



BUSINESS PAPER

GENERAL MEETING

**Wednesday 8 February 2023
at 6:30PM**



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AGENDA AND SUMMARY OF RECOMMENDATIONS

ACKNOWLEDGEMENT OF COUNTRY

Statement by the Chairperson:

"Council recognises the Traditional Owners of the lands of Hornsby Shire, the Darug and GuriNgai peoples, and pays respect to their Ancestors and Elders past and present and to their Heritage. We acknowledge and uphold their intrinsic connections and continuing relationships to Country."

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

Pastor David Nathan of The Hive Church, Hornsby will open the meeting in prayer.

ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY

Statement by the Chairperson:

"We recognise our Shire's rich cultural and religious diversity and we acknowledge and pay respect to the beliefs of all members of our community, regardless of creed or faith."

VIDEO AND AUDIO RECORDING OF COUNCIL MEETING

Statement by the Chairperson:

"I advise all present that tonight's meeting is being video streamed live via Council's website and also audio recorded for the purposes of providing a record of public comment at the meeting, supporting the democratic process, broadening knowledge and participation in community affairs, and demonstrating Council's commitment to openness and accountability. The audio and video recordings of the non-confidential parts of the meeting will be made available on Council's website once the Minutes have been finalised. All speakers are requested to ensure their comments are relevant to the issue at hand and to refrain from making personal comments or criticisms. No other persons are permitted to record the Meeting, unless specifically authorised by Council to do so."

APOLOGIES / LEAVE OF ABSENCE

POLITICAL DONATIONS DISCLOSURE

Statement by the Chairperson:

"In accordance with Section 10.4 of the Environmental Planning and Assessment Act 1979, any person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, and who has made a reportable political

donation or gift to a Councillor or employee of the Council, must make a Political Donations Disclosure Statement.

If a Councillor or employee has received a reportable political donation or gift from a person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, they must declare a non-pecuniary conflict of interests to the meeting, disclose the nature of the interest and manage the conflict of interests in accordance with Council's Code of Conduct."

DECLARATIONS OF INTEREST

Councillors are reminded of their Oath or Affirmation of Office made under section 233A of the Act and their obligations under the Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

Clause 4.16 and 4.17 of Council's Code of Conduct for Councillors requires that a councillor or a member of a Council committee who has a pecuniary interest in a matter which is before the Council or committee and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

- 4.16 *A councillor who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.*
- 4.17 *The councillor must not be present at, or in sight of, the meeting of the council or committee:*
- a) *at any time during which the matter is being considered or discussed by the council or committee, or*
 - b) *at any time during which the council or committee is voting on any question in relation to the matter.*

Clause 5.10 and 5.11 of Council's Code of Conduct for Councillors requires that a councillor or a member of a Council committee who has a non pecuniary interest in a matter which is before the Council or committee and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

- 5.10 *Significant non-pecuniary conflict of interests must be managed in one of two ways:*
- a) *by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or*
 - b) *if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.16 and 4.17.*
- 5.11 *If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also*

explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.

CONFIRMATION OF MINUTES

THAT the Minutes of the General Meeting held on 14 December, 2022 be confirmed; a copy having been distributed to all Councillors.

PETITIONS

PRESENTATIONS

RESCISSION MOTIONS

MAYORAL MINUTES

ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS

Note:

Persons wishing to address Council on matters which are on the Agenda are permitted to speak, prior to the item being discussed, and their names will be recorded in the Minutes in respect of that particular item.

*Persons wishing to address Council on **non agenda matters**, are permitted to speak after all items on the agenda in respect of which there is a speaker from the public have been finalised by Council. Their names will be recorded in the Minutes under the heading "Public Forum for Non Agenda Items".*

GENERAL BUSINESS

- *Items for which there is a Public Forum Speaker*
- *Public Forum for non agenda items*
- *Balance of General Business items*

OFFICE OF THE GENERAL MANAGER

Page Number 1

Item 1 GM2/23 PERFORMANCE REPORT DECEMBER 2022 - 2022-2026 DELIVERY PROGRAM; AND BUDGET 2022/23 - DECEMBER QUARTER REVIEW

RECOMMENDATION

THAT the:

1. December 2022 Performance Report showing progress of the 2022-2026 Delivery Program including the 2022/23 Operational Plan and Budget, be received and noted.

