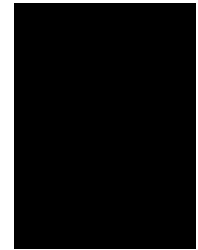


[REDACTED]
[REDACTED]
[REDACTED]

5 November 2020



The Secretary
Central Coast Council
PO Box 20
Wyong NSW 2259

Facilities advanced by [REDACTED] (the Bank) to Central Coast Council - Notice of default and reservation of rights

1. We refer to:
 - a. the document entitled "Business Letter of Offer" dated [REDACTED] (and executed [REDACTED]) between, Central Coast Council ABN 73 14964 4003 (**Customer**) and the Bank; and
 - b. the document entitled "Business Lending General Terms" effective [REDACTED],(together, the **Facility Agreement**).
2. Capitalised terms used in this notice have the meanings given to them in the Facility Agreement unless otherwise defined in this notice.
3. Pursuant to clause [REDACTED] of the Facility Agreement, it is a Default under the Facility Agreement if an Adverse Event occurs.

Control Defaults

4. Pursuant to clause [REDACTED] of the Facility Agreement, an Adverse Event occurs if, among other things:
 - a. without the Bank's consent, there is a change in the management control of the Customer or of the Customer's business; or
 - b. without the Bank's consent, there is a change in the status, capacity or composition of the Customer.
5. On 30 October 2020, Mr Dick Persson was appointed as interim administrator to the Customer (**Appointment**). [REDACTED] not provided the consent referred to in paragraph 4 above.
6. One or more Adverse Events have occurred due to a change in the management control, status and capacity of the Customer caused by the Appointment. As a consequence, one or more Defaults have occurred and are subsisting pursuant to clause [REDACTED] of the Facility Agreement (**Control Defaults**).

[REDACTED]

Further Defaults

7. The Bank understands that it has become necessary for the Local Government Minister to intervene in the control of the Council's affairs in order to pay employee wages. It therefore appears to the Bank that the Customer is unable to pay its debts for this reason amongst others (**Government Intervention**).
8. Pursuant to clause [REDACTED] of the Facility Agreement, an Adverse Event occurs if, among other things, the Customer becomes Insolvent. The term Insolvent is defined under the Facility Agreement as, amongst other things,
 - a. an External Administrator has been appointed to the Customer; or
 - b. the Customer is otherwise unable to pay their debts when they fall due.
9. One or more Adverse Events have occurred as the Customer appears to be technically insolvent. As a consequence, one or more Defaults have occurred and are subsisting pursuant to clause [REDACTED] of the Facility Agreement (**Insolvency Defaults**).
10. The Bank also has reasonable grounds to believe that further Defaults may have occurred including, without limitation, Defaults caused by the Customer not providing information to the Bank or otherwise required by statutory authority (**Additional Defaults**).

Reservation of rights

11. All of the Bank's rights and remedies in relation to the Facility Agreement and each Security as defined in the Facility Agreement and in relation to any Default, including but not limited to the Control Defaults, Insolvency Defaults and the Additional Defaults, are expressly reserved, and neither this notice, any act or omission by the Bank nor anything else should be construed as a waiver by the Bank in respect of any of its rights, remedies or the Customer's or any person's obligations. [REDACTED] reserves its rights and entitlements under all other finance documents between the Bank and the Council.
12. This document is a Bank Document for the purposes of the Facility Agreement.
13. This notice is governed by the laws of New South Wales.

Yours faithfully,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]



5 November 2020

The Secretary
Central Coast Council
PO Box 20
Wyong NSW 2259

Without prejudice

Dear Sir/Madam

Facilities advanced by [REDACTED] (the Bank) to Central Coast Council (CCC)

We refer to:

- (a) the telephone discussion between Natalia Cowley, the CFO of the CCC and [REDACTED] on 2 November 2020 (**Teleconference**); and
- (b) the reservation of rights letter issued by [REDACTED] CCC dated 5 November 2020 (**ROR Letter**).

As a consequence of one or more of the Events of Default (as described in the ROR Letter), [REDACTED] issued the ROR Letter to expressly reserve all its rights in respect of these defaults and the contractual entitlements that arise as a consequence.

However, consistent with the approach taken by convening and attending the Teleconference, [REDACTED] to support the CCC and its new administration through this period of financial distress and towards the conception and implementation of the recovery plan necessary to lead the CCC back to financial and operational stability.

[REDACTED], given the uncertainty of the new administration and the nature and extent of the issues faced by the CCC, is not able to provide any additional funding to assist CCC in meeting immediate cashflow deficiencies, it is open to working with the CCC to support the recovery plan on the basis that, as a secured creditor and key stakeholder, the CCC is able to reciprocate that intention by keeping [REDACTED] and involved and its interests observed throughout the course of the recovery plan. At this [REDACTED] ongoing support will be in the form of time and forbearance.

This letter is intended to [REDACTED] expectations in that regard, in consideration for which it intends to provide its support through the process while, at the same time, reserving its rights as set out in the ROR Letter.

[REDACTED]

The challenges facing the CCC [REDACTED] concerns

By way of summary, we set out some of the recent developments and challenges facing the CCC, some of which were discussed during the Teleconference, and each of which raise serious concerns [REDACTED]:

- 1 The recent media reports in relation to the financial affairs of the CCC resulting in an \$89 million shortfall in available cash resources;
- 2 the recent extraordinary meeting of the CCC at which councillors moved a show cause motion in relation to a proposed administration of the CCC;
- 3 the appointment of Dick Persson as interim administrator of the CCC;
- 4 comments of Local Government Minister, Ms Shelley Hancock, to the effect that the CCC has purportedly withheld information about its financial affairs; and
- 5 the need for the New South Wales Government to intervene to fund the payment of wages for 2000 CCC employees;
- 6 the retention of Grant Thornton and KPMG to conduct an independent review of the financial and operational performance and investigation of financial management relating to restricted funds of the CCC. In particular, in May 2020, the CCC appointed Grant Thornton to undertake a review and audit of the affairs of the CCC. More recently, in response to the "show cause motion" being made at the extraordinary meeting, KPMG were appointed to undertake a forensic review of the CCC's financial affairs;
- 7 the significant liquidity shortfall which may have been caused by the inappropriate use of restricted funds, which, we understand, is a central plank of KPMG's forensic audit; and
- 8 the cash flow forecast finalised on 30 October 2020 showing that about \$20,000,000 to \$60,000,000 of working capital will be required over the coming 4 months. At the moment, the source of that funding has not been decided and may be subject to KPMG's review.

[REDACTED] expectations in consideration for its support

All the matters detailed in points 1 to 8 above disclose significant financial and operational management issues which may take longer to resolve than the length of the anticipated 100 day recovery plan. To obtain [REDACTED] ongoing support and forbearance, [REDACTED], generally speaking, that the CCC will communicate generously with it and be transparent with sharing its recovery plan and the progress of its implementation over that extended period. To that end, [REDACTED] that the following matters be addressed by CCC.

1 Financial information

We have written to the CCC previously requesting certain financial information which has not been answered. We again request that information which includes:

- (a) Notes to the FY20 special purpose financial statements;
- (b) management accounts for the June 2020 and September 2020 quarters;
- (c) reports/results of the Grant Thornton and DMB independent reviews conducted from April to October 2020;
- (d) revised budget for financial year ending 2021 and 10year forecast; and
- (e) the next 12 months monthly forecasted cash flow.

2 **Recovery plan**

██████████ to be provided on a timely basis with:

- (a) A copy of the recovery plan and any amendments to it;
- (b) regular written updates regarding the implementation of the recovery plan;
- (c) the ability to contact the administrator or its consultants directly to obtain any updates as to the progress of the recovery plan; and
- (d) any updates as to the nature of further funding obtained by the CCC (whether from NSW Treasury or otherwise).

3 **Proposal for the payment of the circa █████ million in total principal and interest repayments due █████ across the month of █████ 2020 related to various outstanding loans.**

Confirmation these scheduled repayments will be paid or temporary arrangements made.

4 **Access to financial information obtained by consultants to CCC**

██████████ that in the current circumstances the CCC is looking at ways in which it can manage and reduce any unnecessary cost burdens. As noted above, we understand that the CCC has recently appointed accountancy firms Grant Thornton and KPMG to undertake reviews or audits of the CCC's activities. It will assist ██████████ undertaking its enquiries and assessing the impact of the administration and the recovery plan ██████████ position, and where these are not commercially sensitive or confidential, copies of any reports prepared by those firms can be provided ██████████

The intention behind this request is to ensure that the obtaining of key financial information is shared in a streamlined and cost-efficient manner with a view to avoiding the necessity ██████████ appointing its own independent accountant or at least minimising their level of involvement (██████████ is contractually entitled to make such an appointment). Indeed, in such a situation, ██████████ normally engage its own external consultants and this would be a cost added to the debt owed by the CCC. This approach is designed to avoid or minimise that cost. We accordingly request that you:

- (a) provide copies of reports provided by Grant Thornton or KPMG (both existing and future), noting as already mentioned that some information will be commercially sensitive and confidential and may need to be redacted; and
- (b) consent [REDACTED] employees communicating directly with the employees at Grant Thornton and KPMG who have been retained by the CCC.

[REDACTED] cannot commit to not at some stage retaining an external consultant to assist [REDACTED] throughout this process, but the provision of this information will hopefully reduce the extent of their involvement. [REDACTED] decides that it is necessary or appropriate.

5 **Teleconference with the administrator, Mr Dick Persson**

With the appointment of Mr Dick Persson as the administrator of the CCC, control and stewardship of the CCC now sits with him and his new management team. We assume that Mr Persson will set the recovery plan and be charged with the duty of overseeing its implementation. Accordingly, [REDACTED] like an opportunity to meet by teleconference or videoconference with Mr Persson and members of his new management team to discuss the matters set out in this letter, particularly the matters set out in point 1 to 4 immediately above. We are happy to prepare an agenda prior to this meeting but some of the topics for discussion will include broadly:

- (a) The immediate cashflow needs of CCC and the source of funding;
- (b) The nature of the recovery plan;
- (c) The nature and timing of the process of implementation;
- (d) The attitude and involvement of other secured creditors including whether any protocol of information sharing or formal standstill arrangement is proposed with secured creditors; and
- (e) Dealing with each of the issues raised in 1 to 4 above.

We propose that this meeting takes place at a mutually suitable time on 9 or 10 November 2020. Please let us know what day and time is suitable.

[REDACTED] reserves all its rights including, without limitation, the rights referred to in the ROR Letter.

Yours faithfully

[REDACTED]

Attachment 2

General Fund	30-Jun-20	30-Sep-20
Restricted - external	160,569,234	169,245,562
Restricted - internal	109,199,558	109,106,281
Unrestricted	(175,401,287)	(205,884,851)
Total Funds	94,367,505	72,466,992

Sent: Monday, 30 November 2020 2:58 PM

To: Natalia Cowley [REDACTED]

Cc: [REDACTED]
[REDACTED]

Subject: RE: Central Coast Loan quote request, please

Hi Natalia,

As discussed last week, we are looking to progress the application and seek approval for the funding, and are looking for confirmation of the following items to allow us to go ahead:

1. Updated LTFP and cash flow forecast – as you mentioned, this is currently in progress, and will allow us to demonstrate Council's future financial state in the coming years. I note your comments that Council's intention is to ensure an operating surplus or net zero result;
2. Confirmation that Council could meet a minimum current ratio of 0.8 over the course of the year – this is likely to include a requirement for quarterly reporting [REDACTED] (management reporting) to demonstrate this as a condition of the loan; and
3. Confirmation of amount of restricted funds that are yet to be reimbursed – I note you indicated this was a key piece of work your team is currently addressing.

