author: Phil Cantillon, Unit Manager Leisure and Lifestyle
Executive: Julie Vaughan, Director Community and Recreation Services

Report purpose

To consider the recommendations to provide 2020/21 financial partnership support to Surf Life Saving Central Coast (SLSCC) and the Central Coast's 15 Surf Clubs.

Executive Summary

Council provides a lifeguard service across 15 patrolled beach locations Monday to Friday from late September to April annually. The service provides a safe beach and aquatic environment for the residents and visitors of the region. SLSCC through the individual Surf Clubs, provides lifesaver patrols on the weekends and public holidays, covering the same span of hours and beach locations as our Council service. This creates a seven day a week seamless service for the community.

In 2017, Central Coast Council provided Surf Life Saving Central Coast and the region's 15 Surf Clubs a three-year financial partnership support agreement worth a combined contribution of \$201,000 per year. The agreement included a 3% Consumer Price Index (CPI) increase per year. In year three the total financial support provided was \$213,500 annually, and this re-current financial partnership support concluded on 30 June 2020. Previous separate financial partnership support agreements were also in place in the former Gosford City Council and Wyong Shire Council, that jointly accumulated to the combined value.

This support will allow SLSCC and the Surf Clubs to continue to deliver vital beach safety patrols and educational programs on the weekend to Central Coast's residents and visitors, keeping them safe and informed of the importance to "Swim Between the Flags". The previous three-year financial support agreement of \$213,500 per year to SLSCC and the region's 15 Surf Clubs concluded on 30 June 2020.

The Central Coast's 15 Surf Clubs are as follows:

- The Lakes Surf Life Saving Club,
- Soldiers Beach Surf Life Saving Club,
- North Entrance Surf Life Saving Club,
- The Entrance Surf Life Saving Club,

3.1 Surf Life Saving Central Coast and Surf Club Financial Partnership Support 2020-21 (contd)

- Toowoong Bay Surf Life Saving Club,
- Shelly Beach Surf Life Saving Club,
- Wamberal Surf Life Saving Club,
- Terrigal Surf Life Saving Club,
- North Avoca Surf Life Saving Club,
- Avoca Beach Surf Life Saving Club,
- Copacabana Surf Life Saving Club,
- MacMasters Beach Surf Life Saving Club,
- Killcare Surf Life Saving Club,
- Ocean Beach Surf Life Saving Club,
- Umina Surf Life Saving Club.

It is recommended that Council provide \$213,500 in direct financial support for the 2020/21 financial year.

Community and Recreation Services Recommendation

- 1 *That Council adopt the recommendations as outlined in this report to provide 2020/21 financial partnership support to Surf Life Saving Central Coast (SLSCC) and the Central Coast's 15 Surf Clubs.*
- 2 *That Council approve the distribution of \$213,500 through the following:*
 - a *\$38,000 to SLSCC to coordinate beach safety activities and educational messaging across the Central Coast.*
 - b *\$78,000 to SLSCC to administer the purchase of the following equipment on behalf of the Central Coast's 15 Surf Clubs.*

This includes:

 - i. *Inflatable Rescue Boat (IRB) motor over a multi-year replacement scheduled cycle;*
 - ii. *IRB hull over a multi-year replacement scheduled cycle;*
 - iii. *service radios annually for all Surf Clubs;*
 - iv. *service oxygen equipment annually for all Surf Clubs; and*
 - v. *purchase of one rescue board for each Surf Club.*
 - c *\$6,500 direct to each of Central Coast's 15 Surf Clubs to support beach safety operations.*

3.1 Surf Life Saving Central Coast and Surf Club Financial Partnership Support 2020-21 (contd)

- 3 *That Council continue to fund and provide shared fleet equipment in a consistent approach to SLSCC and the Central Coast's 15 Surf Clubs that is valued at approximately \$50,000 dollars per year based on usage.*
- 4 *That Council advise all recipients of the support and execute agreements with all recipients.*

Background

This re-current financial partnership support has historically been presented to SLSCC and Surf Clubs through an annual cheque presentation event held at the start of the patrol season in October, with SLSCC representatives and Surf Club Presidents in attendance. However, due to COVID-19 restrictions and the current organisational financial challenges, this was delayed. Ongoing discussions and consultation have taken place between SLSCC Chief Executive Officer, to ensure the ongoing relationships and partnership delivery is maintained.

