



SUPPLEMENTARY ITEMS  
BUSINESS PAPER

ORDINARY MEETING OF COUNCIL

To be held on

Wednesday, 25 November 2020  
4pm

at

Armidale Council Chamber

**Members**

Viv May PSM - Interim Administrator

SUPPLEMENTARY AGENDA

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<b>Item:</b>	<b>8.7</b>	<b>Ref: AINT/2020/42153</b>
<b>Title:</b>	<b>Councillor and Staff Interaction Policy</b>	<b>Container: ARC16/0617</b>
<b>Responsible Officer</b>	<b>Principal Advisor Human Resources</b>	
<b>Author:</b>	<b>Stacey Drew, Executive Policy Advisor</b>	
<b>Attachments:</b>	1. Draft Councillor and Staff Interaction Policy Nov 2020 for adoption	

### **1. Purpose**

This Policy is to provide guidance and support for Councillors and Council Staff in the performance of their duties. It complements the Armidale Regional Council Model Code of Conduct and supports compliance with the 'Conduct and Interests' provisions in Part 4 of the Act.

This Policy seeks to ensure that Councillors understand their responsibilities under the Act and do not improperly direct or influence Council Staff.

### **2. OFFICERS' RECOMMENDATION:**

#### **That Council**

- a. Endorse the Councillor and Staff Interaction Policy (attached)**
- b. Revoke the current Policy POL195 Interaction between Councillors and Staff**

### **3. Background**

This updated Councillor and Staff Interaction Policy intends to govern a respectful, transparent and constructive relationship between Councillors and Council Staff, by articulating their different but complementary roles, defining reasonable expectations, and establishing clear and effective communication protocols that facilitate good governance and Council's optimum performance.

The creation and utilisation of a Councillor request register as per the draft Performance Improvement Order (PIO) issued by the Minister for Local Government will also contribute to effective and transparent communication between Councillor and Staff.

### **4. Discussion**

Under the Act it is the responsibility of the Council to appoint the General Manager. The General Manager is then responsible for employing staff for the successful operation of the organisation. As Council does not employ the staff, Council, or individual Councillors, cannot direct or manage staff and are responsible for the performance of the General Manager only. Further to this, Councillors are prohibited under Section 76E of the Act from improperly directing or influencing Council Staff. A Councillor must not direct, or seek to direct, a member of Council staff:

- a. in the exercise of a delegated power, or the performance of a delegated duty or function of the Council; or
- b. in the exercise of a power or the performance of a duty or function exercised or performed by the member as an authorised officer under legislation; or Implications

- c. in the exercise of a power or the performance of a duty or function the member exercises or performs in an office or position the member holds under legislation; or
- d. in relation to advice provided to the Council or a special committee, including advice in a report to the Council or special committee.

Improper or undue influence can include:

- Disrespecting the professional opinion, skills or expertise of staff through intimidatory, bullying, harassing or disrespectful behaviour;
- Using rank or position to seek information outside the processes outlined in this Policy;
- Pressuring staff to make a decision outside the formal Council decision making processes;
- Pressuring staff to provide information, services or assistance to one person, group or part of the community over another, outside a formal decision of Council;
- Pressuring staff to make a decision to take action outside normal business process timeframes;
- Pressuring staff to change a recommendation in a Council Report.

## **5. Implications**

### **5.1 Policy**

Other relevant policies are the Code of Conduct and the Business Ethics Policy.

### **5.2 Risk**

### **5.3 Sustainability**

### **5.4 Financial**

There are no financial impacts by implementing this recommendation.

## **6. Conclusion**

This Policy will be published on Council's website, intranet and a copy provided to all Councillors.

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<b>Item:</b>	<b>8.8</b>	<b>Ref: AINT/2020/42245</b>
<b>Title:</b>	<b>Review of Council Finances</b>	<b>Container: ARC20/4268</b>
<b>Responsible Officer</b>	<b>Interim General Manager</b>	
<b>Author:</b>	<b>John Rayner, Interim General Manager</b>	
<b>Attachments:</b>	<b>Nil</b>	

### **1. Purpose**

This report provides an analysis of the independent Review of Council Finances.

### **2. OFFICERS' RECOMMENDATION:**

#### **That Council:**

- a. Receive and note the report.**
- b. Refer the recommendations to the Acting General Manager for consideration and report to Council on implementation.**
- c. Formally thank Mr Finch, for his professional efforts in preparing the report and Ms Foley and Council's Finance staff for gathering information requested by Mr Finch.**

### **3. Background**

The Interim Administrator's Minute on 22 July 2020 stated:

*"Another priority that will require a reference to the Acting General Manager is the deterioration in the Council's reserves and unrestricted cash position since amalgamation in May 2016. A high level report was made to Council in December 2019 in relation to the matter that was simply received, when in my view warranted the urgent attention of the elected body.*

*The newly formed Council was obviously living beyond its means and unsustainable financial decisions were made that now have dramatically effect the Council's cash position. In short there has been a deterioration of available cash (internal reserve and unrestricted cash) of around 70% from the time of merger to June 2018. Since that time it appears to me that Council staff have worked to improve the cash position but it remains tenuous with a poor outlook and is now being also being further negatively influenced by the continuing impact of COVID-19.*

*These are matters that warrant detailed analysis which I believe will provide many explanations for criticism now being directed at Council for the lack of funds to finalise works underway and projected in the Strategic Plan."*

Ms Carolyn Foley, Executive Manager Financial Planning and Systems, Northern Beaches Council was seconded to commence the review. She undertook a desktop review and produced an overview of restricted and unrestricted cash.

From this Mr Robert Finch (Finch Consulting) a former Local Government Auditor was engaged to complete the review.