I am also finalising the quotation for the fixed and revolving portions of the loan, and will send these over shortly.

I look forward to an update from you as the above information becomes forthcoming, and welcome you to touch base at any time.

Regards,

[REDACTED]

From: [REDACTED]

Sent: Tuesday, 17 November 2020 4:30 PM

To: Natalia Cowley [REDACTED]

Cc: [REDACTED]
[REDACTED]

Subject: RE: Central Coast Loan quote request, please

[REDACTED] Information Classification: Customer and Personal]

Hi Natalia,

Thanks for that, and yes we would appreciate that detail from you.

Ideally we would like a list of the projects covered by the \$270m in CAPEX spend last financial year, of which \$70m of the proposed \$100M loan would be funded in retrospect [REDACTED]. We would then look to list the projects to be funded by the \$30m of CAPEX for this current financial year.

If that format works for you, please let me know.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Natalia Cowley [REDACTED]

Sent: Tuesday, 17 November 2020 6:23 AM

To: [REDACTED]

Cc: [REDACTED]
[REDACTED]

Subject: RE: Central Coast Loan quote request, please

Hi [REDACTED],

I've got a list of over \$100m in capital assets funded from the General Fund.

Please let me know if you need that for the next stage of the quotes for the \$100m facility, please?

Thanks,

Natalia

Attachment 3

Natalia Cowley

Chief Financial Officer

Finance

Central Coast Council

PO Box 20 Wyong, NSW 2259

m:

e:

Attachment 4

From: [REDACTED]
To: [Natalia Cowley](#)
Cc: [REDACTED]
Subject: RE: Central Coast Loan quote request, please
Date: Monday, 7 December 2020 6:03:01 PM
Attachments: [image001.png](#)
[image008.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image017.png](#)
[image018.png](#)
[image019.png](#)
[image020.png](#)
[image022.png](#)
[image002.png](#)
[Updated LTFP - \[REDACTED\]](#)

[EXTERNAL EMAIL] Do not click any links or attachments unless you have checked the sender and trust the content is safe. If you are unsure, please report this to IM+T Service Desk.

[REDACTED] Information Classification: Confidential]

Hi Natalia

Thanks for your time this afternoon it was very much appreciated.

I have added a few line items and adjustments to show the impact of a \$100m loan funding on the overall cash position and liquidity after external restrictions, highlighted in yellow.

The only item I'm still a bit unsure of is the redundancy payments. I can see what appears to be increased cash outflow from December onwards on both operating cash flow and the movement in overall restricted funds cash reconciliation, but I'm not sure what single line item is reflecting the expense.

I can't see an increase in employee costs in line item 6.1.1. (of course I can see the ongoing reduction in payroll in the LTFP). Are the redundancy payments reflected in another line item, possibly 6.7.1 Internal Expenses – Ex Overheads? That would make sense to me, but I just need to confirm.

Appreciate if you are able to advise?

Thank you for your ongoing support in working through this detail with you. We all appreciate you are working very hard and under a lot of pressure and your time is valuable.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

Consolidated Operating Statement - Internal

8% SRV - 7 years



	1	2	3	4	5	6	7	8	9	10
	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Operating Income										
Rates	176,849	180,386	183,994	187,674	191,427	195,256	199,161	203,144	207,207	211,351
SRV	13,871	14,148	14,431	14,720	15,014	15,314	15,620	-	-	-
Annual and User Charges and Other Income	415,084	437,160	439,345	441,542	443,750	445,969	448,198	450,439	452,692	454,955
Operating Grants	34,856	34,856	34,856	34,856	34,856	34,856	34,856	34,856	34,856	34,856
Operating Contributions	14,635	14,635	14,635	14,635	14,635	14,635	14,635	14,635	14,635	14,635
Total Income attributable to Operations	655,295	681,185	687,261	693,426	699,682	706,030	712,471	703,075	709,390	715,797
Operating Expenses										
Employee Costs	175,832	179,349	182,936	186,594	190,326	194,133	198,015	201,976	206,015	210,135
Borrowing Costs	17,471	17,351	17,231	17,111	16,991	16,871	16,751	16,631	16,511	16,391
Materials and Contracts	188,517	189,460	190,407	191,359	192,316	193,277	194,244	195,215	196,191	197,172
Depreciation	176,106	180,606	185,106	189,606	194,106	198,606	203,106	207,606	212,106	216,606
Other Expenses	100,822	100,822	100,822	100,822	100,822	100,822	100,822	100,822	100,822	100,822
Total Expenses attributable to Operations	658,748	667,588	676,502	685,493	694,561	703,709	712,938	722,250	731,645	741,127
Operating Result after Overheads and before Capital Amounts	(3,453)	13,597	10,759	7,934	5,121	2,320	(468)	(19,175)	(22,256)	(25,330)

Consolidated Operating Statement - Internal

13% SRV permanently



	1	2	3	4	5	6	7	8	9	10
	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Operating Income										
Rates	176,849	180,386	183,994	187,674	191,427	195,256	199,161	203,144	207,207	211,351
SRV	22,540	22,990	23,450	23,919	24,398	24,886	25,383	25,891	26,409	26,937
Annual and User Charges and Other Income	415,084	437,160	439,345	441,542	443,750	445,969	448,198	450,439	452,692	454,955
Operating Grants	34,856	34,856	34,856	34,856	34,856	34,856	34,856	34,856	34,856	34,856
Operating Contributions	14,635	14,635	14,635	14,635	14,635	14,635	14,635	14,635	14,635	14,635
Total Income attributable to Operations	663,964	690,027	696,280	702,626	709,066	715,601	722,234	728,965	735,798	742,734
Operating Expenses										
Employee Costs	175,832	179,349	182,936	186,594	190,326	194,133	198,015	201,976	206,015	210,135
Borrowing Costs	17,471	17,351	17,231	17,111	16,991	16,871	16,751	16,631	16,511	16,391
Materials and Contracts	188,517	189,460	190,407	191,359	192,316	193,277	194,244	195,215	196,191	197,172
Depreciation	176,106	180,606	185,106	189,606	194,106	198,606	203,106	207,606	212,106	216,606
Other Expenses	100,822	100,822	100,822	100,822	100,822	100,822	100,822	100,822	100,822	100,822
Total Expenses attributable to Operations	658,748	667,588	676,502	685,493	694,561	703,709	712,938	722,250	731,645	741,127
Operating Result after Overheads and before Capital Amounts	5,216	22,440	19,779	17,134	14,504	11,892	9,295	6,716	4,153	1,607

From: [REDACTED]
Sent: Thursday, 17 December 2020 9:14 AM
To: Natalia Cowley [REDACTED]; [REDACTED]
[REDACTED]
Subject: RE: Letter of comfort quote and wording required

[EXTERNAL EMAIL] Do not click any links or attachments unless you have checked the sender and trust the content is safe. If you are unsure, please report this to IM+T Service Desk.

[REDACTED] **Information Classification: Customer and Personal]**

Good morning Natalia,

In regards to the Letter of Comfort proposed to be provided to the Bank, the wording of this (the actions included and content) is up to the State to determine, however we would suggest that it needs to be sufficiently explicit to provide comfort to the Bank that the debt proposed to be provided is being guaranteed by the State of NSW.

Happy to discuss if required.

Regards,

[REDACTED]

From: [REDACTED]
Sent: Wednesday, 16 December 2020 10:12 PM
To: Natalia Cowley [REDACTED]; [REDACTED]
[REDACTED]
Cc: Rik Hart [REDACTED]
Subject: RE: Letter of comfort quote and wording required

[REDACTED] **Information Classification: Customer and Personal]**

Good evening Natalia,

Thank you for coming through with the below information –this is welcome news and I am acutely aware of the effort that has gone into obtaining it.

Attachment 6

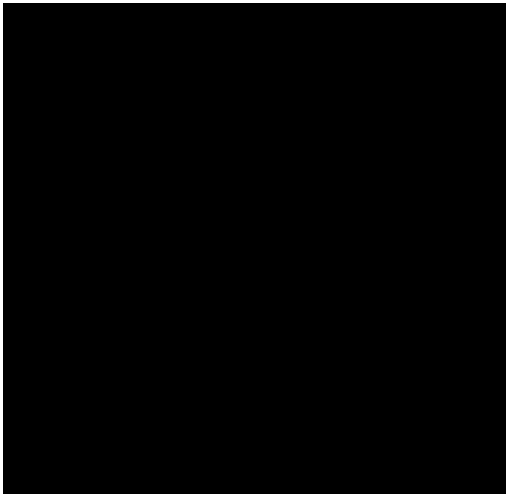
Confirming [REDACTED] and I will table this with our leadership group & Risk team first thing in the morning, and will provide you with confirmation of the wording of the letter that would be satisfactory within the deadline noted in your email.

We will also seek formal support for the proposed scenarios below on the basis of holding a Letter of Comfort and provide our response as soon as it is forthcoming.

I understand the need to go to market for the loan, and appreciate your ongoing patience throughout this process.

I will be in touch early tomorrow.

Regards,





The Hon. Shelley Hancock MP
Minister for Local Government

[REDACTED]

Dear Sir/Madam

Letter of Comfort – Central Coast Council

We confirm that [REDACTED] pursuant to facility agreement dated 18 December 2020 has made or will make available credit facilities totalling \$100,000,000 to Central Coast Council (the Borrower) with our full knowledge and agreement.

Because at our request [REDACTED] providing or continuing those facilities, or not taking immediate action to enforce the Borrower's obligations to [REDACTED] until all amounts owing by the Borrower to [REDACTED] have been finally paid in full, we undertake to work collaboratively with and provide support to the Borrower to:

- a) improve the Borrower's governance and financial management; and
- b) to ensure the Borrower is meeting their legislative requirements; and
- c) to ensure the Borrower is meeting their obligations under the facility provided by [REDACTED]

Yours sincerely

The Hon. Shelley Hancock MP
Minister for Local Government

18 DEC 2020

Email

24 February 2021

Mr Rik Hart
Acting Chief Executive Officer
Central Coast Council
PO Box 20
WYONG NSW 2259

Rik.Hart@centralcoast.nsw.gov.au

Dear Rik

Central Coast Council: Legal and Financial Forensic Analysis

We have been engaged by Council to provide advice and assistance on the investigation of its liquidity issues and management of restricted funds.

1. Scope of engagement

- 1.1 Clayton Utz was engaged pursuant to a letter of instruction dated 16 October 2020. During the course of our engagement, we were instructed to:
- (a) advise on whether a formal notification was required under the section 11 of the *Independent Commission Against Corruption Act 1988 (ICAC Act)*; and
 - (b) engage KPMG to undertake a targeted forensic accounting review of Council's Domestic Waste Fund (**DWF**).
- 1.2 The purpose of this letter is to summarise the factual conclusions of those reviews and provide a recommendation to Council as to whether further investigations are warranted. This summary must be read in the context of and is subject to all comments, assumptions and qualifications contained in the referenced reports. Defined terms, where used, have the meaning given to them in the referenced reports.