The 20/21 financial partnership support will be structured in the same manner as the 2017-2020 agreement, following close consultation with Surf Life Saving Central Coast. The approach and ongoing partnership will ensure that the Central Coast is a leader in beach safety and an equipment replacement cycle is fully implemented.

Current Status

The total 20/21 financial contribution will be \$213,500. All recipients will enter into a service level agreement to ensure clear objectives, roles and responsibilities are delivered. It is proposed that a similar multi-year longer-term agreement is negotiated in time for the new beach safety season in 2021, which will need come to Council for adoption during 2021/22.

The 2020/21 financial partnership support consists of:

- 1 \$38,000 to SLSCC to coordinate beach safety activities and educational messaging across the Central Coast.
- 2 \$78,000 to SLSCC to administer the purchase of the following equipment on behalf of the Central Coast's 15 Surf Clubs. This includes:
 - a Inflatable Rescue Boat (IRB) motor over a multi-year replacement scheduled cycle;
 - b IRB hull over a multi-year replacement scheduled cycle;
 - c service radios annually for all Surf Clubs;
 - d service oxygen equipment annually for all Surf Clubs; and
 - e purchase of one rescue board for each Surf Club.

3.1 Surf Life Saving Central Coast and Surf Club Financial Partnership Support 2020-21 (contd)

- 3 \$6,500 direct to each of Central Coast's 15 Surf Clubs to support beach safety operations. A total of \$97,500 provided.

Council also provides shared fleet and equipment, with beach vehicles and jet ski's utilised by Surf Clubs on weekends and public holidays. This in-kind support is approximately \$50,000 per year based on usage at the weekends and public holidays.

In 2019-20, Surf Life Saving Central Coast had a total of 8,378 active members across the fifteen Surf Clubs, who delivered over 83,000 patrolling hours, with 22,313 preventative actions and 564 rescues completed. SLSCC support operations team also responded to 114 emergency call outs and incidents. A high number of community education programs were delivered by SLSCC in 54 schools across the Coast reaching 16,000 students, to promote the importance of beach safe swimming and mitigating risks. These educational programs are aligned to Council's own beach safety messaging, that is delivered throughout the year.

A Social and Economic Value Study of Surf Life Saving in Australia was completed by Deloitte's in August 2020, which reported that the total net benefit of Surf Life Saving Australia to the Australian community is \$97 billion across 15 years, and that every dollar invested provides a return of \$20.20 for the Australian community. This Cost Benefit Analysis identifies four specific benefits including - coastal safety and lifesaving, education and training, social benefit of volunteering and increased physical activity. The cost of Council to provide an extended lifeguard service at the weekends and public holidays at the current fifteen beach locations would be approximately \$860,000. This includes weekend and public holiday employee penalty rates and loading, and fleet cost.

Consultation

Leisure and Lifestyle Unit Manager has worked closely with the Chief Executive Officer for Surf Life Saving Central Coast to ensure the ongoing support provides the most benefit for the community and maximises resources between the two organisations.

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 financial partnership support of \$213,500 is currently budgeted in the 20/21 Leisure and Lifestyle Unit's - Beach Safety - Other Expenses, operational budget. No additional budget needed.

3.1 Surf Life Saving Central Coast and Surf Club Financial Partnership Support 2020-21 (contd)

Link to Community Strategic Plan

Theme 1: Belonging

Goal L: Healthy lifestyle for a growing community

B-A4: Enhance community safety within neighbourhoods, public spaces and places.