#### 4. Discussion

The summary of the findings of Mr Finch is as follows:

- *“Net Current Assets (working capital and reserves) declined by \$11m in the first three years of the new Council.*
  
- *The decline in Net Current Assets and Reserves is attributable to:*
  - *Council adopting deficit budgets (excluding capital grants) exceeding \$8.2m in total for FY2017 to FY2019.*
  - *Operating Expenditure in FY2017 and FY2018 substantially exceeding budget by \$11.6m thus exacerbating the original budget deficits.*
  - *Merger Implementation project expenditure (included in operating expenditure above) and funded by the \$5m NSW government grant, exceeding budget by \$0.6m. Redundancy payments of \$1.2m were included in merger project expenditure and an additional \$0.9m in redundancy costs associated with organisational restructures was funded by Council, bringing total redundancy costs since merger to \$2.1m.*
  - *Specific major capital projects (including the Library) exceeding the original budget estimates by \$4.2m.*
  - *Council proceeding with capital purchases without a budget or identified funding source, such as land adjacent to the Airport for \$0.67m.*
  - *Cash generated by operating cash surpluses together with external funding sources being insufficient to fund the capital works programs in FY2017 and FY2018, which, as a result, impacted on cash reserves.*
  
- *Expenditure on the new Library exceeded the original projection of \$3.5m by \$0.9m. Project approval was outside the original budget for FY2017 and as the original proposal to fund the project via a loan did not proceed, total costs contributed to the erosion in Net Current Assets. NSW Government Capital Expenditure Review guidelines do not appear to have been followed.*
  
- *Reserves (Internal Restrictions) established in FY2017 and FY2018 were either unfunded or relied on limited working capital cash for funding. This includes the Plant and Vehicle Reserve of \$2.24m, documented as a source of funding for acquisitions totalling \$3.2m in FY2017 and FY2018.*
  
- *Projects were initiated on the assumption that Reserves existed but in fact they had been extinguished.*
  
- *In the initial years, there was a significant lapse in management control, oversight and reporting to the Council in relation to expenditure on operating and capital projects and budget forecasting.*

- *Project management and oversight, from a financial perspective, was inadequate in the early years of the new Council.*

The recommendations from the review are:

- a) *“Council should adopt surplus budgets that ensure financial sustainability over the longer term.*
- b) *Council should adopt a Reserves policy that ensures a minimum of \$4-5m is available as unrestricted cash to fund working capital requirements before setting aside funds as Internal Restrictions.*
- c) *Establishment and funding of Reserves should be supported by Council resolutions.*
- d) *Council should request a fourth quarter budget review report to ensure that Councils financial position and performance is sound and that the budget for the ensuing year is based on current information.*
- e) *Council and the Audit and Risk Committee should ensure appropriate governance oversight and risk monitoring of major projects and budget reporting.*
- f) *Council should ensure that the budget approval and monitoring process incorporates detailed information in relation to major capital projects and funding sources.*
- g) *Management should establish an appropriate Project Management framework that is best practice, together with a reporting architecture that ensures accountability for budget variances.*
- h) *Management should ensure that quarterly budget reviews are complete, timely and accurate and reflect any adverse trends known to management.*
- i) *Projects should not be initiated in the Projects Ledger unless there is a fully funded budget allocation. The Project Ledger should be regularly reconciled with the General Ledger and adopted budget.*
- j) *Office of Local Government guidelines pertaining to Capital Expenditure Reviews should be applied to relevant projects.*
- k) *Council should ensure that sufficient resources are provided within the organisation to address the above recommendations.”*

## **5. Implications**

### **5.1. Policy**

The review highlights the need for a tightening of procurement, project management and reporting, financial arrangements and to adhere to the Office of Local Government Guidelines on Capital Expenditure.

## **5.2. Risk**

Council was exposed to serious reputational and financial risk during the years since merger. That exposure to risk has been recognised by the Minister for Local Government through her proposed Performance Improvement Order.

## **5.3. Sustainability**

Implementation of the recommendations plus those contained elsewhere in the Meeting Agenda should be implemented if Council is to be financially sustainable.

## **5.4. Financial**

The report reveals many financial and governance failings. Lessons of the past must be learned to ensure Council's financial future.

## **6. Consultation and Communication**

The report has been prepared by Mr Finch but with required research undertaken by Council's finance staff.

## **7. Conclusion**

The Executive Summary of the Report sets out the failings of proper financial management in the early years following merger. The recommendations will ensure improvement occurs in the future.



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<b>Item:</b>	<b>8.9</b>	<b>Ref: AINT/2020/42019</b>
<b>Title:</b>	<b>Financial Sustainability</b>	<b>Container: ARC20/4177</b>
<b>Responsible Officer</b>	<b>Interim General Manager</b>	
<b>Author:</b>	<b>John Rayner, Interim General Manager</b>	
<b>Attachments:</b>	<b>Nil</b>	

### **1. Purpose**

This report provides information on Council's financial position including a longer term view presented as part of Council's engagement with the community on the proposal to seek a Special Rate Variation. The report also references the requirements of the Minister for Local Government's draft Performance Improvement Order.

### **2. OFFICERS' RECOMMENDATION:**

#### **That Council:**

- a. Receive and note the report.**
- b. Direct the Interim General Manager to identify further savings from the revised 2020/21 Budget to enable \$500,000 to be allocated to assist in addressing the Minister's proposed Performance Improvement Order.**
- c. Commission an independent peer review of the Guyra Preschool business case.**
- d. Receive a report from the incoming General Manager on a comprehensive improvement plan for Council operations.**

### **3. Background**

Section 8A of the Local Government Act sets out guiding principles for Councils including:

- Providing best value for residents and ratepayers.
- Councils should consider long term and cumulative effects of actions.