2. Quarterly Budget Review Statement for the period ending December 2022 be received and noted.

CORPORATE SUPPORT DIVISION

Page Number 9

Item 2 CS1/23 INVESTMENTS AND BORROWINGS FOR 2022/23 - STATUS FOR PERIOD ENDING 30 NOVEMBER 2022 AND 31 DECEMBER 2022

RECOMMENDATION

That the contents of Director's Report No. CS1/23 be received and noted.

Page Number 12

Item 3 CS2/23 COUNCILLOR EXPENSES AND FACILITIES POLICY - REPORTING REQUIRED BY SECTION 15 OF THE POLICY

RECOMMENDATION

THAT Council note that details regarding the provision of Councillor expenses and facilities for the period from 1 July 2022 to 31 December 2022 have been tabled in accordance with the Councillors' Expenses and Facilities Policy.

Page Number 19

Item 4 CS3/23 ELECTION OF DEPUTY MAYOR

RECOMMENDATION

THAT:

1. Council determine if it wishes to elect a Deputy Mayor.
2. If a Deputy Mayor is to be elected, Council:
 - a) Determine the period for which the Deputy Mayor is to be elected.
 - b) Determine if the election of the Deputy Mayor is to be by preferential ballot, ordinary ballot or open voting.
 - c) Request the Returning Officer to conduct the election, using the election method determined in b) above.
3. If a Deputy Mayoral election is held, the ballot papers (if any) be destroyed following the declaration of the election.

COMMUNITY AND ENVIRONMENT DIVISION

Nil

PLANNING AND COMPLIANCE DIVISION

Page Number 23

Item 5 PC1/23 CONFLICT OF INTEREST POLICY FOR COUNCIL-RELATED DEVELOPMENT AND APPLICATIONS INVOLVING COUNCIL STAFF OR COUNCILLORS

RECOMMENDATION

THAT:

1. Council endorse the amended 'Conflict of Interest Policy for Proposed Council Development and Applications Involving Council Staff or Councillors' attached the Director's Report No.1/23 for public exhibition.
2. The Policy be exhibited for a minimum of 28 days and subject to no objections being received raising significant issues, delegation be granted to the General Manager to approve the Policy.

Page Number 27

Item 6 PC2/23 REPORTING VARIATIONS TO DEVELOPMENT STANDARDS

RECOMMENDATION

THAT the contents of Director's Report No. PC2/23 be received and noted.

INFRASTRUCTURE AND MAJOR PROJECTS DIVISION

Nil

PUBLIC FORUM – NON AGENDA ITEMS

QUESTIONS WITH NOTICE

Page Number 30

Item 7 QWN1/23 TRAFFIC IMPACTS ASSOCIATED WITH WESTLEIGH PARK

MAYOR'S NOTES

Page Number 32

Item 8 MN1/23 MAYOR'S NOTES 01 DECEMBER 2022 TO 31 JANUARY 2023

NOTICES OF MOTION**Page Number 34****Item 9 NOM1/23 IMPACT OF CATS ON NATIVE WILDLIFE****COUNCILLOR TILBURY TO MOVE****THAT:**

1. Council reaffirm its position that there is a need to proactively address impacts of cats on the environmental qualities of our Shire as:
 - 1.1 Roaming cats are a direct threat to native fauna including threatened species which are found in our local bushland and National Parks.
 - 1.2 Requirements to keep cats at home have significant benefits for cats such as reducing threat of injury, disease and death, allowing beloved cats to live a longer, healthier life.
 - 1.3 Requirements for the responsible ownership of cats would be consistent with requirements for the management of other companion animals such as currently the case for dogs.
 - 1.4 Legislative reforms would allow council the flexibility to introduce cat containment policies in consultation with the local community that meet the specific needs of their area and protect local wildlife would be consistent with the approach of the majority of other States in Australia.
2. Council write to the NSW Government, the Opposition and NSW Greens and Independent Members of Parliament calling for:
 - 2.1 Changes to the Companion Animals Act 1998 to enable Hornsby Council to introduce containment policies in consultation with the local community, NSW National Parks and Wildlife Service and other agencies to meet the specific needs of the area, including phase-in periods, selection of areas within the LGA to which the policy applies and monitoring frameworks including consideration of resource allocation.
 - 2.2 A State-wide grant program to support councils implement domestic cat containment policies.
 - 2.3 Increased investment in programs to support responsible cat ownership such as measures for containment, desexing, identification and registration, and education to encourage people to keep cats indoors.
 - 2.4 Development of a central, State-wide online platform, in consultation with councils, relevant agencies and animal welfare bodies to make responsible pet ownership information easily accessible.