Risk Management

There is a reputational and safety risk to the community, if the financial partnership support ceases or is significantly reduced, due to insufficient funds aligned to replace rescue equipment, complete educational programs and support beach safety patrols. This presents a risk of future drownings on the beaches. Regular consultation and discussion have occurred with Surf Life Saving Central Coast to maintain ongoing education programs and patrol delivery to the same levels of the previous three-year agreement.

The cost to Council replacing this service on weekends and public holidays internally is significant, costing over four times the financial support provided.

Options

- 1 To provide the recommended 20/21 financial partnership support to Surf Life Saving Central Coast and the fifteen Surf Clubs of \$213,500. **This is the recommended option.**
- 2 Council could decide to provide less financial support to Surf Life Saving Central Coast and the 15 Surf Clubs. This presents a significant risk of rescue equipment not being satisfactory, educational programs being reduced and patrols not occurring. **This is not recommended.**

Attachments

Nil.



Item No: 4.1
Title: Proposed revocation of the Gosford City Nuclear Free Zone Policy
Department: Environment and Planning

8 February 2021 Ordinary Council Meeting

Reference: F2020/00039 - D14303181
Author: Sara Foster, Unit Manager Business Support and Systems
Executive: Scott Cox, Director Environment and Planning

Report purpose

To recommend the revocation of the Gosford City Nuclear Free Zone Policy.

Executive Summary

- The Gosford City Nuclear Free Zone Policy was first made by the former Gosford City Council in 1984. The aim of the policy is “To establish Gosford City [LGA] as a nuclear free zone.”
- The policy prohibits various nuclear-related activities, except those “in direct and exclusive association with a hospital, medical facility and in any measuring device.”
- The former Wyong Shire Council had a similar policy, which was revoked in April 2014.
- Staff consider that the policy is no longer required and recommend it be revoked because:
 - o the handling and mining of radioactive materials is now highly regulated by Federal and State laws, and
 - o the planning system should deal with any planning proposal relating to this industry. It is noted that a Council policy cannot act to prohibit types of development. Such prohibition would need to be established in an Environmental Planning instrument, such as the Local Environmental Plan or Development Control Plan.

Environment and Planning Recommendation

That Council revoke the Gosford City Nuclear Free Zone Policy.

Context

As part of an ongoing review to consolidate Environmental Planning policies, the continuing relevance of the Gosford City Nuclear Free Zone Policy has been considered. Staff have determined that the Policy is no longer required and therefore recommend revocation.

4.1 Proposed revocation of the Gosford City Nuclear Free Zone Policy (contd)

The revocation of this policy is required to come to Council for consideration because it has been classified as a Strategic Policy and therefore, revocation or significant amendment requires Council approval.

Current Status

The Gosford City Nuclear Free Zone policy (Attachment 1) was first made by the former Gosford City Council in 1984. It was then reviewed and adopted seven times, most recently in July 2013. The aim of the policy is "To establish Gosford City [LGA] as a nuclear free zone."

The policy prohibits various nuclear-related activities, except those "in direct and exclusive association with a hospital, medical facility and in any measuring device." Specific prohibitions in the policy include:

- producing, storing or disposing of nuclear waste
- extraction of uranium, radium or thorium
- industry treating or processing such minerals, or spent fuel etc
- transporting nuclear materials through council boundaries, or docking of vessels with radioactive material on board, and
- military training bases that use depleted uranium.

The policy includes an administrative process to erect signs at the city boundary stating, "This is a Nuclear Free Zone". This process was added to the Policy in June 2007. Staff have been unable to locate any records that indicate that signs were erected around the former Gosford LGA.

It is recommended that this policy be revoked because it is no longer required. The policy is a product of its time arising from the nuclear-free movement. The handling and mining of radioactive materials is now highly regulated. The *Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986 (NSW)* prohibits anyone in NSW from mining for uranium or operating a nuclear reactor or other facilities in the nuclear fuel cycle. Therefore, these activities are not permissible in the current LGA zonings.

A Council policy cannot act to prohibit types of development. Such prohibition would need to be established in an Environmental Planning instrument, such as the Local Environmental Plan or Development Control Plan.