Section 8B sets out the principles of sound financial management which apply to Councils including:

- Spending should be responsible and sustainable, aligning general revenue and expenses.
- Investing in responsible and sustainable infrastructure.
- Having effective financial and asset management.

Considering the lack of funding available for infrastructure renewal and maintenance and the many areas of understaffing in the organisation, actions need to be taken to ensure the financial sustainability of the organisation into the future.

#### **Draft Performance Improvement Order**

On 19 November 2020 the Minister for Local Government, The Hon Shelley Hancock, served Notice of Intention that she plans to issue a Performance Improvement Order (PIO) on the Council.

The Draft PIO has an emphasis on financial improvement and management.

As part of the reason for the Minister giving Notice of Intent to serve the PIO on Council include:

5. *There is an apparent failure to comply with statutory obligations that attach to procedures relation to section 356 of the Local Government Act 1993.*
6. *There is evidence that there are a number of unbudgeted financial commitments that are beyond the financial capacity of Council to support without reducing service levels.*
7. *The cash position remains tenuous as internal reserves are established for specific purposes and unrestricted cash level is low."*

The Minister also proposes to appoint a Financial Controller under Section 438HB of the Local Government Act for the following reasons:

1. Evidence from an interim financial review of Council's position indicates that:
  - a. *"There are a number of unbudgeted financial commitments that are beyond the financial capacity of Council to support without reducing service levels;*
  - b. *A number of asset ratios are below the recommended benchmark levels; and*
  - c. *The cash position remains tenuous as internal reserves are established for specific purposes and unrestricted cash level is low."*

#### **4. Discussion**

##### Merger

Prior to the merger of Guyra and Armidale Dumaresq Councils in 2016 both Councils were deemed by the Independent Pricing and Regulatory Tribunal (IPART) not to be fit for the future.

Armidale Dumaresq Council *"does not meet the scale and capacity criterion nor the financial criteria overall."*

*"We find Guyra Shire Council is not fit as a Rural Council."*

*"Guyra also does not meet the criterion for sustainability based on its forecasts for the operating performance ratio which depends on approval for a significant SRV to take effect in 2016-17, as well as unrealistic depreciation assumptions. Using more realistic assumptions, Guyra's operating performance ratio would be negative throughout the period to 2024-25."*

With that background coming into the merger there needed to be serious focus on the financial sustainability of the newly formed Council.

##### New Council Implementation Fund

The NSW Government provided funds of \$5m to new Councils formed in Regional New South Wales through the New Council Implementation Fund (NCIF) to assist Councils cover the up-front costs of setting up the new Council.

Examples of activities eligible for funding from the NCIF were:

- The provision of expert implementation advice, either from a panel of providers established by DPC, or procured locally
- Integrating systems to support the operation of the new council
- Redundancy payments for staff

- Signage for the new council
- Development and release of the website for the new council
- Change management programs or staff to support implementation.
- Cost of system upgrades.

The NCIF was allocated “for prudent and efficient deployment” of the fund and according to a May 2017 Council report supplemented other projects and activities being undertaken within existing operational budgets.

Through delegation, the program of activities changed on a regular basis and the acquittal expenditure was at considerable variance to the original plan.

Also a number of the projects funded by the NCIF are questionable in terms of compliance with the activities eligible for funding e.g. Dumaresq Creek Master Plan, Smart City Plan and Arts & Culture Precinct Master Plan.

\$1.1m or 20% from the fund was spent on redundancies.

There is still considerable work and cost associated with harmonising the former Council’s administrative functions and policy positions and underpinning the organisation with solid systems, processes and policies.

#### Forensic Review

An independent report “Review of Council Finances”, in particular the deterioration of internally restricted and unrestricted cash since the merger, provides an understanding of how Council is in this tenuous financial position.

#### Current Financial Position

Cash and investments are categorised as follows:

- Externally restricted cash represent funds received by the Council that must be spend in a specified manner, generally in accordance with legislation, a grant agreement or loan.
- Internally restricted cash has been restricted by Council for a specific program or purpose, generally to fund a liability or for a future infrastructure program.
- Unrestricted cash is the remaining cash held by Council for the purposes of meeting liquidity needs and to fund unanticipated items.

At 30 June 2020 Council held cash, cash equivalents and investments:

External restrictions	\$60,018
Internal restrictions	\$10,020
Unrestricted Cash	\$ 2,113
	<hr/>
	\$72,151
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#### Internal restrictions (Reserves)

Plant & vehicle replacement	\$ 885
Infrastructure replacement	\$3,317
Employee leave replacement	\$4,053

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Carry over work	\$1,136
Other	\$ 629
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	\$10,020

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Performance measures are within the industry benchmarks other than the important operating performance ratios which measures Council's achievement of containing operating expenditure within operating revenue, however most asset ratios are below industry benchmarks.

#### 2020/21 Budget

Council's operating environment has been challenging in recent years, coping with cost shifting and the additional imposts Council has had to meet. Responding to drought, bushfires, floods and Covid-19 has also had a detrimental impact on Council's operating result and key performance indicators with the operating performance ratio and the assets renewals ratio being most impacted.

The 2020-21 Budget includes a consolidated operating deficit of \$2.3 million with the following fund operating deficit results:

General Fund	(\$1,456,477)
Water Fund	(\$621,045)
Sewer Fund	(\$205,177)
Consolidated	(\$2,282,699)

Council and the community have benefited from the many grants received and this has facilitated numerous projects being brought forward.

Of concern is maintaining Council's ability to have a viable general revenue funded capital program once grants "dry up."

As the projects funded by grants are completed and operational Council's bottom line will be impacted by the depreciation and operating expenses associated with the new assets.