2. Legal review

- 2.1 Clayton Utz undertook investigations for the purposes of providing Council with legal advice on whether a formal notification is required under the section 11 of the ICAC Act. Our advice was contained in our letter dated 19 November 2020 which also provides a summary of the investigations undertaken.
- 2.2 As a result of our investigations, we found that there were no reasonable grounds at that time to suspect that the Council's liquidity crisis and use of restricted funds in breach of the *Local Government Act 1993 (LG Act)* was the result of corrupt conduct. Rather, the information obtained by us indicated that the causes of the Council's financial circumstances were due to:
- (a) legacy issues with lack of control, financial systems and transparency from Gosford Council inherited on amalgamation, including from the Gosford Council rescripting incident in 2016;
 - (b) problems, delays and lack of transparency when integrating the financial systems on amalgamation;

Mr Rik Hart, Central Coast Council

24 February 2021

- (c) delay and lack of transparency in establishing a single financial system after amalgamation;
 - (d) a long-term and established practice of reallocating funds within the single bank account between the General Fund and restricted funds;
 - (e) mismanagement of the single bank account and lack of financial controls;
 - (f) general poor financial management practices; and
 - (g) lack of early warning mechanisms.
3. **KPMG DWF review**
- 3.1 In accordance with Council's instructions, we engaged KPMG to undertake a targeted forensic accounting review of the DWF, the scope of which was detailed in KPMG's email to us dated 18 December 2020.
- 3.2 KPMG was instructed to:
- (a) obtain an understanding of Council's waste function;
 - (b) review Council's allocation of costs and funding between the DWF and General Fund; and
 - (c) consider Council's allocation of funds to the DWF, having regard to the guidance provided by the Department of Local Government.¹
- 3.3 KPMG provided us with its final report on 22 February 2021 which sets out its findings in relation to the targeted forensic accounting review of the DWF (**KPMG Report**).
- 3.4 A summary of the key findings arising from KPMG's forensic accounting review of the DWF as set out in the KPMG Report is as follows:
- (a) Council's DWF balance increased from \$42.2 million to \$90.4 million in the three years to 30 June 2020;
 - (b) Council attributes the increasing balance in the DWF to increasing future costs related to environmental legislation (including tip remediation costs), new Council objectives and the volatility of waste commodity markets;
 - (c) a review of the Apportionment Model that is used by the Council to allocate costs between the DWF and General Fund identified that \$4 million of expenses in the three years to 30 June 2020 should be reallocated from the General Fund to the DWF;
 - (d) Council has relied on the reasonableness of the cost calculations of the former Councils in setting its annual charges. Since amalgamation, annual charges have been updated on an annual basis in line with CPI, rather than on the basis of an assessment of the reasonable cost to the Council for providing domestic waste

¹ *Council Rating and Revenue Raising Manual* (2007), Department of Local Government.

Mr Rik Hart, Central Coast Council

24 February 2021

services. The Council is currently performing an assessment of its annual charges which includes a review of its current and forecast waste management costs. This assessment was not performed on amalgamation due to the complexities around reliably forecasting costs for the newly formed Council when long-term contractual agreements were in the process of being renegotiated.; and

- (e) a review of a selection of sample waste transactions (for example, non-domestic waste expense transactions) did not identify any transactions allocated to the DWF that were not consistent with the guidance provided by the Department of Local Government.

3.5 KPMG has recommended that Council:

- (a) adjust the DWF and General Fund accounts to reallocate \$4 million of expenses to the DWF; and
- (b) update its cost apportionment calculation procedures to prevent the errors being repeated in future calculations.

3.6 Although not within the scope of its targeted forensic accounting review, we note that the KPMG Report has not identified any information or evidence that would indicate the Council's current liquidity issues or use of restricted funds in breach of the LG Act was the result of corrupt conduct.

4. **Conclusions and recommendations**

4.1 The investigations undertaken by Clayton Utz and the forensic accounting review undertaken by KPMG as detailed in this letter did not identify any evidence that the Council's current liquidity issues or use of restricted funds in breach of the LG Act was the result of corrupt conduct. Rather, the current financial circumstances appear to arise from legacy issues from the time of Council amalgamation and poor financial management practices.

4.2 The conclusion in 4.1 above is generally consistent with the findings of:

- (a) the Draft DMB Report provided to Council in October 2020; and
- (b) the Administrator's 30 day Interim Report dated 2 December 2020.

4.3 Having regard to the outcome of the several reviews that have now been completed, it would be reasonably open for the Council to conclude that:

- (a) further investigation of the Council's current liquidity issues or use of restricted funds in breach of the LG Act is unlikely to disclose any new or additional reasons for its current financial circumstances; and
- (b) Council's efforts should now focus on implementing improvements in its financial management and reporting. In this regard, it is recommended that the Council implement the recommendations made by KPMG in so far as they relate to the DWF.

Mr Rik Hart, Central Coast Council

24 February 2021

Should you wish to discuss any aspect of the summary report above, please do not hesitate to contact us.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'B. Bateman', is shown within a light blue rectangular border.

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Our ref 224/14605/81010314

Email

12 April 2021

Edward Hock
General Counsel
Central Coast Council
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Dear Edward

Central Coast Council: Sewer and Water Funds

We refer to the email from Emma Roberts dated 8 December 2020 and our subsequent discussions regarding advice received from PricewaterhouseCoopers (**PwC**) in 2016 that resulted in a voluntary change of accounting policy for the treatment of the water and sewer funds.

1. Background

- 1.1 We have been provided with a copy of an email dated 4 December 2020 from Natalia Cowley (acting CFO). By way of this email and our discussions, we are instructed that:
- (a) prior to May 2016, it was the practice of the former Gosford and Wyong Council's to exclude funds levied for water and sewer services from the consolidated unrestricted cash;
 - (b) in or around 2016, Gosford and Wyong Councils purportedly received advice from PwC that water and sewer funds were properly characterised as unrestricted cash;
 - (c) acting on this advice, Gosford and Wyong Councils implemented a voluntary change in accounting policies, noted in their respective financial statements for 2016, that reclassified sewer and water servicing charges as unrestricted cash;
 - (d) the PwC audit reports dated 30 June 2015 and 12 May 2016 for Wyong Council show an increase to the unrestricted cash balances from \$7 million in June 2015 to \$29 million in May 2016; and
 - (e) this voluntary accounting policy was carried over to the newly amalgamated Central Coast Council.
- 1.2 The *Administrator's 30 Day Interim Report* dated 2 December 2020 identifies that the "Water Fund Externally Restricted Reserves" and the "Sewer Fund Externally Restricted Reserves" were both understated by a total of \$129.5 million for 2018/19, giving the impression that this was instead unrestricted cash available to fund operating expenses.¹

¹ Page 5.

Edward Hock, Central Coast Council

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2. Request for advice

- 2.1 In December 2020, we were asked to advise on whether water supply or sewerage service charges levied by a Council under the *Water Management Act 2003 (WM Act)* are restricted funds under the *Local Government Act 1993 (LG Act)* and whether the water and sewer funds are properly characterised as internally or externally restricted funds.
- 2.2 By email dated 7 April 2021, you provided us with a copy of the Crown Solicitors' Office Advice dated 13 February 2021 (**Crown Solicitors Advice**). Amongst other things, the Crown Solicitors Advice addressed whether money received by Council in its capacity as a water supply authority under the WM Act is considered "externally restricted funds" under section 409(3) of the LG Act.
- 2.3 You have asked us to consider the implications of the Crown Solicitors Advice on our draft advice.
- 2.4 Our final advice is set out below.

3. Summary advice

- 3.1 It is clear from our review of the legislative provisions, statutory guidelines and extrinsic materials that money received by Council as a result of water and sewerage service levies are externally restricted funds that must be held in an approved bank account or investment until they are used for the purpose for which they are levied.
- 3.2 There are only two exceptions to the reservation of water and sewer funds for the purpose for which they were levied:
- (a) where the Minister for Local Government has approved an internal loan; or
 - (b) where the Minister for Water, Property and Housing² has approved Council's use of a return on capital invested payment (dividend) of those funds for a non-restricted purpose.

4. Legislative framework***Water and sewerage service charges are externally restricted funds***

- 4.1 Central Coast Council is a water supply authority under the WM Act.³
- 4.2 Water supply authorities are authorised to levy service charges for certain limited purposes set out in the exhaustive list at section 310 of the WM Act, in accordance with Division 6 of

² The *Best-Practice Management of Water Supply and Sewerage Guidelines* dated August 2007 refer to approval from the Minister for Energy and Utilities, which we understand to now be within the remit of the Minister for Water, Property and Housing.

³ City of Gosford Council and Wyong Council are water supply authorities pursuant to section 285 and Schedule 3 of the WM Act. References to former councils are taken to be to the new Central Coast Council (section 6 of the *Local Government (Council Amalgamations) Proclamation 2016*). Further, clause 117(2) of the *Water Management (General) Regulation 2018 (WM Regulation)* states that "*Central Coast Council has and may exercise all of the functions of a water supply authority.*"

Chapter 6 of the WM Act and Division 7 of Part 9 of the WM Regulation. Section 310 authorises levies for water and sewerage services.

- 4.3 Our view is that money levied under Chapter 6 of the WM Act is therefore money of the category described in section 409(3)(a) of the LG Act. It is not money received in trust, but must be held in the consolidated fund and may only be used for the purpose for which it is levied.

(2) Money and property held in the council's consolidated fund may be applied towards any purpose allowed by this or any other Act.

(3) However -

(a) money that has been received as a result of the levying of a special rate or charge may not be used otherwise than for the purpose for which the rate or charge was levied...

- 4.4 The terms "*externally restricted funds*", "*internally restricted funds*" and "*unrestricted funds*" are not defined by the legislation. "*Externally restricted funds*" are restricted in purpose by legislation, whereas "*internally restricted funds*" are unrestricted funds that are allocated to a certain purpose by Council resolution.

- 4.5 Council is obliged to maintain accounting records in accordance with the *Government Code of Accounting Practice and Financial Reporting* (clause 206 of the *Local Government (General) Regulation 2005*). The Code requires the disclosure of externally restricted, internally restricted and unrestricted funds and clearly identifies the sewer and water funds as externally restricted funds.

Holding externally restricted funds

- 4.6 Externally restricted funds, such as money received from water and sewerage levies, must be held in "*an account with a bank, building society or credit union*" or in an "*authorised investment*" (section 409(4)).
- 4.7 Authorised investments are detailed in the Minister's notices published in the Government Gazette under section 625.

Ministerial approval for limited ulterior uses

- 4.8 There are only two ways that Council can use externally restricted funds levied for sewerage or water services for purposes other than which they were levied:
- (a) by way of internal loan, with approval of the Minister for Local Government. The Minister must impose conditions as to the time for repayment and any interest to be paid (section 410(3) and (4)); or
 - (b) by use of any capital return of investment (dividends) earned on the water and sewerage funds, with approval of the Minister for Water, Property and Housing (section 409(5)-(8)).
- 4.9 The legislative mechanism for Councils, including a water supply authority under the WM Act, to deduct dividends earned on the water and sewerage funds to use at its discretion commenced on 1 November 2003.