SUPPLEMENTARY AGENDA

MATTERS OF URGENCY

**1 PERFORMANCE REPORT DECEMBER 2022 - 2022-2026 DELIVERY PROGRAM; AND
BUDGET 2022/23 - DECEMBER QUARTER REVIEW**

EXECUTIVE SUMMARY

- Council is required to review its budget each quarter. At the same time, the Integrated Planning and Reporting Guidelines state that progress reports should be provided to Council on the principal activities detailed in its Delivery Program at least every six months.
- In this regard, the December 2022 Performance Report showing progress of the 2022-2026 Delivery Program including the 2022/23 Operational Plan and Budget, is attached for Council's consideration.
- The 2022/23 Original Budget forecast a surplus at 30 June 2023 of \$2.908 million. The September 2022 Review reduced the surplus by \$560K to \$2.348 million whilst this December 2022 Review recommends budget changes of \$316K that will reduce the surplus forecast at 30 June 2023 to \$2.032 million. The remaining surplus is required to provide capacity to respond to further unforeseen cost increases that can occur throughout the year.
- Progress against the adopted 2022-2026 Delivery Program including the 2022/23 Operational Plan and Budget, and the operational performance of the organisation has been in line with the service delivery standards adopted by Council.
- This Report also provides Council with an update about the latest status of major projects that are of significant dollar value or of community interest.

RECOMMENDATION

THAT the:

1. December 2022 Performance Report showing progress of the 2022-2026 Delivery Program including the 2022/23 Operational Plan and Budget, be received and noted.
2. Quarterly Budget Review Statement for the period ending December 2022 be received and noted.

PURPOSE

The purpose of this Report is to present for Council's consideration the December 2022 Performance Report showing progress of the 2022-2026 Delivery Program including the 2022/23 Operational Plan and Budget, as required under section 406 of the Local Government Act 1993 and the Integrated Planning and Reporting Guidelines, September 2021. Details within the Performance Report cover the six-month period 1 July to 31 December 2022. The Performance Report includes Council's Consolidated Budget Summary as at December 2022.

BACKGROUND

On 29 June 2022, Council adopted a four-year Delivery Program 2022-2026 including the Operational Plan and Budget 2022/23. The Delivery Program and Operational Plan set out the manner in which Council intends to deliver services and measure performance. This Performance Report provides updates on progress of actions within that document.

In line with Office of Local Government requirements, a Quarterly Budget Review Statement (QBRs) must be submitted for Council's consideration at the end of each quarter. The Statement must be based on key financial indicators and the estimate of income and expenditure set out in Council's Operational Plan for the relevant year. To streamline reporting the QBRs will be linked to the half yearly performance report for each December and June period.

DISCUSSION

Operational comment

The Delivery Program including the Operational Plan by its very nature contains a large number of Key Initiatives, Ongoing Activities and Capital Projects. All of these components are reported quarterly with an update on progress and a traffic light assigned for current status. These quarterly reports are lengthy and detailed, however relevant progress is summarised in commentary under each Focus Area within the attached Performance Report. Key Initiatives and Capital Projects Completed, On Hold or Needing Attention are listed under their relevant section.

The Report also contains updates on Major Projects, which are further detailed below in the Budget Section, and operational highlights which include:

- \$8.68 million of funding received for cycling and walking through the Get NSW Active Program which will deliver shared paths at Brooklyn and West Pennant Hills, as well as a pedestrian refuge island at Normanhurst
- Updated Long Term Financial Plan 2023/24-2032/33 adopted in November 2023 and resolution to apply to the NSW Independent Pricing and Regulatory Tribunal for a Special Rate Variation
- 14 voluntary community members appointed to the Hornsby Aboriginal and Torres Strait Islander Consultative Committee (HATSICC) in August 2022
- Seven voluntary community members appointed to the newly formed Arts and Cultural Advisory Group to participate in arts and cultural planning through the development of an Arts and Cultural Plan in December 2022
- 2021-2022 Annual Report endorsed in November 2022
- Healthy Ageing Hornsby 2022-2026 adopted in December 2022
- Park renewals at Hunt Reserve, Mount Colah and Warrina Street Oval, Berowra

- Sports surface upgrade at Mark Taylor Oval, Waitara and drainage works at Headen Park Oval, Thornleigh and Normanhurst Oval
- Restoration of the Glenorie War Memorial.