The 2020/21 First Quarter Budget Review was more focussed than in previous years at this time and this has resulted in a turnaround in the General Fund from a \$1.5m operating deficit to a \$805k operating surplus. That improvement however has been underpinned by land sales proceeds of \$1.07m.

To comply with the Minister's draft (PIO) further improvements will need to be made to Council's financial position.

#### Roads Renewal and Maintenance

Council has, after community consultation, adopted a Road Management Strategic Plan and set service levels for categories of road.

This table shows the 2017/18 Budget allocations (the first financial year after adoption of the Plan) and the cost to meet the level of service adopted against the current budget.

	Level of Service \$	2017/18 Budget \$	2020/21 Budget \$
Urban Rural Sealed Roads	\$1,696,953	\$1,696,953	\$1,371,392
Urban and Rural Sealed Roads Resealing	\$1,435,296	\$1,435,296	\$100,000
Urban & Rural Sealed Roads pavement renewal	-	\$1,475,000	-
Rural unsealed Roads Maintenance	\$2,503,861	\$2,503,861	\$1,934,840
Gravel Resheeting of unsealed roads	\$1,320,924	\$1,320,924	\$800,00
		\$8,432,034	\$4,206,232

The table shows that maintenance and renewal on local roads has fallen by 50% from \$8.43m to \$4.2m.

A further example of the severe reduction in basic infrastructure maintenance funding is the paltry amount allocated for kerb and gutter maintenance \$45,000; bridges maintenance \$8,000 and no footpath program.

#### Capital Expenditure

In December 2010 the Office of Local Government issued Capital Expenditure Guidelines to Councils setting rules for any capital project over \$1.8m (Current 10% of rate revenue for this Council).

Requirements include:

- Councils must undertake public consultation and engagement processes prior to making any commitment to the project.
- Confirmation that the project is included in the Council's community strategic plan, delivery program and operational plan.
- Notification to the Office of Local Government to ensure each project is properly evaluated and the financial impacts of projects on a Council can be quantified, identified and controlled.

Projects which did not meet requirements of the Capital Expenditure Guidelines include:

- Business Park (mainly grant funded, completed) \$6.5m
- Airport Apron (grant funded, completed) \$4.3m
- Airport Security Screens (grant funded, tender accepted but not yet installed). This project is around the \$1.8m.
- Proposed Guyra Long Day Care, poorly scoped, estimated cost \$5m+ but not yet totally funded. (In 2020/21 OP)
- Proposed Hydrotherapy Pool/Centre,, approximately \$4m, partly grant and Council funding but now subject to due diligence. (In 2020/21 OP)

Meeting of requirements has now been built into processes for planning and assessing capital projects which will exceed the \$1.8m threshold.

### Special Rate Variation

Council is currently engaging with the community on a Special Rate Variation (SRV), presenting 3 options for consideration.

Option 1 – A permanent SRV of 18.5% plus 2.0% rate peg (total 20.5%) commencing in 2021-22

Option 2 – A permanent SRV of 8.5% plus 2.0% rate peg (total 10.5%) commencing in 2021-22

Option 3 – Discontinuation of the temporary SRV of 10% (above the rate peg) applied by the former Armidale Dumaresq Council and ending on 30 June 2021.

If Council is not successful with options 1 or 2 through lack of community support, rejection by Council or by IPART, then Council would have an annual shortfall in funding of \$1.5m. That shortfall would be felt in infrastructure maintenance or renewal or in other service areas, further contributing to the financial stress Council is under.

At the face to face meetings occurring through the LGA there are constant calls for Council to “live within its means” and that following drought, bushfire and Covid, the timing of the proposed SRV, combined with rates harmonisation, is not well received by the community.

### Long Term Financial Outlook

As part of the Special Rate Variation (SRV) consultants Morrison Low (ML) undertook a Financial Assessment. In summary ML found:

- *“The analysis indicates that Council requires additional funds for a higher asset renewal program to ensure assets are in a satisfactory condition to meet service obligations.*
- *Council’s cash position needs to improve to achieve a financially sustainable position.*
- *In addition to the Special Rates Variation (SRV), Council needs to develop a comprehensive improvement plan that will have a positive impact on the operating result.”*

A significant rate variation is required if Council is to achieve operating surpluses and expand its asset renewal program.

This analysis should be considered in conjunction with the Minister’s claims that the Council’s “cash position remains tenuous.”

### Performance Improvement

Council cannot continue to go to its ratepayers and residents seeking additional rate revenue and additional charges without closely examining:

- Its spending priorities
- The level of service provided
- The way it delivers services
- Costs associated with “keeping the doors open”.

Such examination of its operation and implementation of change will need to go over 2 -3 years and require investment of time and resources to achieve. This will be at a time when the organisation is struggling, many key staff are carrying very heavy workloads and there are gaps in skills and numbers in delivering projects and refocussing on good governance.

### Future Capital Commitments

The Minister for Local Government, in her reasons for proposing to issue a Performance Improvement Order suggests there are a number of unbudgeted financial commitments that are beyond the financial capacity of Council to support without reducing service levels.

It is assumed these would include:

- Donation of land for Transport Museum.
  - Council is currently awaiting a Business Case from the proponents.
- Hydrotherapy Pool/Centre
  - There is a recommendation before Council to pause this project and that grant funds be reallocated to the proposed Guyra Pre school project.
- Rail Trail
  - Can only proceed if fully grant funded.
- Guyra Pre school
  - This project is underfunded and will require further grant funding if it is to proceed as originally scoped.
  - The business case needs to be peer reviewed.