It is noted that the former Wyong Shire Council has a similar policy between 1998 and 2014. The Council report recommending the revocation of the policy stated:

It is proposed to repeal the policy given that some time has occurred since this policy was put in place and in current circumstances any nuclear proposals would be governed by appropriate legislation and therefore the effectiveness of any local policy is minimised.

4.1 Proposed revocation of the Gosford City Nuclear Free Zone Policy (contd)

In March 2020, the Member for Swansea, Yasmin Catley MP raised concerns with Council (Attachment 2) following the introduction of a bill to NSW Parliament known as the *Uranium Mining and Nuclear Facilities (Prohibitions) Repeal Bill 2019*. This Bill seeks to repeal the Uranium Mining and Nuclear Facilities (Prohibitions) Act in its entirety and proposes to amend the *Mining Act 1992*. This Bill is yet to be considered by the Legislative Assembly. In her letter to Council she stated:

The Central Coast, and Lake Munmorah in particular, has previously been identified as a potential location for a nuclear power plant, and the people of the Central Coast voiced their vehement opposition to this proposal when it first came to light in 2016.

Council's response (Attachment 3) states that Council staff have reviewed the proposed outcomes of the Bill and notes that if the Bill was adopted, Federal laws would continue to prohibit the use of nuclear energy for electricity generation across Australia. Therefore, any possible nuclear energy generation development on the Central Coast LGA would continue to be prohibited. The letter also notes that there are no known uranium deposits in the Central Coast LGA.

Consultation

Internal consultation has occurred with both the Development Assessment Unit and Strategic Planning Unit. No objections were raised. Their comments have been incorporated into this report.

Financial Considerations

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

1036/20 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 are no financial implications associated with this report.

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.

4.1 Proposed revocation of the Gosford City Nuclear Free Zone Policy (contd)

Options

Council may wish to consider the following options:

- 1 To retain this policy and rename it as a Central Coast Council policy. This is not recommended because the handling and mining of radioactive materials is now highly regulated at a State and Federal level.
- 2 To undertake public consultation prior to determining whether to revoke the policy. This is not recommended because public consultation is costly and unnecessary in this instance. Any public concern regarding nuclear-related activities is best dealt at the State and Federal level.

Critical Dates or Timeframes

Nil.

Attachments

- | | | |
|---|------------------------|-----------|
| 1 Gosford City Nuclear Free Zone Policy | Hyperlinked Attachment | D13670029 |
| 2 Letter from Member of Swansea dated 11 March 2020 | Hyperlinked Attachment | D14442545 |
| 3 Council response to Member for Swansea dated 15 April 2020 | Hyperlinked Attachment | D13925344 |



Item No: 4.2
Title: Draft Works-In-Kind Policies
Department: Environment and Planning

8 February 2021 Ordinary Council Meeting

Reference: F2018/01687 - D14397011
Author: Jenny Mewing, Principal Strategic Planner
Breanne Bryant, Acting Section Manager, Urban Planning and Development
Manager: Shari Driver, Unit Manager, Strategic Planning
Executive: Scott Cox, Director Environment and Planning

Report Purpose

To seek Council's endorsement of the draft Works-In-Kind Policy (for works under the *Environmental Planning & Assessment Act, 1979*), the draft Works-In-Kind Policy (for and the *Water Management Act, 2000*) and their respective supporting guidelines for the purposes of community consultation.

Executive Summary

This report seeks Councils endorsement to publicly exhibit policies relating to requests to Council to undertaken infrastructure works in lieu of full or partial monetary payment of Local Infrastructure Contributions (LICs) that can be made under the *Environmental Planning & Assessment Act, 1979 (EP&A Act, 1979)*, and the *Water Management Act, 2000 (WM Act, 2000)*.

Currently, Council does not have a Works-In-Kind (WIK) policy framework, procedures or guidelines to manage these requests and a recommendation by the NSW Auditor General report (August 2020) was for Council to develop these.

The policies and supporting guidelines will provide greater transparency and identify clear assessment protocols for the lodgement and consideration of requests to undertake infrastructure works.