Edward Hock, Central Coast Council

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- 4.10 This mechanism is tightly regulated and requires compliance with the *Best-Practice Management of Water Supply and Sewerage Guidelines* published under section 409(6) in August 2007 by the then Department of Water and Energy,⁴ with the concurrence of the Minister for Local Government (**Guidelines**). Under the Guidelines, Council must submit statements of compliance, financial performance and independent audit reports to the Department before the Minister can grant approval to use the dividends for an ulterior purpose. The Minister can direct a Council to comply with the Guidelines.
- 4.11 The purpose of this mechanism and the Guidelines is to promote Councils to operate their water and sewerage services as sustainable businesses adhering to integrated water cycle management practices as outlined in the Guidelines.
- 4.12 The following extract of the second reading speech for the *Local Government Amendment (National Competition Policy Review) Bill 2003*, clearly confirms parliament's intention for the sewer and water funds to be treated as externally restricted funds by Council. It states:

*[Section 409] also imposes the restriction that money that has been received as a result of the levying of a special rate charge may not be used for a purpose other than the purpose for which it was levied. **This applies to charges including water supply and sewerage charges.** The Minister may, however, allow an "internal loan" if the money is not immediately required for the purpose for which it was received. **These restrictions are based on the responsibilities that a council has in its use of public funds; namely, to ensure accountability, that the community receives best value for its money, and the best possible management of public assets held in trust for the community...***

*Councils that operate category 1 businesses, in particular, are required by the National Competition Policy Agreement to include a return on capital invested; in other words, a dividend. This mirrors imperatives in the private sector. Category 1 businesses are those having an annual sales turnover or gross operating income of \$2 million or more. **There is some question as to whether the Act currently allows councils to deal with these requirements through the transfer of dividend payments between council funds, from restricted use funds to unrestricted use general funds.** There are conflicting interpretations of the scope of section 409, and legislative amendment is proposed to clarify the situation...*

*The bill also inserts subsections (5), (6) and (7) in section 409 **to define the proper relationship between restricted funds held under section 409 and a council's general funds**, including the circumstances in which dividends may be paid by the council business activity. Under the amendment contained in this bill, a council may choose to deduct from the money which is restricted in its use for the purpose of water supply or sewerage services, an amount in the nature of a dividend, and to apply that money to any purpose under the Act or any other Act; that is, the dividend payment becomes available for use at council's discretion. **However, it is critical to the operation of the provision that the transfer of such payments is regulated properly.** Therefore, the Minister for Energy and Utilities, with my concurrence, will publish guidelines relating to the management of the provision of water supply and sewerage services. A council must comply with those guidelines before any deduction from the restricted use funds is made, and must report its compliance by resolution of council in an open meeting. If a council is found not to have complied with those guidelines, the Minister for Energy and*

⁴ Now within the portfolio of the Department of Industry and Environment.

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Utilities may, with my concurrence, direct the council to comply with the guidelines before any further deduction is made. (Emphasis added).

5. Crown Solicitors Advice

- 5.1 We have considered the Crown Solicitors Advice and notwithstanding that advice, maintain the position that section 409(3)(a) applies to the funds Council levies under the WM Act.
- 5.2 The Crown Solicitor concludes that the above position is "not without doubt", arising from the contrary view "that section 409(3)(a) is confined to special rates and charges levied under the LG Act." Unlike section 409(3)(b), section 409(3)(a) does not include the express words "money that is subject to the provisions of this or any other Act."
- 5.3 In our view, any doubt on the application of section 409(3) to funds levied under the WM Act was clarified by the insertion of subsections (5) to (8) in 2003,⁵ which are expressly stated at section 409(8) "to extend to a council that is a water supply authority within the meaning of the WM Act." Section 409(5) to (8) would have no work to do for funds levied by water supply authority if the position was taken that sewer and water funds levied under the WM Act were not caught by subsections (3) and (4). The tight regulation of the use of dividends for ulterior purposes arises from the premise that the use of those funds is restricted in the first instance.
- 5.4 There is a large body of case law to support the proposition that an amending Act may reveal/declare the true meaning of an earlier Act, particularly where the words of an earlier statute are ambiguous, including:

Where the interpretation of a statute is obscure or ambiguous, or readily capable of more than one interpretation, light may be thrown on the true view to be taken of it by the aim and provisions of a subsequent statute.⁶

- 5.5 For completeness, we note that the Crown Solicitors Advice also considers whether funds levied by Council as a water supply authority under the WM Act fall within the scope of section 409(3)(b). The Crown Solicitor concludes that it did not locate "any provisions in the WM Act which expressly restrict the way that money collected under the WM Act can be spent."
- 5.6 Section 409(3)(b) states:

*money that is subject to the provisions of this or any other Act (**being provisions that state that the money may be used only for a specific purpose**) may be used only for that purpose. (Emphasis added).*

- 5.7 Our view is that Council is only authorised to levy funds for certain limited purposes under the WM Act and therefore, the use of those funds for an ulterior purpose would necessarily render the levying of those funds unlawful. In that way, the WM Act creates its own restriction on the use of funds levied for the purpose of sewer and water services, to those services only. We agree with the Crown Solicitor that the difficulty arises in the fact that the provisions in the WM Act do not explicitly state that the money may be used only for a specific purpose.

⁵ By way of the *Local Government Amendment (National Competition Policy Review) Act 2003*.

⁶ *Ormond Investment Co v Betts* [1928] AC 143, 164, as cited in *Deputy Federal Commissioner of Taxation (SA) v Elder's Trustee and Executor Co Ltd* (1936) 57 CLR 610, 625-5 (Dixon, Evatt and McTiernan JJ).

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- 5.8 It is not necessary to resolve this difficulty, owing to our conclusion that sewer and water funds levied by Council under the WM Act fall under section 409(3)(a).
- 5.9 In conclusion, we agree with the Crown Solicitor that section 409(3)(a) should be read in its full generality, and find the matters raised supporting the contrary view unpersuasive. Our view is that the preferred interpretation is that money levied by Council under the WM Act is restricted cash under section 409(3)(a).
- 6. Conclusion**
- 6.1 Contrary to the purported advice of PwC and the voluntary change in accounting policies that occurred in or around May 2016, the legislation, guidelines and extrinsic material are clear that water supply and sewer service charges levied under the WM Act are restricted funds under section 409(3) of the LG Act and are required to be held in approved bank accounts or investments and used only for the purposes for which they are levied, except where Ministerial approval is given for an internal loan or for the use of dividends.
- 6.2 Sewer and water funds are referred to within the Code as "externally restricted funds". We understand that this is because they are levied for a specific purpose under legislation and not as a result of a Council resolution.

Please contact us if you would like to discuss this advice with us.

Yours sincerely



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ADVICE



Crown
Solicitor's
Office

LOCAL GOVERNMENT RATES AND CHARGES

Executive summary

Question 1 Special rates and charges

1. The reference in s. 409(3)(a) of the *Local Government Act 1993* ("the *LG Act*") to a "special rate or charge" is a reference to a special rate or a 'charge' and not to a special rate or a 'special charge'.
2. I have identified, in the body of this advice, sections of the *LG Act* which provide for the making of charges and special rates.

Question 2 Central Coast Council

3. Money received pursuant to provisions of the *Water Management Act 2000* ("the *WM Act*") is received by the Central Coast Council in its capacity as a water supply authority ("WSA") under that Act.
4. Section 409(3)(b) of the *LG Act* may apply to monies collected pursuant to the *WM Act*, if the conditions in that paragraph are satisfied. Although not without doubt, I prefer a view that s. 409(3)(a) of the *LG Act* could also apply to such monies.
5. As a general proposition, monies received by the Central Coast Council as a result of charges levied in its capacity as a water supply authority under the *WM Act* should be held in the council's consolidated fund as "externally restricted funds" to be used only for purposes associated with the exercise of the council's functions as a water supply authority under the *WM Act* or purposes authorised under the *LG Act* (such as the payment of dividends under s. 409(5) of the *LG Act*).
6. I have not located any provisions in the *WM Act* which expressly restrict the way that money collected under that Act may be spent.

Background

7. You seek my advice as to interpretation of provisions of the *LG Act* and the *WM Act*. I understand these to be questions of general application, although Question 2 relates to Central Coast Council specifically and has arisen in the broader context of that Council being under administration (though I am instructed no further as to any specific facts or circumstances).

Analysis

Question 1 Special rates and charges

1.1 Do the provisions in s. 409(3) of the LG Act extent to 'any charges' levied by the council or only to 'special charges' levied by a council?

8. Chapter 13 of the *LG Act* is titled "How are councils made accountable for their actions?" and Part 3 of that Chapter "Financial management". Division 1 ("Funds"), provides at s. 408 that a council must have two separate funds: a consolidated fund and a trust fund (as to which, see s. 411). Section 409 provides for the consolidated fund as follows:

"409 The consolidated fund

(1) All money and property received by a council must be held in the council's consolidated fund unless it is required to be held in the council's trust fund.

(2) Money and property held in the council's consolidated fund may be applied towards any purpose allowed by this or any other Act.

(3) However—

(a) money that has been received as a result of the levying of a special rate or charge may not be used otherwise than for the purpose for which the rate or charge was levied, and

(b) money that is subject to the provisions of this or any other Act (being provisions that state that the money may be used only for a specific purpose) may be used only for that purpose, and

(c) money that has been received from the Government or from a public authority by way of a specific purpose advance or grant may not, except with the consent of the Government or public authority, be used otherwise than for that specific purpose.

(d) (Repealed)

(4) Pending its expenditure for the purpose for which it is held, money of the kind referred to in subsection (3)(a), (b) or (c) may not be held otherwise than in an account with a bank, building society or credit union or in an investment in which such money is, by or under this or any other Act, authorised to be invested.

(5) Despite subsections (3) and (4), a council may—

(a) deduct, from the money required by subsection (3) to be used only for the specific purpose of water supply or sewerage services, an amount in the nature of a return on capital invested payment (dividend), and

(b) apply that amount towards any purpose allowed for the expenditure of money by councils by this Act or any other Act.

(6) The Minister for Water, Property and Housing, with the concurrence of the Minister administering this Act—

(a) is to cause guidelines to be prepared and published in the Gazette relating to the management of the provision of water supply and sewerage services by councils, and

(b) may, if of the opinion that a council has not substantially complied with the guidelines, direct the council to comply with any particular aspect of the guidelines before making any further deduction under subsection (5).

(7) Before making a deduction under subsection (5), a council must—

(a) comply with the guidelines published under subsection (6) and any direction given under that subsection, and

- (b) indicate in an open meeting of the council that the guidelines and any such direction have been complied with in relation to the making of the deduction.
- (8) Subsections (5)–(7) extend to a council that is a water supply authority within the meaning of the *Water Management Act 2000*.
- (9) This section does not affect the requirements of the *Fire and Emergency Services Levy Act 2017* with respect to the payment of collection instalments to the Treasurer.
9. You instruct me that the provisions in subsection (3), which are the focus of your question for advice, are known colloquially as “externally restricted funds”. The question for my advice is whether the reference in s. 409(3)(a) to a “special rate or charge” should be interpreted as ‘a special rate or (any) charge’ or as a ‘special rate or *special*/charge’.
 10. The task of statutory construction is to determine the meaning of the text of the statute whilst, at the same time, having regard to its context and purpose: see generally *SZTAL v Minister for Immigration and Border Protection* [2017] HCA 34 at [14] and the *Interpretation Act 1987*s. 33. Section 409(3) addresses the use, or ‘spending’, of monies that are associated with a “specific purpose”. The provisions of subparagraphs (a)—(c) are all concerned with the spending of monies for the purpose, also referred to as the specific purpose, for which they are received or kept.
 11. In the context of that purpose, of restricting expenditure of monies to the purpose for which that money was received, the meaning of the reference to a “special rate” is clear, because of the nature of such a rate. A special rate is a rate for or towards the cost of any works, services, facilities or activities of the council, other than domestic waste management services: see s. 495. That work, service, facility or activity would constitute the purpose of the special rate for purposes of s. 409(3).
 12. It is also clear, when considering the statutory scheme, that a “special rate” is a standalone concept in the *LG Act*. There are, throughout the *LG Act*, other references to “special rates”: see especially s. 492, which provides that councils can make ordinary *or* special rates, and s. 495 (“making and levying of special rates”). Broadly speaking, ordinary rates are levied annually on rateable land by reference to the categorisation of that land (see generally ss. 493, 494 and Part 3 of Chapter 15); whilst (as noted) special rates go “for or towards meeting the cost of any works, services, facilities or activities provided or undertaken, or proposed to be provided or undertaken... other than domestic waste management services” (at s. 495).
 13. By contrast, there is no reference to or concept of a ‘special charge’ elsewhere in the *LG Act*. Many provisions of the Act refer to ‘charges’. These all relate to the provision of a service. For example, a charge may be made pursuant to s. 501 for services specified therein, which are to be provided by the council. The making and levying of annual charges for domestic waste management services, for stormwater management services and for coastal protection services are provided at ss. 496, 496A and 496B. Other provisions addressing charges are found generally in Chapter 15, especially in Part 3A (Charges), in Part 4 (Making of rates and charges) and in Part 5 (Levying of rates and charges). In particular, s. 539 is instructive in that it sets out the criteria relevant to determining the amount of a charge. Each of the criteria (albeit non exhaustive) referred to in s. 539(1) to which the council may have regard in setting the amount of the charge are referable to

the "service" to which the charge relates: for example, the cost of providing the service, the area of land to which the service is provided, the frequency of the service etc. In that way, the section underscores that the charge must be linked directly to the provision of a service.