## **5. Implications**

### **5.1. Policy**

Sections 8A and 8B of the Local Government Act set out principles which require Councils to provide value for ratepayers and for sustainable spending.

The Minister for Local Government has given notice that she intends to issue a Performance Improvement Notice on the Council requiring many financial issues to be addressed.

### **5.2. Risk**

Failure to address the financial issues faced by Council will potentially lead to:

- Further damage to Council's reputation
- The Minister's further intervention to issue a further Performance Improvement Order and/or temporarily suspending the Council
- A reduction in the Council's ability to deliver adequate service levels and maintain its infrastructure.

### **5.3. Sustainability**

Since the merger there have been reports to Council, and workshops highlighting Councils poor financial position in the General Fund.

Council's cash position is tenuous, internal reserves have been depleted. Deficit budgets have been adopted since merger and intervention was required in the 2018/19 financial year to reverse the unsustainable trend (see Report 11.1 to Council 11 December 2019). Recent drought, floods, fires and Covid have also impacted on Council's financial position.

The Minister's intervention has brought forward the urgency to address Council's poor financial position.

Council and the community are benefitting from many government grants. Many projects are being brought forward. The downside is that as these assets are depreciated and as operational costs are brought to account further deterioration of Council's finances occurs.

#### **5.4. Financial**

Improving Council's financial position and developing and implementing an improvement plan will require considerable investment of funds. This report recommends \$500,000 be invested in 2020/21 to pursue the changes required within the organisation and the assistance required to meet the Minister's proposed Performance Improvement Order.

#### **6. Consultation and Communication**

Wider ranging community engagement is currently taking place on proposals for a Special Rate Variation and Rates Harmonisation. Discussion at face to face meetings has centred on Council living within its means and addressing financial and service issues.

#### **7. Conclusion**

Council's financial position is tenuous and has now drawn intervention by the Minister for Local Government. Addressing the issue following drought, bushfires and Covid is adding to the challenge. An important part of ensuring Council is financially sustainable includes an organisation wide performance improvement plan.



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<b>Item:</b>	<b>10.18</b>	<b>Ref: AINT/2020/40976</b>
<b>Title:</b>	<b>Climate Emergency Action Plan: Allocation of final Budgeted Funding. Container: ARC16/0864</b>	
<b>Responsible Officer</b>	<b>Acting Director Organisational and Corporate Services</b>	
<b>Author:</b>	<b>Mandy McLeod, Sustainability Officer</b>	
<b>Attachments:</b>	1. Project 2 - I Can Do It - Energy Efficiency 2. CEWG Project 2 Budget 3. Project 3- Peri-Urban dwellers and Climate Risk 4. CEWG Project 3 Budget	

### **1. Purpose**

This report provides information on the allocation of expenditure from the remaining funding from 2020/2021 budget for the Climate Emergency Action Plan. These projects stem from the recommendations for priority actions from the Climate Emergency Working Group report *A Framework for Climate Action*. Both these projects will be undertaken in conjunction with Sustainable Living Armidale.

### **2. OFFICERS' RECOMMENDATION:**

#### **That Council:**

- a. Approve the expenditure of \$5,000 for Community education for decreasing energy use and increasing comfort within households.**
- b. Approve the expenditure of \$13,427 for Rural community responses to climate change impacts - understanding and implementing adaptation options in the face of Climate Risk.**
- c. Note that the expenditure is from the priority actions recommended by the Climate Emergency Working Group and Council staff stemming from the CEWG report, *A Framework for Climate Action*.**

### **3. Background**

This project stems from budgeted funding (\$60,000) for the Climate Emergency declared by Council in October 2019 and subsequent recommendations for priority actions from the report *A Framework for Climate Action*, prepared by the Climate Emergency Working Group. A separate report has been provided to the 25<sup>th</sup> November 2020 Ordinary Council Meeting (AINT/2020/38931) on the expenditure of funding for the first of the three projects, solar panels installation at Monckton Aquatic Centre at Armidale. This report relates to the expenditure of budgeted funding for the two remaining projects.

Armidale Regional Council declared a Climate Emergency at the Ordinary Council Meeting on 23 October 2019 (Resolution 211/19).

The Community Strategic Plan provides under Environment and Infrastructure for Community Outcomes:

1. The unique climate, landscape and environment of the region is protected, preserved and made accessible; and

2. The community can participate in initiatives which contribute to a sustainable lifestyle.

The Delivery Program 2018 – 2021 under Environment and Infrastructure under the second outcome above E2.1. states under Climate Change:

Promote or provide educational programs to increase community awareness of climate change risks and enable the community to implement climate change adaptation and mitigation actions in daily life.

The Operational Plan 2020/2021 E2. Sustainability action requires Implementation of the Climate Emergency Action Plan.

#### **4. Discussion**

The Climate Emergency Working Group was formed in March 2020 and an Interim report was provided to Council in April 2020 with their final report *A Framework for Climate Action* tabled at the ESAC meeting on 10<sup>th</sup> August and as part of the committee minutes at the Ordinary Council Meeting on the 19<sup>th</sup> August 2020, Resolution number 205/20.

Two separate briefs have been prepared by members of the Climate Emergency Working Group to address expenditure of the remaining funding (\$18,427) from the allocated budgeted funding of \$60,000, for Projects 2 and 3. The breakdown of expenditure for the \$60,000 into three projects is provided below, Table 1. The two briefs are attached to this report and an overview of each of the briefs is provided below, Project 2 and 3 Briefs.

The attached documents include the project brief, budget and detailed cost break down and outcome statements for Council endorsement.