The draft policies and supporting guidelines have been considered by Council's Audit Risk and Improvement Committee (ARIC) who have supported their public exhibition.

This report recommends that the Council endorse the draft policies and guidelines for the purposes of public exhibition.

Environment and Planning Recommendation

- 1 *That the attached draft Works-In-Kind (for works under the Environmental Planning & Assessment Act, 1979), the draft Works-In-Kind Policy (for and the Water Management Act, 2000) and their respective supporting guidelines be publicly exhibited for a period of 28 days.*

- 2 *That a further report be prepared for consideration by the Council following the exhibition of the draft policies and supporting guidelines which details the outcomes of the exhibition.*

Context

Under a development consent, Council may apply conditions which require the payment of a monetary contribution (known as Local Infrastructure Contributions (LICs)), as per an applicable Development Contribution Plan/s (CP) and/or a Development Servicing Plan (DSP). These contributions are used by Council to provide local infrastructure (e.g. roads, community facilities, water mains etc.) to service the essential needs of a growing population.

Applicants for a development may seek to undertake Works-In-Kind (WIK), in lieu of full or partial satisfaction of the monetary payment. The WIK must provide or relate to the infrastructure that would otherwise be provided by Council using the LIC funds as defined by the CP and/or DSP.

In August 2020, Audit NSW tabled a report in Parliament regarding the governance and internal controls over LICs of four local Councils (including Central Coast Council (CCC)). This report made thirteen recommendations for CCC to address (Attachment 1). Recommendations seven, eight and twelve are of relevance to the management of WIK.

Draft policies (see Attachments 2 and 3) and supporting guidelines (see Attachments 4 and 5) have been prepared to address the audit findings as well as provide transparent directions on the process for WIK proposals, making applications and the assessment of WIK requests.

Consultation

The draft policies and guidelines were prepared in consultation with relevant staff in Council involved with WIK matters, including the functions of development contribution planning, community partnerships, asset design, asset management, development assessment, engineering certification and governance.

The drafting of the policies also required consideration of post-audit legal advice in relation to Council's responsibilities for tendering of works under the *Local Government Act, 1993*, the manner in which conditions of consent should be worded in relation to LICs and Developer entitlements to credits work WIK.

The draft policies and supporting guidelines were reported to Council's Audit Risk and Improvement Committee (ARIC) at its meeting of 10 December 2020. ARIC supported their public exhibition subject to endorsement of the Council as reported in the minutes on Council's [website](#).

This report seeks endorsement from the Council to undertake public consultation of the draft policies and guidelines for the purposes of exhibition for a period of 28 days. Following which, a further report to the Council will be prepared to outline the submissions received, and any changes proposed to the draft policies as a consequence of consideration of submissions.

Options

- 1 Support the recommendation for public exhibition to occur. The draft policies and guidelines have been prepared to address the NSW Auditor General report recommendations following internal consultation with relevant functions within Council.
- 2 Do not proceed. This option does not address the requirements of the NSW Auditor General report recommendations and leaves Council open to potential risks.

Link to Community Strategic Plan

Theme 4: Responsible

Goal H: Delivering essential infrastructure

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

R-G4: Serve the community by providing great customer experience, value for money and quality services.

Financial Implication

The provision of WIK in lieu of full or partial monetary payment of LICs reduces the burden of such works being provided by Council, thus reducing operational expenditure. There are governance, financial and other risks associated with WIK such as works constructed to a poor standard that result in substantial ongoing maintenance costs or require rectification and management at Council's expense.

The draft policies and guidelines seek to address those risks to require independent valuations for proposed WIK and to require payment of securities/bonds to enable defect rectification. The guidelines embed operational procedures within Council to ensure infrastructure is constructed to relevant Council standards and is consistent with the adopted CPs and/or DSPs.

Critical Dates or Timeframes

The Audit NSW report identified that the recommendations relating to WIKs are required to be addressed by 30 December 2020. The audit report was finalised and tabled in parliament in August 2020.