14. One instance of a 'charge' under the *LG Act* that less obviously evidences this link between provision of a service and a charge is s. 611. Section 611 provides for the making of a charge in relation to the possession, occupation or enjoyment of a rail, pipe, wire, pole, cable, tunnel or structure which pertains to a public place. In that instance, it is harder to identify a service and therefore the purpose for which that money is received, to employ the language of s. 409(3)(a). It seems to me arguable that the charge is for the purpose of the person's enjoyment of the benefit of possession, occupation or enjoyment of the rail etc. and therefore concerned with the maintenance or similar of that enjoyment. Alternatively, it may be an exceptional charge. Section 611(2) provides that the annual charge may be made, levied and recorded in accordance with the *LG Act* "as if it were a rate" but is not to be regarded as such for the purposes of calculating the council's general income. There are also specific and bespoke provisions about avenues of appeal for an aggrieved person to challenge the amount of the charge. To the extent that it might be necessary, I think that in the context of a large scheme such as the *LG Act*, the sui generis features of this section can set aside in settling a preferable construction of the terms of s. 409(3)(a).
15. I also note that at s. 543, there is a requirement that each form of rate and each charge have its own name. This section is organised in three subsections: for an "ordinary rate", a "special rate" and for "a charge". Again, that tells against the suggestion that there is a fourth category or a concept of a 'special charge' in the *LG Act*.
16. Considered against this background, it seems clear that a charge must relate to a service, and indeed be named and its amount determined by reference to that service. So too a special rate is for a work, service, facility or activity (see s. 495). By contrast, an ordinary rate is paid by reference to a parcel of rateable land. When so understood, s. 409(3)(a) is sensible when it is read on its plain terms as "a special rate" or a "charge". It makes sense to speak of both those types of council income by reference to their specific purpose. A charge under the *LG Act* is not a means of revenue raising for general purposes and appropriations. Rather, a charge under that Act is by its nature associated with a purpose. For this reason, it would be unnecessary to refer to a 'special charge', in the way that it is necessary to refer to a "special rate" which is associated with a purpose as distinct from an ordinary rate which is not associated with such a purpose.
17. I find further support for this construction in s. 503, which addresses the relationship between rates and charges. It provides that:

"503 What is the relationship between rates and charges?

 - (1) A charge may be made:
 - (a) in addition to an ordinary rate, and
 - (b) in addition to *or instead of* a special rate.
 (emphasis added)

18. In this section, the Act provides that a charge can be made "instead of" a special rate. Again, this suggests to me that the concept of a 'special charge' has no work to do in the legislative scheme of the *LG Act*, rather there are ordinary rates, special rates and charges, and it would be appropriate to speak of a "special rate" and a "charge" interchangeably, as occurs in s. 409(3)(a) and the phrase "special rate or charge".
19. Another consideration is that a construction of the words "special rate or charge" which promotes a harmonious interpretation of the same words and phrases throughout the legislation should be preferred: that is, words are assumed to be used consistently in the legislation (although this is readily rebutted, and, it should be noted, more frequently rebutted in large and extensively amended legislation such as the *LG Act*¹). This principle can extend to interpretation of a phrase or expression: see, for example, the discussion as to interpretation of the phrase "property offence" in *McMillan v Pryce* (1997) 115 NTR 19 at 23. I have therefore considered the use of the expression "special rate or charge" as it appears in other provisions of the *LG Act*.
20. For example, s. 410 also applies to money that has been received by a council as a result of the levying of a "special rate or charge". Section 410 provides that where a special rate or charge has been discontinued and the purpose achieved, or no longer required to be achieved, any remaining money may be used by the council for other purposes providing that certain conditions specified in subsection (2) are met. It also provides that money which is not yet required for the purpose for which it was received may be lent (by way of internal loan) for use by the council for another purpose, if that purpose is approved by the Minister: see subsections (3) and (4).
21. Indeed, in s. 410(1) the reference is to "a special rate or a charge" (emphasis added), though subsection (2) refers to the "special rate or charge". Whilst this is far from determinative, it does indicate that the phrase "special rate or charge" is used interchangeably with "special rate or a charge" in at least one other provision of the Act, and so is supportive of my preferred construction.
22. The other places in the *LG Act* where the expression "special rate or charge" appears are in Division 2 ("Special rates and charges relating to water supply, sewerage and drainage") of Part 5 ("Levying of rates and charges") of Chapter 15 ("How are councils financed?"): see especially ss. 551, 552, 553, 553A. The phrase also appears in s. 565 ("capital contributions instead of payment of special rates or charges"). I find nothing in these sections which suggests that my preferred construction should be displaced, and that it was intended that the reference was to some concept of a 'special charge'.
23. Finally, I note an additional question about the interpretation of s. 409(3)(a), whether the reference to "special rate or charge" should be construed as a reference to a special rate or charge raised pursuant to the *LG Act*, or pursuant to the *LG Act* or any other Act. I will return to this question at [2.2] below.

¹ See generally Pearce, D., *Statutory Interpretation in Australia* (9th ed, 2019), Reed International Books Australia at [4.9].

1.2 If s. 409(3) is read as 'special charge', which sections of the LG Act provide for the making of special, as distinct from general, charges?

24. In light of my answer to question 1.1., this question does not arise.

1.3 If s. 409(3) is read as 'any charge', which sections of the LG Act provide for the making of such charges?

25. The making of rates and charges is addressed in Chapter 15 ("How are councils financed?"). Part 1 of that Chapter sets out general provisions about the making of rates and charges. In particular, s. 501 provides for the making of charges as follows:

"501 For what services can a council impose an annual charge?

(1) A council may make an annual charge for any of the following services provided, or proposed to be provided, on an annual basis by the council—

- water supply services
- sewerage services
- drainage services
- waste management services (other than domestic waste management services)
- any services prescribed by the regulations.

(2) A council may make a single charge for two or more such services.

(3) An annual charge may be levied on each parcel of rateable land for which the service is provided or proposed to be provided."

26. For the purposes of s. 501(1), the regulations currently prescribe emergency services within the area of the Blue Mountains City Council: see cl. 125 *Local Government (General) Regulation 2005*.

27. Other provisions which provide for the levying of charges are:

- (a) Sections 496, 496A and 496B which provide for the making of charges for domestic waste management services, stormwater management services and coastal protection services respectively,
- (b) Section 552 which provides for the making of charges relating to water supply, sewerage and drainage,
- (c) Section 553B(2) which provides for the making of a charge in relation to coastal protection services, and
- (d) Section 611 which provides for the making of a charge in relation to the possession, occupation or enjoyment of a rail, pipe, wire, pole, cable, tunnel or structure which pertains to a public place.

28. Other provisions relevant to the making of charges are in Part 3A (charges), Part 4 (making of rates and charges) and Part 5 (levying of rates and charges) of Chapter 15, which address matters such as the form of a charge, naming charges, and the priority of charges on land over other encumbrances on the land. Other parts of Chapter 15 address matters such as liability to pay charges and concessions for pensioners.

1.4 Which sections of the LG Act provide for the making of 'special rates'?

29. As noted above, it is generally relevant to consider Chapter 15 as to the making of rates and charges. The making of special rates is provided for in s. 495, as follows:

"495 Making and levying of special rates

(1) A council may make a special rate for or towards meeting the cost of any works, services, facilities or activities provided or undertaken, or proposed to be provided or undertaken, by the council within the whole or any part of the council's area, other than domestic waste management services.

(2) The special rate is to be levied on such rateable land in the council's area as, in the council's opinion—

- (a) benefits or will benefit from the works, services, facilities or activities, or
- (b) contributes or will contribute to the need for the works, services, facilities or activities, or
- (c) has or will have access to the works, services, facilities or activities.

Note—

Under section 495, a council could, for example make and levy—

- different special rates for different kinds of works, services, facilities or activities
- different special rates for the same kind of work, service, facility or activity in different parts of its area
- different special rates for the same work in different parts of its area.

The amount of special rate will be determined according to the council's assessment of the relationship between the cost or estimated cost of the work, service, facility or activity and the degree of benefit afforded to the ratepayer by providing or undertaking the work, service, facility or activity."

30. Division 2 of Part 5 also provides for the making of special rates or charges relating to water supply, sewerage and drainage (see s. 552 for the making of the special rate).

Question 2 Central Coast Council

2.1 With regards to Central Coast Council established as a water supply authority under the WMA, who receives money collected under the WMA? It is the Central Coast Council (the Council) in its capacity as a water supply authority, or is it some other separate entity such as the Central Coast Council Water Supply Authority (CCCWSA)?