#### **Project 2 Brief: Community education for decreasing energy use and increasing comfort within households.**

A series of workshops will be undertaken to assist Armidale Regional Council residents and businesses to reduce their carbon footprint, both at home and at work. Each workshop will run for two hours, with information, activities and questions and answers based around understanding:

- where energy goes and what it costs;
- how to reduce demand and usage; and
- how to make homes and workplaces more comfortable without added energy input.

The workshop information will also include options for rental properties, where physical changes can be limited. The workshops will be run on the Sustainable Living Armidale (SLA) “I Can Do It” program that was undertaken in 2011-2013. The four workshops will be facilitated by local architect, Mahalath Halperin with co-facilitation support provided by SLA volunteers.

#### **Project 3 Brief: Risk analysis on outcomes of climate change - rural community responses to climate change impacts, understanding and implementing adaptation options.**

Three ‘pilot’ workshops will be held in partnership with Southern New England Landcare using participatory leadership processes to draw on the experiences and knowledge of landholders on smaller lifestyle or hobby farm properties during the recent unprecedented drought, with respect to the risks and dangers they became aware of, and what they can do for the future.

Note that this project title has changed slightly and is now entitled - Peri-Urban Dwellers and Climate Risk, as it has been observed that landholders on larger properties with a stronger commercial focus are beginning to identify and address climate change risk with assistance from Landcare and Local Land Services. However Peri-urban/lifestyle block/hobby farm property owners on the other hand, operate differently. They usually have a much higher proportion of off-farm income and less focus on property management issues that could reduce climate change risks. The goal here is capacity building through sharing personal experiences within and across local community hubs as well as summary documentation and sharing across the community.

Southern New England Landcare Ltd will host this grant in partnership with Sustainable Living Armidale (SLA) through a Memorandum of Understanding. Peri-urban landholders are within Southern New England Landcare's remit, but are a niche group who are less supported due to insufficient resources.

Southern New England Landcare would engage and host the project officer and offer support and mentoring to run the workshop events. SLA membership and peri-urban and Landcare community members would provide in-kind volunteer contributions.

Table 1. Expenditure of \$60,000 allocated budgeted funding for Climate Emergency Action Plan.

<b>Expenditure Item</b>	<b>Indicative cost (exclusive of GST)</b>
Installation of Solar panels at Monckton Aquatic Centre	\$41,573
Community education for decreasing energy use and increasing comfort within households	\$5,000
Rural community responses to climate change impacts - understanding and implementing adaptation options in the face of Climate Risk.	\$13,427
<b>Total</b>	<b>\$60,000</b>

## **5. Implications**

### **5.1. Policy**

Council's Councils Community Engagement Policy states that ARC will strive to ensure fairness in the distribution of resources; rights are recognised and promoted; people have fairer access to the economic resources and services essential to meet their basic needs and to improve their quality of life.

### **5.2. Risk**

The two briefs, including budget and detailed cost break down have been prepared by CEWG members. CEWG members will be undertaking this work in conjunction with the Sustainable Living Armidale.

Council Officers will have regular meetings with CEWG members as to the progression of the projects and expenditure. There will be a signed agreement with the CEWG and project reports at the end of the each project.

### **5.3. Sustainability**

EcoARC is Councils “Green Print” strategy for environmental sustainability, was prepared as part of Councils commitment to the Community Strategic Plan 2017 – 2027. Protecting the environment, reducing pollution and waste and encouraging climate friendly lifestyles were priorities identified by the community in the Community Strategic Plan 2017 – 2027.

The expenditure of this part of the budgeted funding of \$60,000, will provide for education of the community on the reduction of energy consumption within their homes, as well as providing for education and information dissemination on reducing climate change risks through the peri-urban community across the Armidale Local Government Area.

Council has also partnered with the University of New England to undertake Project Zero30 with the aim of no additional contribution from our region to global temperature rise by 2030, (Ordinary Council Meeting 25<sup>th</sup> September 2019 Resolution 200/19).

#### **5.4. Financial**

In Council’s 2020/2021 Budget and Operational plan, \$60,000, has been allocated to implement actions arising from the Climate Emergency action plan (subsequently called *A Framework for Climate Action*, developed by the CEWG).

Table 1 above provides for the breakdown of the expenditure of this money. The two briefs attached provide budget and detailed cost breakdown of the projects.

#### **6. Consultation and Communication**

The CEWG is made up of community members and the project will be undertaken in conjunction with Sustainable Living Armidale.

#### **7. Conclusion**

Two separate briefs have been prepared by members of the CEWG to address expenditure of the remaining funding (\$18,427) from the allocated budgeted funding of \$60,000. The two briefs are attached to this report and an overview of each of the briefs is provided, and includes the budget and detailed cost break down and outcome statements for Council endorsement.

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<b>Item:</b>	<b>10.19</b>	<b>Ref: AINT/2020/41458</b>
<b>Title:</b>	<b>Hydrotherapy Centre</b>	<b>Container: ARC19/3235</b>
<b>Responsible Officer</b>	<b>Interim General Manager</b>	
<b>Author:</b>	<b>John Rayner, Interim General Manager</b>	
<b>Attachments:</b>	<b>Nil</b>	

### 1. Purpose

Following Council's decision to "proceed to open tender for design, build and operate" the New England Hydrotherapy Centre, further due diligence has been undertaken. This report provides information on financial aspects of the proposal and the processes required to pursue the decision.

### 2. OFFICERS' RECOMMENDATION:

**That Council:**

- a. **Pause the Hydrotherapy Centre project and not allocate any further time and resources to the project.**
- b. **Make representations to the local Federal and State Members and funding authorities and negotiate the possible re-allocation of grants from the Hydrotherapy Centre to the Guyra Long Day Care Centre Project and other projects.**

### 3. Background

Prior to and since the closure of the Armidale Hospital Hydrotherapy Pool, Council has gone down a number of paths in a bid to provide a Hydrotherapy Pool/Centre.