BUDGET COMMENT

This Review includes the second quarter results for 2022/23, comparing actual expenditure, income, and funding sources for the second quarter against the Budget. The Net Operating and Capital Result after internal funding movements showed a positive variance of \$2.3 million or approximately 1% of the consolidated year to date budget. This positive variance is typical at the second quarter and is the result of timing differences associated with project related works that are expected to be expended by 30 June 2023.

The 2022/23 Original Budget forecast a surplus at 30 June 2023 of \$2.908 million. The September 2022 Review reduced the surplus by \$560K to \$2.348 million whilst this December 2022 Review recommends budget changes of \$316K that will reduce the surplus forecast at 30 June 2023 to \$2.032 million. The remaining surplus is required to provide financial capacity to respond to further unforeseen cost increases that can occur throughout the year.

As noted within the Major Projects section of this report there are several risks to the project budgets for a number of current major projects that could require budget changes for additional funding before 30 June 2023. The financial impact of any associated costs escalations will be reported in future quarterly reviews should they occur.

The budget changes summarised below have been identified by staff for cost increases that have occurred during the second quarter to 31 December 2022. Additional expenditure has been offset by savings and income efficiencies identified from review of the budget:

- \$400K – Additional funding to remediate damage to Council's Road Network (discussed further below).
- \$500K – Capital expenditure for the refurbishment of Galston Aquatic Centre. This additional amount is a contingency to provide for ongoing supply chain challenges and the likelihood of an increased cost in materials and labour.
- \$55K – Implementation of performance appraisal software.
- \$55K – Expenditure to progress identified Property Strategy initiatives.
- (\$105K) – Additional income from commercial properties.
- (\$294K) – Savings from the original budget for signage, noting that the full scope of agreed works has been completed.
- (\$295K) – Savings identified following a detailed review of internal charges by Council Officers.

Damage to Council's Road Network

As noted in Directors Report CS92/22 –2023 Budget – September 2022 Quarter Budget (considered at the 9 November 2022 General Meeting) that over the course of the last year the Hornsby LGA was impacted by several abnormal weather events including ongoing heavy rainfall and three declared natural disasters that caused significant damage to much of Council's Road Network. An initial desktop assessment by Council Officers combined with customer relationship management (CRM) data identified five high priority roads requiring urgent remediation. The five roads are:

- Bay Road, Arcadia
- Arcadia Road, Arcadia
- Myra Road/Ingram Ave, Wahroonga
- Alexandria Parade (Romsey Street to Park Road), Waitara
- Greyson Road, North Epping

As at the 31 December 2022 the remediation of all five roads is substantially complete. Funding the works has required the use of Council's current budget for road remediation, plus an additional allocation of \$400K that is included within the budget changes section of this report.

Following numerous representations to the NSW Government seeking funding for flood and rain damage, including damage to local roads, the NSW Government recently announced a \$500M program for local councils to repair damage to road networks within their local government area. This has been in response to the heavy rainfall and floods experienced across NSW, which has impacted the condition of all roads.

Hornsby Shire Council is an eligible council and has applied to participate in this funding program. The amount of funding to be allocated to each local council will be determined by Transport for NSW based on the agreed length of each Council's Local and Regional Road network. While funding is yet to be allocated by Transport for NSW to Council, it is anticipated that should Council receive the full amount submitted as part of this program it will be sufficient to repair the damage to the road network caused by these flood events.

BUDGET - MAJOR PROJECTS

Updates in respect to the progress of projects of significant dollar value or of community interest are noted below.

As noted in Deputy General Manager's Report No. IM2/21 – Master Plan for Hornsby and Westleigh Parks (considered at the 14 April 2021 General Meeting), the financial capacity of Council to manage the operational, maintenance and renewal costs of facilities established for Hornsby Park and Westleigh Park based on the full scope of works identified in the draft master plans, would not be feasible based on Council's current financial capacity. Financial analysis by Council has indicated that an annual maintenance budget of \$1.4 million would be required to appropriately maintain this site.