31. The *WM Act* provides for water supply authorities in s. 285 and Schedule 3. Gosford City Council and Wyong Council are each named as a water supply authority ("WSA"): see Part 2 of Schedule 3.
32. As you are aware, but for sake of completeness, I note that in 2016, pursuant to s. 4 and Schedule 3 of the *Local Government (Council Amalgamations) Proclamation 2016*, Gosford City Council and Wyong Council were amalgamated and renamed Central Coast Council. Section 6 of the Proclamation provides:

"6 References to former areas and councils

A reference in any Act or instrument to:

-
- (a) a former council whose former area is incorporated in one new area by this Proclamation, or to a predecessor of the former council, is taken to be a reference to the new council, or
 - (b) a former area that is incorporated in one new area by this Proclamation, or to a predecessor of the former area, is taken to be a reference to that part of the new area that consists of the former area or the predecessor area incorporated in the new area."
 - 33. Section 53(1) of the *Interpretation Act* also applies where the name of a body or office is altered by statute. It provides:
 - "(1) If an Act or statutory rule alters the name of a body or office:
 - (a) the body or office continues in existence under its new name so that its identity is not affected, and
 - (b) a reference in any Act or instrument, or in any other document, to the body or office under its former name shall, except in relation to matters that occurred before the alteration took place, be read as a reference to the body or office under its new name."
 - 34. Accordingly, the reference to the former Gosford City and Wyong Councils in the *WM Act* is to be read as a reference to Central Coast Council, which retains its status as a WSA. See also the *Water Management (General) Regulation 2018* ("the *WM Regulation*"), at cl. 117(2), by which Central Coast Council has and may exercise all the functions of a WSA.
 - 35. As such, the Central Coast Council is both a council and a WSA. The Central Coast Council is constituted under the *LG Act* (s. 219) and is given the status of a WSA under the *WM Act*. There is not a separate legal entity such as the 'Central Coast Council Water Supply Authority'. The *LG Act* regulates the operations of the Council as a council, whilst the *WM Act* regulates the operations of the Council as a WSA.
 - 36. In relation to any specific function, operation or activity of the Central Coast Council it will be important to identify in what capacity it acts. For example, in levying a charge or rate, it will be a question of statutory construction whether it is a council or a WSA which has the relevant power to levy that charge or rate, and that in turn will determine whether the Central Coast Council may act in its capacity as a council or as a WSA in so doing. In some cases, such as in relation to drainage services or the construction of water management works, both the *LG Act* and *WM Act* may make provision. It will be necessary to construe those Acts to determine which provisions apply.
 - 37. I have not located any provisions of the *WM Act* which provide a statutory basis for a council (in its capacity as a council) to raise monies. However, the *WM Act* does contain financing provisions for WSAs in Division 6, Part 2 ("Water supply authorities") of Chapter 5. A WSA may levy service charges within its area of operations for the services listed in s. 310(1) and impose other fees and charges in accordance with the regulations. There are extensive provisions about such service charges and other charges in Division 7 of Part 9 of the *WM Regulation*. None of these arise specifically for my advice. Rather, the premise of the question for my advice is merely that money is collected pursuant to the *WM Act*.

38. It seems reasonable therefore to assume that money received pursuant to provisions of the *WM Act* will almost certainly be received by the Central Coast Council in its capacity as a water supply authority under that Act.

2.2 Following on from the answer to question 2.1 above, is the money received under the WMA considered 'externally restricted funds' under s. 409(3) of the LG Act?

39. Whilst not without doubt, I prefer the view that money received under the *WM Act* is within the scope of s. 409(3) of the *LG Act*. The Central Coast Council is, as noted above, a WSA under the *WM Act* and specifically it is a statutory body named in Part 2 of Schedule 3 of that Act as such. Per s. 287(2) of the *WM Act*, it therefore "becomes a water supply authority but still has its other functions". That is, it retains its character as a council under the *LG Act*.
40. In my view, monies received by the Central Coast Council pursuant to the *WM Act* are within scope of s. 409(1) and (2) of the *LG Act*, being "money and property received by a council", which is required to be held in the council's consolidated fund. I am supported in this view in relation to the Central Coast Council because the *WM Act* and *WM Regulation* do not make provision for what is to be done with charges levied, as in s. 409(1) *LG Act*. The question then arises whether subsection (3) also applies to such money. Subsection (3) is comprised of three paragraphs, as extracted above. Despite the use of the conjunctive 'and' between each paragraph, it is plain on their terms in my view that each of these paragraphs operates independently in the sense that each contains a condition and then a requirement which follows if that condition is met.
41. It does not appear that paragraph (c), being for "money that has been received from the Government or from a public authority by way of a specific purpose advance or grant..." arises on the terms of the question, and so I will set that aside, although I would be happy to consider it in more detail on your further instructions.
42. I also think it is clear that paragraph (b) could apply, being for money "that is subject to the provisions of this or any other Act...". "Any other Act" would encompass the *WM Act*, so that if provisions of the *WM Act* state that the money may be used only for a specific purpose, then s. 409(3)(b) would apply to provide that it may only be used for that purpose.
43. It is less clear whether paragraph (a) applies in relation to monies received pursuant to the *WM Act*. The question is whether "money that has been received as a result of the levying of a special rate or charge" means money levied under the *LG Act*, or money levied under that or any other Act. Although not without doubt, I prefer the view that s. 409(3)(a) should be read in its full generality and not confined as relating only to special rates or charges levied under the *LG Act*.
44. Although express reference is made in s. 409(2) to a purpose allowed "by this or any other Act" and similarly s. 409(3)(b) refers to money subject to provisions of "this or any other Act" (as noted above), I do not think that the omission of such express reference in s. 409(3)(a) should be taken to confine the operation of that provision only to the *LG Act*. In my view, s. 409(3)(a) is intended to apply to monies held in the consolidated fund by virtue of subsection (1), with both sections applying to monies "received" by the council. As noted above, in my view s. 409(1) applies to all

money received by a council under the *LG Act* or any other Act, and s. 409(3)(a) should have a corresponding scope. Thus, both sections refer, in my view, to the same concept of money received under 'this or any other Act'.

45. I note that this interpretation should also, in my view, be applied to s. 410(1), which provides for alternative use of money raised by special rates or charges and refers, in almost identical language to s. 409(3)(a), to "money that has been received by a council as a result of the levying of a special rate or a charge". In my view, there would similarly be no reason to imply a restriction or to read down the full generality of this section to confine it to money levied under the *LG Act*. Indeed, I think s. 410(1) is intended to address the situation where monies received by a council in its consolidated account are no longer required for the purpose for which they were levied, and the purpose of that section in ensuring that monies are not left in the council's consolidated account unable to be used suggests that the section should be read in its full generality.
46. However, the contrary view that s. 409(3)(a) is confined to special rates and charges levied under the *LG Act*, is not without merit. In particular, I have considered that the concept of a "special rate" is a creature of the *LG Act* and a term with a clear meaning in the context of that Act specifically. Whilst this is not also true of the concept of a "charge", for which many provisions in other Acts provide, I am not sure that a charge in any other Act would necessarily be associated with use for a specific purpose, in the way that paragraph (a) assumes and which I consider applies in the context of the *LG Act*. For example, it may be difficult in some cases to ascertain the purpose for which a charge is levied under the *WM Act*. In my view, although again this is not without doubt, the purpose for which a charge was levied might be found in the provisions as to the basis for levying charges, the assessment of those charges and the functions of the WSA which the charge supports (see, for example, s. 310(2) of the *WM Act*). I have also considered whether other provisions of the *LG Act* relating to special rates or charges apply to charges levied under other Acts, and found these of little assistance, although some provisions expressly refer to charges levied under "this Act" or "this Act and the regulations": see e.g. s. 496B, which suggests that such a restriction should not be read into a provision such as s. 409(3)(a) which is silent on that point. Equally, but contrary, the lack of express reference to "any other Act" in s. 409(3)(a) can be instead seen as a deliberate omission, in light of the use of those words elsewhere in the section (see subsections (2), (3)(b), (4) and (5)(b)). Such equivocal and contrary indicators incline me not to restrict the full generality of s. 409(3)(a) on its own terms.

47. I have also considered the effect of cl. 223 of the *WM Regulation*, which provides:

"223 Central Coast Council

(1) The provisions of the *Local Government Act 1993* (and the regulations under that Act) that apply to the reduction and postponement of rates and charges under that Act apply to the reduction and postponement of service charges and other charges levied or imposed by Central Coast Council under the *Water Management Act 2000*.

(2) Subclause (1) does not extend to the requirement, under section 581 of the *Local Government Act 1993*, for councils to be reimbursed for a proportion of amounts written off under that Act."

48. This provision has the effect of applying certain provisions of the *LG Act* to charges which are levied under the *WM Act*. For their part, the provisions of the *LG Act* referred to (Part 8 of Chapter 15) do not contain any express reference to their application under the *LG Act* or any other Act. In that way, it might be said to suggest that those provisions of the *LG Act* would not otherwise apply to charges levied under the *WM Act*, but for the operation of cl. 223 of the *WM Regulation*. However, in my view this provision is neither directly applicable nor persuasive enough indication to read the words of s. 409(3)(a) without their full generality.
49. Finally, I note that I have also considered the effect of s. 409(8), which was introduced in 2003, and provides:
- “(8) Subsections (5)–(7) extend to a council that is a water supply authority within the meaning of the *Water Management Act 2000*.”
50. In my view, subsection (8) proceeds from the position that s. 409(3) applies to money which has been received by a council in its capacity as a water supply authority, that is, received pursuant to provisions of the *WM Act*. Otherwise, in applying the exception in subsections (5)–(7), subsection (8) would have no work to do. Subsection (8) was introduced by the *Local Government Amendment (National Competition Policy Review) Bill 2003*, and in his second reading speech for that Bill Mr Tripodi (Parliamentary Secretary) said² –
- “There are conflicting interpretations of the scope of section 409, and legislative amendment is proposed to clarify the situation... [s. 409(3)(d) to be omitted]. The bill also proposes the insertion of subsections (5) to (7) into section 409 of the Act to define the proper relationship between restricted funds held under section 409 and a council’s general funds, including the circumstances in which dividends may be paid by a council business activity.
- Under the amendments contained in the bill, a council may choose to deduct from the money which is restricted in its use for the purpose of water supply or sewerage services, an amount in the nature of a dividend, and to apply that money to any purpose under the Act or any other Act. That is, the dividend payment becomes available for use at council’s discretion...
- A further amendment relates to the ability of councils which are water supply authorities under the *Water Management Act 2000* to also pay a dividend. The *Water Management Act* does not specifically constrain councils which are water supply authorities from paying a dividend. Nevertheless this ability needs to be put beyond doubt. The bill will specifically provide that the ability to pay a dividend as per the amendments to section 409(5) and the constraints on such a payment under section 409(6) and (7) also apply to local councils which are water supply authorities under the *Water Management Act*.”
51. The effect of this subsection therefore supports me in a view that s. 409(3) does apply to money received pursuant to the *WM Act*. However, it is not persuasive of whether s. 409(3) paragraphs (a) and (b) both apply. Given that in my view it is clear that (b) applies, I have not found subsection (8) particularly helpful in construing the proper scope of s. 409(3)(a).
52. On balance, I prefer the view that s. 409(3)(a) could apply to money received pursuant to the *WM Act*, as that section should be read in its full generality and with a corresponding scope to s. 409(1). Section 409(3)(b) would also apply if the conditions in that paragraph were satisfied.

² Hansard, Legislative Assembly, 28 May 2003.

2.3 Are there any provisions in the WMA that restrict how the money collected under the WMA can be spent?

53. I have not located any express provisions in the *WMA* which restrict the way that money collected under the *WMA* can be spent, in a way which is comparable to the effect of s. 409(3) of the *LG Act*, for example.
54. I would observe, however, that the provisions by which money is collected under the *WMA* are in themselves restrictive of the way such money can be used. For example, many of the services for which charges can be levied under s. 310(1) of the *WMA* are services which have been declared to be "government monopoly services" under s. 4 of the *Independent Pricing and Regulatory Tribunal Act 1992* ("the *IPART Act*"): see the *Independent Pricing and Regulatory Tribunal (Water; Sewerage and Drainage Services) Order 1997*. Under s. 11 of the *IPART Act*, IPART has a standing reference to make determinations of the pricing for government monopoly services supplied by government agencies specified in Schedule 1, and Schedule 1 lists "water supply authorities" for that purpose.
55. Therefore, charges which relate to those government monopoly services will be subject to IPART determinations, by which a maximum price or a methodology for fixing the maximum price will be set. I understand these to be based generally on a cost-recovery model. In such a system, it is difficult to envisage that there is very much scope for discretion in the spending of monies collected pursuant to the *WMA*, as any surplus in one year would presumably be offset against the price determination in the following year. In the absence of a specific question arising for consideration, I will merely observe that in that way, the whole legislative scheme as applying to the Central Coast Council in its capacity as a WSA acts to restrain and control the ways in which it raises money for its operations. I would be happy to provide advice on any further question if you so wish.