The latest decision of Council, 19 August 2020:

- a) *"That Council notes the findings of an Expression of Interest to explore possible entities, or consortium of entities, to provide design, builds and operate services for the development of the New England Regional Hydrotherapy Centre (NERHC).*
- b) *That Council notes a requirement under NSW Stronger Country Community funding requirement for acquittal \$1.4M by the end of FY 021.*
- c) *Council to proceed to open tender for design, build and operate."*

### 4. Discussion

#### The Project

Council's initial approach to the project was to limit the scope resulting in a restricted design of a Hydrotherapy Pool which was estimated by consultants at the time to cost \$200,000 to \$300,000 pa to operate.

In 2019 the concept was expanded to provide dry, income generating facilities which would offset revenue and operational costs.

The total cost of the project was estimated to be \$3.9m in 2018. Funding has been secured of:

\$1.46m	NSW Stronger Country Communities Funding (to be expended by June 2021 but an extension may be negotiated).
\$2.31m	Building Better Region Fund (to be expended by December 2020)
\$3.77m	TOTAL

#### Peer Review

To assist in the due diligence process Otium Planning Group (OPG) was engaged to undertake a peer review of capital and operating costs previously prepared for the purposes of seeking government grants.

OPG provides consulting services in planning facility development management and funding throughout Australia, New Zealand and Asia Pacific. The company has a wealth of experience in aquatic facilities, large and small.

#### Peer Review of Capital Expenses

OPG has calculated that the total new building area is 762m<sup>2</sup>.

*“The project plans also show a range of associated improvement works including:*

- *Demolition and removal of existing toddler’s pool/concourses and kiosk/entry/amenities works.*
- *New winter polycarbonate roll down curtains to weather protect the café seating area and access to amenities.*
- *Alter female change rooms.*
- *New car park, footpaths, landscaping and delivery driveway 850m<sup>2</sup> and 130m<sup>2</sup>.*
- *New 100m<sup>2</sup> splash pad and water features plus plant and shade structure.*
- *Upgrade to services allowance – power, water, sewer.*

*OPG’s review of the proposed development areas raises the following issues:*

- *The size of the hydrotherapy pool usable water area is small compared to other recently developed hydrotherapy pools especially when the access ramp (20m<sup>2</sup>) takes up 12% of water area. This will mean that user capacity will be lower as there is only 166m<sup>2</sup> of programmable water area.*
- *The water depths in the pool are unusual when compared to contemporary hydrotherapy pools being built.*
- *The access ramp complies with pool access and safety standards.*
- *Change/amenities are located at the deep end of the pool so this would not meet safe pool guidelines.*
- *The plant room allowance of 50m<sup>2</sup> appears low for the plant and equipment required to be located in this area which includes filtration, pumps, heating and air handling systems.*
- *The gym area is only 65m<sup>2</sup> which under industry standards would have a maximum member sales capacity of between 100 and 150. Use of the area would also be restricted*

*to around 7 pieces of equipment (based on 9m2/item industry benchmark) so user capacity at any one time would be less than 10 people.”*

*“Discussions with FDC (Council’s consultant) indicated the probable cost was not completed by a Quantity Surveyor but was done by FDC as a desktop process utilising similar rates and allowances from recently completed Regional NSW Aquatic facilities as at mid 2018.*

*This process indicates the probable cost estimates needs more detailed review to better scope/define the project areas plus determine exact finishes, fittings and equipment so an experienced aquatic facility quantity surveyor can then calculate a more accurate cost plan.*

- Total building works construction allowance: \$1,243,350
- Total estimated building area: 762m2
- Total construction cost allowance m2: \$1,631m2

*So the probable cost estimate is only allowing an average construction rate of \$1,631m2 which is around half of what OPG would use at a feasibility and planning stage (recently costed Regional NSW Aquatic Project was estimated at a construction cost per/m2 at \$3,300m2).*

*The review of activity area capacities plus the low construction cost allowances for building construction indicates detailed review should be undertaken on the proposed components, size of activity areas and capital cost allowances to provide greater surety on likely final development costs.”*

#### Operating Expenses

Without proper scoping of the project and preparation of a full business case it is impossible to accurately estimate operating costs. Initial estimates were \$200,000 to \$300,000 but based on a recommended approach with physiotherapy rooms and a profitable café that loss was projected to be a profit of up to \$400,000 per annum.

#### Peer Review Operating Expenses

*“OPG have reviewed the New England Hydrotherapy Pool financial spreadsheet business model and associated facility research and demographic data that informs the business case for a range of management options. As noted in our introduction there is very limited detail to allow us to see where the usage, income and expenditure numbers come from with most inputs not linked to an operating assumption linked to research or trends.*

*It is therefore not possible to review the business case spreadsheet and give any exact opinion on the projections or management models.*

*All of the facilities reviewed by Council to create trends and benchmarks (excluding the Campaspe Hydrotherapy pool) relate to feasibility studies or reviews on aquatic leisure centres that are in a spread of regional locations, populations and a mix of indoor and outdoor facilities. The majority of these facility studies have been completed by our company or affiliated companies and they are missing a lot of data especially related to how many facilities are in the council area and how much they are used and cost to operate.*

*We also need to note that the majority of Regional Hydrotherapy Pools we are aware of across Australia and New Zealand run at substantial operating losses, whilst this business model is projecting an operating surplus.*

*This is estimated at \$150,000 under an ACC-PPP Own/Operate Option (we have not sited such an option this type of facility in our 40 years in the industry). The lease model assumes a \$250,000 operating surplus which again we cannot assess due to the lack of information.*