4.2 Draft Works-In-Kind Policies (contd)

Advice received from the Audit of NSW in September 2020, identifies that the recommendations from the audit will be reviewed one year after the audit report was tabled in parliament. Council's progress in implementing the recommendations will be reviewed by Audit NSW in August 2021.

Council has demonstrated a commitment to addressing the audit recommendations through the preparation of the draft policies and guidelines, referral through the ARIC, and now this report to Council.

It is intended for exhibition of the draft policies and guidelines to occur in early 2021 for a period of 28 days. Following exhibition, the policies and guidelines would be reported back to ARIC and then Council for consideration. Subject to adoption, the policies and guidelines would be published on Council's website and be operational in the first quarter of 2021.

Attachments

1	NSW Auditor General Report Recommendations	Hyperlinked attachment	D14297238
2	Draft Policy CCC101: Works-In-Kind-Policy (for Works under the Environmental Planning & Assessment Act 1979)	Hyperlinked attachment	D14314739
3	Draft Policy CCC102: Works-In-Kind-Policy (for Works under the Water Management Act 2000)	Hyperlinked attachment	D14456906
4	Draft Works-In-Kind Procedures and Assessment Guidelines - Environmental Planning & Assessment Act Matters	Hyperlinked attachment	D14314738
5	Draft Works-In-Kind Procedure and Assessment Guidelines - Water Management Act Matters	Hyperlinked attachment	D14456907



Item No: 4.3
Title: Proposed Optional Standard LEP Clause for Natural Disasters
Department: Environment and Planning

8 February 2021 Ordinary Council Meeting

Reference: F2008/00774-006 - D14325217
Author: Peter Kavanagh, Senior Strategic Planner
Scott Duncan, Section Manager, Land Use and Policy
Manager: Shari Driver, Unit Manager, Strategic Planning
Executive: Scott Cox, Director Environment and Planning

Report purpose

To seek Council's position in relation to a proposed LEP clause to enable the rebuilding or replacement of Dwellings (including Secondary Dwellings) which have been damaged or destroyed by a natural disaster.

Executive Summary

The NSW DPIE is proposing a new optional clause in the Standard Instrument (Local Environmental Plans) Order to clarify that development consent may be granted to development for the purposes of repairing or replacing a Dwelling (including Secondary Dwellings) which have been damaged by a natural disaster. The method of implementation would be via a State Environmental Planning Policy (SEPP). The DPIE have written to all local Councils to confirm whether they wish to opt in to this arrangement, and to which zones and LEPs the Clause should be applied. It is recommended that the Central Coast Council "opt in".

Environment and Planning Recommendation

- 1 *That Council resolve to agree to "opt in" to the amending State Environmental Planning Policy (Amending SEPP) which will insert the Standard Clause into the relevant participating Local Environmental Plans (LEPs), being:*
 - a. *Wyong LEP, 2013;*
 - b. *Gosford LEP 2014; and*
 - c. *The Draft Central Coast LEP (when notified).*
- 2 *That the Standard Clause apply to all zones within the relevant LEPs.*
- 3 *That Council's position be conveyed to NSW Department of Planning, Industry and Environment (NSW DPIE) by 15 Feb 2021.*

Background

In September, 2020, The Department of Planning, Industry and Environment (DPIE), in response to the devastating bushfire and flood events of 2020, sought feedback from all NSW Councils on proposed planning amendments to support quicker rebuilds of Dwellings (including Secondary Dwellings) following natural disasters (see Attachment 1 and 2 for background material). The proposed clause and explanatory material were placed on public exhibition until 31 August 2020. The Central Coast Council provided a submission raising relevant issues (Attachment 3), for example:

- Definitions and Clarifications: e.g., the term “natural disaster” should be defined in the LEP; the terms are important for insurance purposes; what will be the applicable construction standards; are there exemptions from development contributions (Secondary Dwellings?)
- Application and Implementation: e.g., a SEPP should cover natural disasters, with a sunset clause of 24 months, enabling “like for like” rebuilding, having regard for the hazard which destroyed the dwelling; natural disasters can occur in any zone. 5 years is considered too long, 2 years is supported;
- Merits based assessment: e.g., the rebuild or repair may not be appropriate in the same location; also it cannot be refused based on any development standards in the LEP, where the LEP introduced new provisions following the date the dwelling was approved. This creates an environment of confusion, as it appears to give a DCP a higher power than an LEP; and
- Any impact of/on “existing use rights”.