Karen Smith
Crown Solicitor

E Karen.Smith@csso.nsw.gov.au

T (02) 9474-9238

[REDACTED]

Sent: Monday, 3 May 2021 10:19 AM

To: Natalia Cowley [REDACTED]

[REDACTED]

Subject: RE: FY20 Financial Statements

[EXTERNAL EMAIL] Do not click any links or attachments unless you have checked the sender and trust the content is safe. If you are unsure, please report this to IM+T Service Desk.

Good morning Natalia,

I hope you are well. I note Central Coast Council FY20 financial reports were to be presented at the Council meeting on 27/04/2021, however I am unable to locate them on the website.

Can you please advise whether the FY20 Financial Statements have now been finalised and, if so please send a copy through.

If Council has received a further extension, please send a copy of the correspondence from NSW Government through confirming the extension.

Please do not hesitate to give me a call if you have any queries.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

 Please consider the environment before printing this email

From: Natalia Cowley [REDACTED]

Sent: Tuesday, 1 December 2020 8:33 PM

[REDACTED]

Subject: RE: FY20 Financial Statements

Here you go, [REDACTED]

Natalia Cowley
Chief Financial Officer

Finance

Central Coast Council

PO Box 20 Wyong, NSW 2259

m: [REDACTED]

e: [REDACTED]



COVID-19 information and updates

We are continuing to monitor daily developments in response to COVID-19. Find out the latest

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[REDACTED]

Tuesday, 1 December 2020 6:04 PM

To: Natalia Cowley [REDACTED]

Cc: [REDACTED]

Subject: RE: FY20 Financial Statements

[EXTERNAL EMAIL] Do not click any links or attachments unless you have checked the sender and trust the content is safe. If you are unsure, please report this to IM+T Service Desk.

Thanks Natalia,

Do you have any correspondence from the NSW Government approving the extension, just so I can keep a copy on file.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



Please consider the environment before printing this email

From: Natalia Cowley [REDACTED]

Sent: Tuesday, 1 December 2020 11:22 AM

To: [REDACTED]

Subject: RE: FY20 Financial Statements

Hi [REDACTED]

Council has received an extension until 30 April 2021.

Thanks,
Natalia

Natalia Cowley

Chief Financial Officer
Finance

Central Coast Council

PO Box 20 Wyong, NSW 2259

m: [REDACTED]

e: [REDACTED]



COVID-19 information and updates

We are continuing to monitor daily developments in response to COVID-19. Find out the latest

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Please consider the environment before printing this email

From: [REDACTED]

Sent: Tuesday, 1 December 2020 11:13 AM

To: Natalia Cowley [REDACTED]

Cc: [REDACTED]
[REDACTED]

Subject: FY20 Financial Statements

[EXTERNAL EMAIL] Do not click any links or attachments unless you have checked the sender and trust the content is safe. If you are unsure, please report this to IM+T Service Desk.

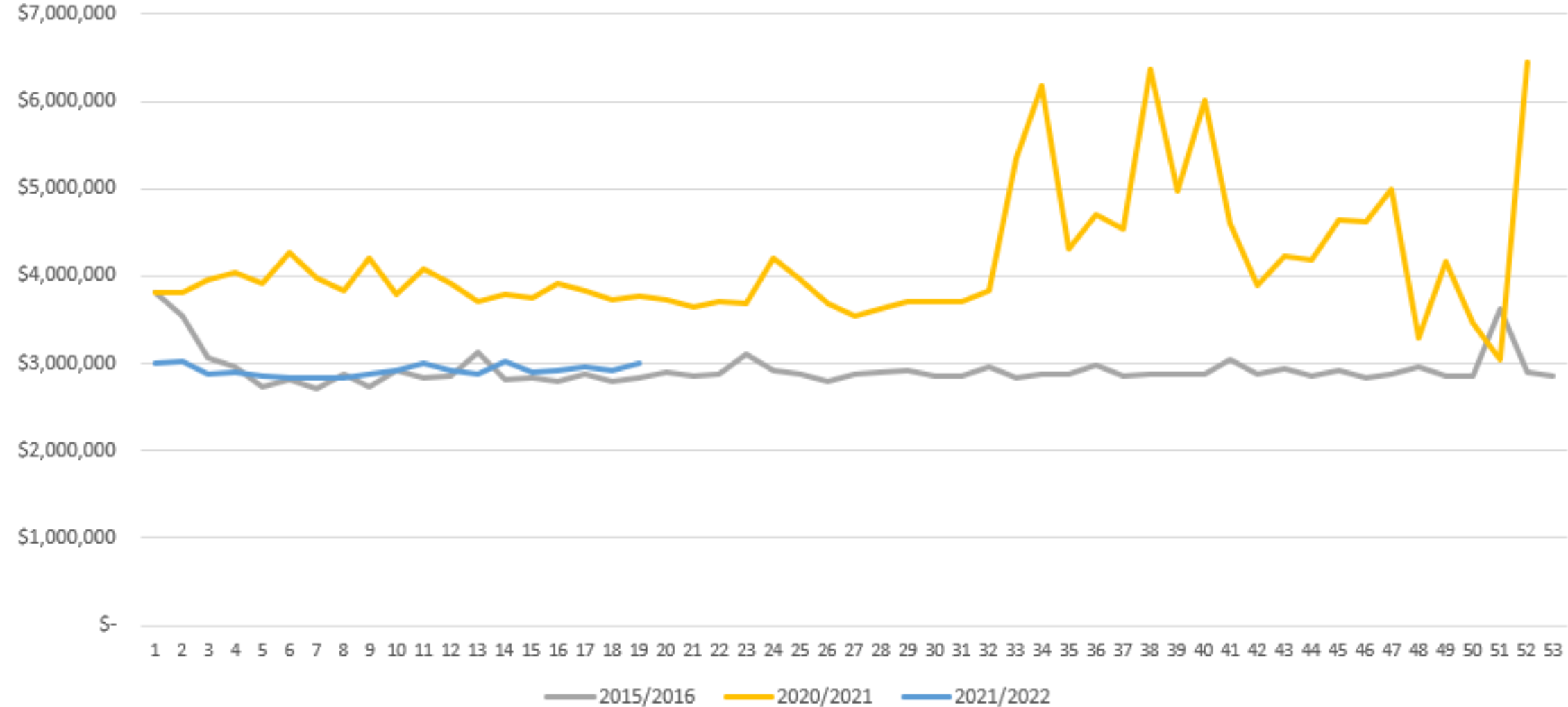
Good morning Natalia,

I hope you are well. I note the Audited Financial Reports for the financial year ending 30/06/2020 were due on 27/11/2020, however they are not on the Central Coast Council website.

Have you received an extension from the NSW Government for 2019/2020 Financial Reports? If so, can you please send me through the details.

Please do not hesitate to contact [REDACTED] or myself if you have any queries.

Gross Weekly Payroll - 2015/16 v 2020/21 & 2021/22



Productivity improvements

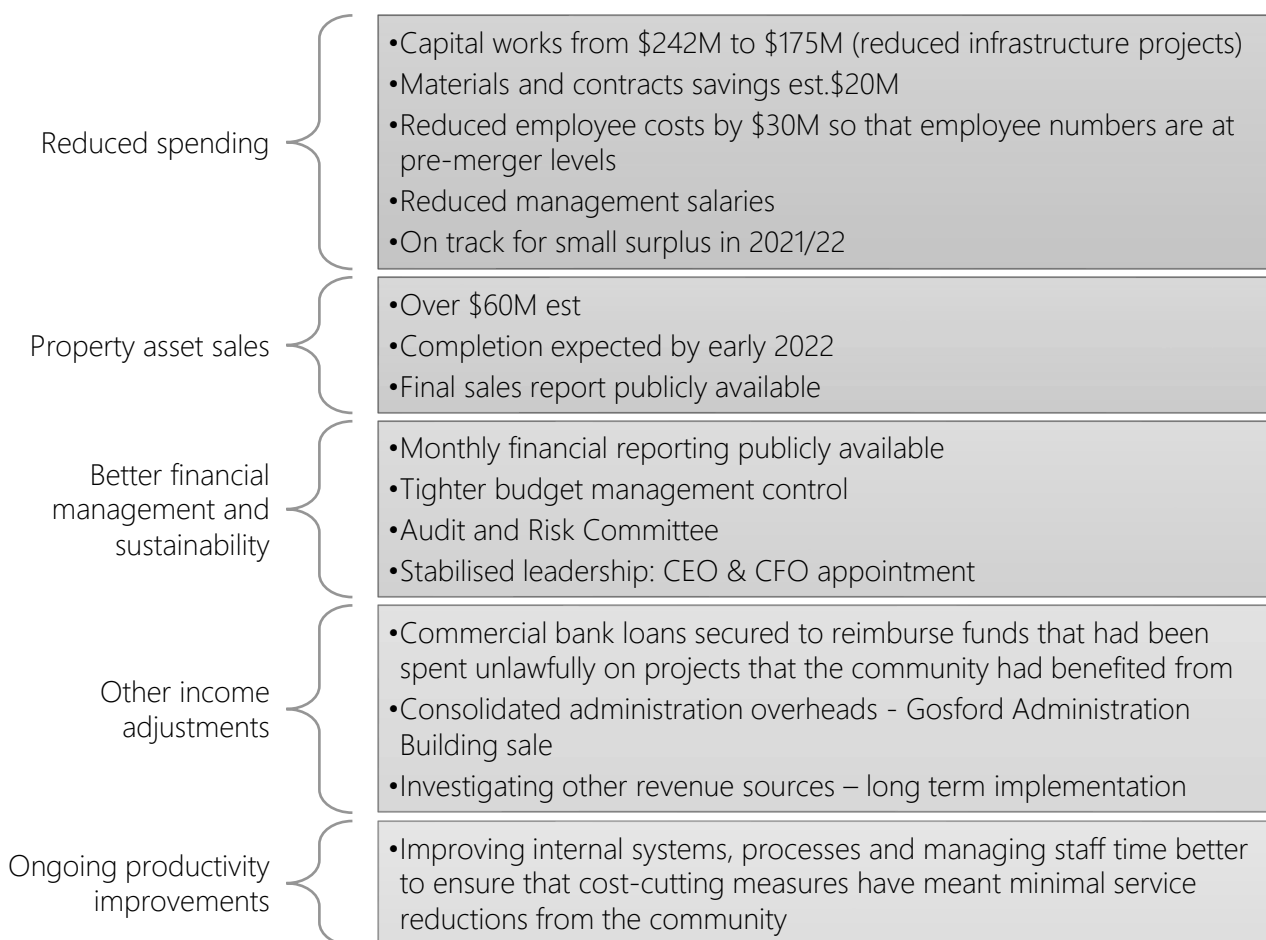
Fact Sheet



Getting our house in order

Council has taken decisive actions in a short space of time since uncovering its financial problems in November 2020. We have implemented measures to manage costs including significant staff reductions, restrictions of spending and reducing capital works programs (such as infrastructure and IT systems); selling property assets and obtained emergency bank loans to reimburse the restricted funds that had been spent unlawfully on projects that the community had benefited from. We have done everything we can behind the scenes to reduce costs without largely impacting on the services we deliver for the community.