*Unfortunately, this review in the end has posed more questions than answers. This is primarily due to the scattered range of information that has not focused on industry accepted facility feasibility and business planning processes.*

*Though the closure of a long standing hospital hydrotherapy pool will no doubt show immediate need for users/future users to have a replacement facility we know from industry experience the feasibility of such a facility does require specific study to assess:*

- *Components including size/capacities/multi use etc.*
- *Demand and need.*
- *Management operating modelling.*
- *Financial modelling for both capital and operational costs.*
- *Location and partnership development options be explored as in small population regional areas it is critical to cluster and connect like facilities to share high costs of staffing, services and maintenance especially as Armidale already has 2 indoor aquatic facilities operated by others that are open all year round.*

*In summary the current business and capital information available for us to review indicated Council is likely to be at considerable capital and ongoing operational loss/subsidy risk and we would recommend a detailed feasibility study be fast tracked to first identify, work on strategies to minimise these risks and ensure the most sustainable facility option and site is identified."*

#### Council Decision

Council's decision to proceed to open tender for "design, build and operate services" brings the Private Partnership Provisions (PPP) of the Local Government Act into play. The guidelines issued by the Office of Local Government (OLG) require that PPP arrangements should be fully considered and be independently and rigorously appraised.

The OLG has advised there will be a need for a specific resolution of Council for the project to proceed as a PPP.

Once that decision is taken the project must be referred to the Office of Local Government as a Significant or High Risk Project. The submission is to include:

- *"Project description and relationship to council's strategic and management plans including reason why a PPP is the preferred delivery model;*
- *Clear statement of outcomes/deliverables as agreed by a resolution of council;*
- *Projected timeframe for project;*
- *Estimated total project costs and sources of funding;*
- *Preferred extent/value of council contribution to project and/or equity position;*
- *Council annual revenue available for the type of PPP proposed;*
- *Preferred risk assessment/management plan prepared in accordance with AS/NZS 4360:2004;*
- *Preferred management and governance structure for the PPP entity."*

The OLG may then refer the project to the Project Review Committee (PRC) for initial assessment. The Council would then need to satisfy the PRC on six separate matters.

1. *"That a business plan has been prepared for the project;*



2. *The capacity of council to conduct the project (or its part of the project) has been assessed and is assured;*
3. *That a probity plan has been prepared for the project;*
4. *That a public interest evaluation has been conducted and the analysis shows a positive outcome for the community;*
5. *That a project plan has been prepared and includes appropriate economic appraisals of council's preferred option; and*
6. *Evidence of an appropriate competitive process; or, where a competitive process is not proposed, the reasons for this and the alternative process proposed."*

Council would need to engage specialist assistance if it intends to pursue this path.

If the Council proceeds with the project on its own it will need to do so under the Capital Expenditure Guidelines issued by the office of Local Government (OLG) as the project is expected to cost more than 10% of Council's annual ordinary rate revenue (ie. \$1.8m).

The Capital Expenditure Review Minimum Requirements include:

- Outline of the project
- Justification of Need
  - Relationship with CSP, Delivery Program and Operation Plan
  - Business case/feasibility study
- Analysis of community needs and expectations
- An outline of the projected costs in Council's Long Term Financial Management Plan and Asset Management Plan.

Council must provide information which will be used to assess the capacity of Council to manage the project to completion into the future, including a risk assessment of the project.

Council will also need to:

- Determine the priority of the project in relation to existing capital commitments and future works.
- Consider alternatives.
- Report on financial implications from a "whole of life" perspective.
- Undertake public consultation and engagement processes prior to making any commitment to the project.

Once these requirements are met the OLG is to be notified.

## **5. Implications**

### **5.1. Policy**

The Local Government Act, Section 8A sets out guiding principles for Councils including:

- Councils should carry out functions in a way that promotes the best possible value for residents and ratepayers.
- Councils should consider the long term and accumulative effects of actions on future generations.

Section 8B of the Act requires that:

- Council's should invest in responsible and sustainable infrastructure for the benefit of the community.

Council's 2020-2021 Operational Plan includes "Complete the design and begin construction of a commercially viable hydrotherapy pool and regional health complex."

Proceeding with the project will invoke Office of Local Government Guidelines and require a more in depth analysis of the project.

It is recognised that the State Government has committed funds to the project however the longer term financial responsibility will be met by Council. Council along with local government generally opposes cost shifting.

### **5.2. Risk**

To continue with this project as proposed exposes Council to extreme financial and reputational risk.

The project has been poorly scoped, a more detailed site analysis is required and there are questions around capital and operational costs.

### **5.3. Sustainability**

If the project proceeds the opportunity must be taken to ensure there is minimum impact on the environment through the use of clean energy.

Based on the assessments to date the project is not financially sustainable.

### **5.4. Financial**

Whilst State and Federal grants have been obtained it appears that capital costs have been underestimated and there is uncertainty that an operating surplus can be achieved.

If this is the case for the Council the question arises as to how a "design build and operate" (PPP) scenario would be financially viable. This can only be tested by undertaking the costly process required by the Office of Local Government.

Council has a \$2.5m shortfall in the funding for Guyra Preschool. Consideration should be given to negotiating a transfer of funds from the Hydrotherapy project to Guyra Preschool project.

## **6. Consultation and Communication**

In 2018 through an online survey of 342 residents the community ranked a new hydrotherapy pool as the second highest preference for allocation of grant funding.

If the Council proceeds under the Capital Expenditure Guidelines it will need to undertake community consultation.

## **7. Conclusion**

The author has serious doubts about the financial viability of the proposed Hydrotherapy Pool /Centre and the financial capacity of the Council to either construct and operate or enter a Private Partnership Provisions as suggested by the Council's latest decision..