Current Status

Following the completion of the consultation period, the NSW DPIE has requested Council to resolve and advise on the following Key Questions:

- 1 Do we want to opt in, and have the Clause added to our SI LEPs via a SEPP?
 - a. *Recommendation:* “Yes”
- 2 What zones would we want included?
 - a. *Recommendation:* All zones – Council cannot predict where a “natural disaster” will occur and it should be applied to all land use zones.
- 3 What SI LEPs we would want included?
 - a. *Recommendation:* Wyong LEP, 2013; Gosford LEP 2014 and the Draft Central Coast LEP (when notified).

Report

On 31 August 2020, Council provided a submission (refer Attachment 3) in relation to public exhibition by the NSW DPIE of the draft Optional Local Environmental Plan (LEP) Clause. This Clause has been developed for insertion into the Standard Instrument LEP, and thereby, directly into Council’s LEPs. The method of implementation would be via a State Environmental Planning Policy (SEPP), which would be an inexpensive, uncomplicated and

timely method for Council to enable buildings to be rebuilt and replaced where damaged or destroyed by natural disasters. Council has recently been advised that the wording of the Final draft Clause is as exhibited (Attachment 1). It is noted that being an Optional Clause, Council also has the ability to decline, and to consider the inclusion of this clause, or a modified version of the Clause, in future LEP amendment(s). As we are currently producing the draft CC LEP, a local version of the Clause could be negotiated with NSW DPIE. It can be easily added with no additional cost.

However, it is considered that inclusion into the SEPP will make it easier for people to repair and replace buildings damaged by natural disasters and it is recommended that Council “opt in” to ensure that these provisions can be applied to the Central Coast in the future.

Consultation

It is clear that DPIE has not had direct regard for the issues raised within Council’s submission, as the draft Clause is identical to that circulated for consultation. Instead, the Department has prepared the attached guidance material to address the concerns raised by Councils (Attachment 2).

Financial Considerations

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

1036/20 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:

Adoption of the staff recommendation has no budget implications for Council.

Link to Community Strategic Plan

Theme 4: Responsible

Goal I: Balanced and sustainable development

R-13: Ensure land use planning and development is sustainable and environmentally sound and considers the importance of local habitat, green corridors, energy efficiency and stormwater management.

Risk Management

There have been no risks identified at this stage to the natural and built environment associated with the proposed amendment to WLEP 2013, GLEP 2014, or the draft CCLEP.

Options

- 1 Council advise NSW DPIE that it agrees to be included in the Amending SEPP, which will insert the Standard Clause, to apply to all zones within the relevant SI LEPs;
Comment: This would be an inexpensive, uncomplicated and timely method for Council to enable buildings to be rebuilt and replaced where damaged or destroyed by natural disasters.
- OR
- 2 Should Council prefer to include a different version of the clause in the Central Coast SI LEP(s), or at a later date, Council will need do so through the regular process for LEP amendments.
Comment: As we are currently producing the draft CC LEP, a local version of the Clause could be negotiated with NSW DPIE. It can be easily added with no additional cost.

Critical Dates or Timeframes

Council's position must be conveyed to NSW Department of Planning Industry and Environment (NSW DPIE) by 15 Feb 2021.

Attachments

- | | | | |
|---|--|------------------------|-----------|
| 1 | Final Opt In Clause | Hyperlinked attachment | D14391227 |
| 2 | Guidance Material | Hyperlinked attachment | D14387053 |
| 3 | CCC Submission - DPIE - Draft LEP Clause for Natural Disasters | Hyperlinked attachment | D14174399 |