Diagram 1. Council actions to fix the financial problem



Productivity improvements

Fact Sheet



These cost management measures made up 70% of what we needed to do to satisfy the external lenders that we were getting Council finances back on track. The other 30% came the temporary 13% (plus 2% rate peg) rate increase approved by the Independent Pricing and Regulatory Tribunal (IPART) in May 2021. This temporary increase is for three years only. The external loans are the backbone of our recovery and we are required to repay these within 10 years. To do this and continue to be able to deliver services at the current level, Council is proposing to apply to maintain the current rates for an additional seven years, or ten years in total.

Productivity improvements

Productivity improvements have also been made through better management of staff time; purposeful equipment to help staff do their job efficiently; and our technological progression coming to fruition with our staff benefiting from using upgraded technology systems and transitioning manual processes into digital ones. This means we have stopped some clunky and inefficient processes. These productivity improvements have ensured the necessary cost-cutting measures have meant minimal service reductions for the community. Some of these productivity gains will continue to have an ongoing positive impact on improved service delivery and the community will see the benefits year on year.

In a nutshell, we continually strive to be more productive, so we can use those 'saved hours of staff time' to deliver an improved service level for our community.

Diagram 2. Balancing costs reduction with productivity improvements.

Productivity improvements continually rebalances any cost cutting measures to ensure minimal service level impacts.



Cost cutting measures risk reducing service levels.

Productivity improvements

Fact Sheet



Snapshot of productivity improvements

<p>Consolidating services to make it easier for our customers and staff</p>	<ul style="list-style-type: none"> • One customer call centre reduced from two, providing one single phone number and point of contact • One rates management system, policy and procedures, following two rating systems being brought together • One main administration office building location reducing administrative overheads, with the future sale of Gosford administration building • One contract to manage three Animal Care Facilities instead of three different contracts • One pay cycle for staff, replacing five pay cycles and duplicated processes • One Local Environment Plan and Development Control Plan progressing, meaning already simpler development application administration processes and systems (2022 completion) • One provider for waste collection service, instead of two contracts continues to provide ongoing benefits • One provider for the transport and processing of garden organics and sewage biosolids, instead of five contracts continues to provide ongoing benefits • Capital works internal committee for one way of managing capital program and budget • Single road pavement inspection process to improve road pavement hazard identification • One Asset Management System removed multiple databases and reduced IT software license fees • Better maintenance work order system to save time scheduling maintenance activities and record cost per activity • One program for beach safety service reduced from two, providing single contract with Surf Lifesaving CC and consistent service for all 15 surf clubs across the coast • Annual cost savings since Council resumed management of three former YMCA leisure facilities in 2017 • One library back of house operations location, instead of four locations • Region wide Bike Plan and Pedestrian Access & Mobility Plan in place to inform and prioritise pathway linkages, instead of reviewing individual sections at different times • New Central Coast Civil Works Specification to standardise consistent delivery and maintenance of roads, drainage and pathways to reduce asset lifecycle costs, and ensure assets reach their required useful life
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Productivity improvements

Fact Sheet



	<ul style="list-style-type: none"> • One rolling ten-year road and drainage capital works program instead of multiple programs of work • One single road and drainage asset register instead of multiple systems
Technological progression benefitting our customers and staff	<ul style="list-style-type: none"> • Changing multiple, similar software systems to single systems • Utilising fit-for-purpose technology to improve services • Rationalising back-office functions by removing duplicated internal processes and manual work-around tasks • Improving data quality, reporting and analysis of activities • Saving staff time to be reallocated to other functions • Examples: <ul style="list-style-type: none"> - Library App to access library resources from mobile devices, reducing staff transactions - Asset Maintenance Management System to better utilise staff time for inspections and produce defects reports - Field technology instead of paper-based assessments for low risk works and - Key stroke generator software automatically loads fees and charges instead of manual input - Single system for field staff to check if a sports field is being used each day to reduce lost time by turning up to facilities that are being used - Partially automated preparation of Flood Certificates - Utilised industry leading technology to complete full network road and pathway audit with information being used to better plan future maintenance work programs - GPS data helping drive Plant and Fleet efficiencies and optimise monthly fuel tax credit (FTC) claims - Scheduling software for light vehicle drivers to easier book maintenance - Desktop booking software and electronic key cabinets facilitated new centralised car-share scheme, giving staff easy access to pooled vehicles for use on a short-term casual basis
Purposeful equipment so staff time is managed well	<ul style="list-style-type: none"> • Robot line marking machine for sports field marking, saving staff time • Higher efficiency mowing equipment with higher speeds and wider cutting decks to reduce the time per scheduled mowing service • All weather air condition mowers means less staff down time due to weather conditions e.g. dust, heat, rain • New sports fields, parks and playgrounds turfed with low slow growing couch turf minimising ongoing maintenance time

Productivity improvements

Fact Sheet



	<ul style="list-style-type: none"> Improved out of season preparation works for open space areas e.g. mulching around tree bases to maximise mowing by high efficient ride on mowers and reduce manual whipper snipping and push mowing time Remote operation of floodlighting and irrigation for some sporting facilities saving staff call out times New turf management chemical to better maintain sports field turf helping to reduce frequency of maintenance Accelerated upskilling in new collaborative technology, means the uptake has been highly optimised and benefits stay in place post-pandemic Conference and instant messaging software upgraded and continues to have positive collaborative benefits beyond enabling staff to work from home Maintenance management system (REFLECT) for proactively scheduling inspections and capturing asset defects Plans underway to establish permanent program of reuse/repurpose/recycle materials in construction of road and drainage capital works (minimise use of virgin material) LED streetlight replacement program creating ongoing energy cost savings and benefit of smart controls (supported by NSW Government) Default public litter hutch removed individually custom manufacturing of hutch types resulting in bulk purchase benefits
"BetterWays" program for staff ideas benefitting our community	<ul style="list-style-type: none"> Easy way for staff improvement ideas to be collected, investigated and put into place
More improvements scheduled over the next three years	<ul style="list-style-type: none"> One theatres management model being investigated for efficiencies, instead of three council theatres managed differently One public tree service system with consistent procedures and timeframes instead of two current systems One outdoor dining application and management process to replace two processes Consolidating a number of aspects of road, drainage and pavement design and overall management to create efficiencies in staff time Ten-year strategy to transition to electric light vehicles underway to stay abreast of industry trends and to reduce Council's total fleet fuel consumption rates One cemeteries management system combining a number of different processes

Productivity improvements

Fact Sheet



This information is current as at 8 November 2021.

Related resources

For more information visit

- [Your Voice Our Coast](#)

Ask us a question

Please contact us at:

ask@centralcoast.nsw.gov.au

1300 463 954

I think the time allocated may need to change but here are Carlton's thoughts

Craig Norman
Chief Financial Officer
Finance
Central Coast Council
P.O. Box 20 Wyong, NSW 2259
t: 02 4350 5540
m: 0438 821 222
e: Craig.Norman@centralcoast.nsw.gov.au

 Please consider the environment before printing this email

From: Carlton Oldfield <Carlton.Oldfield@centralcoast.nsw.gov.au>
Sent: Monday, 20 April 2020 2:01 PM
To: Craig Norman <Craig.Norman@centralcoast.nsw.gov.au>
Cc: Vivienne Louie <Vivienne.Louie@centralcoast.nsw.gov.au>
Subject: CMT - Financial Position Agenda

Hi Craig

I thought we would run with the following items on Thursday

1. Quick run through on P&L/Balance sheet since amalgamation. 5mins
2. Current status
 - a. Q3 performance including new forecast 2020FY budget as a result of Q3 budget changes
 - b. COVID impact
 - i. Commentary on recession and recovery
 - ii. Splinter award and underlying assumptions
 - iii. Prioritisation of uncommitted spend
 - iv. Building cash restrictions
 - v. Cashflow – reduced cash inflow
3. 2021 Budget and areas of opportunity 15mins
 - a. Capex improving use of external funding
 - b. Opex identifying cost savings or changes to timing
 - c. LTFP run through of LTFP P&L, Balance sheet and cashflow from 2021 Operational plan

What do you think? The bulk of the discussion should be related to the current circumstances but we need to give some thought as to how we came to be in our current financial position and what areas we need to consider improving to get our way of it.


Thanks
Carlton

Carlton Oldfield
Unit Manager
Financial Services
Central Coast Council
P.O. Box 20 Wyong, NSW 2259

From: [Craig Norman](#)
To: [Gary Murphy](#)
Subject: RE: CMT - Financial Position Agenda
Date: Tuesday, 21 April 2020 12:50:24 PM
Attachments: [image001.png](#)
[thinkbeforeprinting_e5c09e84-dcde-4361-86b6-799b29afe8a9.png](#)

Understand that the last time we tried to restructure is was extremely cost prohibitive and I suspect that would have increased

Craig Norman
Chief Financial Officer
Finance
Central Coast Council
P.O. Box 20 Wyong, NSW 2259
t: 02 4350 5540
m: 0438 821 222
e: Craig.Norman@centralcoast.nsw.gov.au

 Please consider the environment before printing this email

From: Gary Murphy <Gary.Murphy@centralcoast.nsw.gov.au>
Sent: Tuesday, 21 April 2020 12:13 PM
To: Craig Norman <Craig.Norman@centralcoast.nsw.gov.au>
Subject: RE: CMT - Financial Position Agenda

Thanks Craig – I agree the time allocations might be a bit optimistic.

He is on the right track – what is the current situation, what are the assumptions, what should we be looking at in terms of strategies to reduce costs/services.

I suspect that 31 May will be one indicator but it will be the quarters after that as I suspect there will be a lag effect.

We need to see what debt facilities we can realistic achieve to buy us some time.

It would be great if TCorp came to the party and allowed us to restructure some of our legacy debt.

Thanks

Gary Murphy
Chief Executive Officer
Office of the Chief Executive Officer
Central Coast Council
P.O. Box 20 Wyong, NSW 2259
t: 02 4350 5200
e: Gary.Murphy@centralcoast.nsw.gov.au

 Please consider the environment before printing this email

From: Craig Norman <Craig.Norman@centralcoast.nsw.gov.au>
Sent: Tuesday, 21 April 2020 9:23 AM
To: Gary Murphy <Gary.Murphy@centralcoast.nsw.gov.au>
Subject: FW: CMT - Financial Position Agenda

Gary

19 May 2020

Friday, 8 May 2020 9:15 AM

Kazzi role (Michael Kazzi (Grant Thornton)).

Hypocrisy of contractors with GT

No respect of finance

Questioning why wanting to help out, why bother

Not about leadership it is about listening and accountability

Raising FTE problems for years - blown out 450, business cases

Lack of financial accountability and culture

Delegations - lack of control, team leaders \$50k

Read monthly reports

Domestic waste and water has been masking poor behaviour

Trend last 3 years, behaviour

Accountability

Developer contributions 1%

\$300m of WIP

Disempowers finance not going to be party to it

Here's your budget, stick to it

Capex budget - funding from DC and grants

GT and finance and need to work together

ELT need to take action

Should have declined the role, business not respected

\$276m of WIP

Still working with TCorp

Mariners

Management letter progress

GT

NOM response

\$395m response

Car parking options

External loan offers came through last night - pay out loans and new capex

Tcorp discussions today

Cost control

Action based

Prep for audit

Core consolidation systems- increase redeployment pool

April month end

Contractor register from Michael

Receivables trending

Benchmarking

Delegation changes half them

Contractors

1:1 Meeting Notes

Between Gary &

Carlton Oldfield