Due to current financial constraints Council resolved to progress the development of Hornsby Park with minimal development at Westleigh Park until a budget for recurrent costs can be identified for Westleigh Park. In this regard it is noted that Council is progressing a Special Rate Variation application to the Independent Pricing and Regulatory Tribunal (IPART), that if successful will provide the required level of recurrent funding for the ongoing renewal and maintenance of both projects. A determination by the IPART most likely will be known in May 2023.

- **Hornsby Park – From Quarry to Park** – This project involves the redevelopment of the abandoned Hornsby Quarry and surrounding lands into open space for a broad range of recreation purposes. The tender awarded to Ditchfield Contracting Pty Ltd for the bulk earthworks and site rehabilitation has been continuing and is expected to cost about \$30 million as originally estimated. These works will create the final landform for the site and address site wide stability issues. \$5 million of the project budget has also been allocated for the regeneration of the vegetation communities on the site. Master planning for the final park embellishments has been completed with a master plan adopted following community

engagement at the July 2021 General Meeting of Council. Design of the park embellishments in accordance with the adopted master plan is well progressed. The total life to date expenditure on the project to 31 December 2022 including vegetation communities is \$22.2 million. Year to date expenditure to 31 December 2022 is \$7.2 million compared to a year-to-date budget of \$11.7 million. The variance is due to the contractor for the bulk earthworks continuing to have wet weather and supply chain delays.

Currently \$50 million of funding is available from the NSW Government's Stronger Communities Fund provided in June 2018 and at this point about 93% of the grant has been spent or committed by way of tender. Further funding of \$28 million is available from development contributions subject to the priority allocated to projects in accordance with development contributions on hand. As noted in Deputy General Manager's Report No. IM2/21 – Master Plan for Hornsby and Westleigh Parks (considered at the 14 April 2021 General Meeting), the total estimated cost of the facilities canvassed in the Master Plan for the park is significantly above the total level of funding available. Therefore, a reduction in scope compared to the Master Plan or staging the project over an extended period will be required unless additional funding can be identified, including additional funding for recurrent maintenance costs.

- Westleigh Park Development – A draft conceptual master plan for the Westleigh Park site has been completed based on the site having an active sport focus. Community engagement was undertaken on the conceptual master plan from April to June 2021. Council resolved at its July 2021 Council meeting to undertake further engagement on a range of matters prior to further considering the draft conceptual master plan. This engagement commenced in 2022 and is nearing completion. The total life to date expenditure to 31 December 2022 on this project (excluding the acquisition costs of \$21 million funded by development contributions) is \$2.602 million. Financial year to date expenditure at 31 December 2022 is \$378K compared to a year to date budget of \$568K. The variance is due to the impact associated with deferral of the planning process to allow for seasonal environmental reviews to be performed in early 2023.

A revised Master Plan and Plan of Management is due in the first half of 2023. A Development Application is expected to be delivered in the second half of 2023.

Currently \$40 million of funding is available, provided in June 2018 from the NSW Government's Stronger Communities Fund and expenditure to date (spent or committed via contract) approximates 9.5% of the grant. Further funding is available from development contributions subject to the priority allocated to projects in accordance with development contributions on hand. As noted in Deputy General Manager's Report No. IM2/21 – Master Plan for Hornsby and Westleigh Parks (considered at the 14 April 2021 General Meeting), the total estimated cost of the facilities canvassed in the Master Plan for the park is \$80 million. Therefore, a reduction in scope compared to the Master Plan or staging the project over an extended period will be required unless additional funding can be identified, including identifying a budget for recurrent operating, maintenance and renewal costs. Council's current position prioritises the delivery of Hornsby Park over Westleigh Park.

- **Public Domain** - Council identified two priority areas to improve streetscape amenity. They are:
 - Peats Ferry Road, Asquith between Hookhams Corner and Wattle Street.

- The Pacific Highway corridor between Asquith and Mt Colah.

A budget of \$9.3M was set aside for these works.

Upgrade works on Peats Ferry Road, Hornsby commenced early in 2021. The works include the installation of a shared path connecting walkers and cyclists to the Hornsby Town Centre as well as a wider footpath on the south side of the road to better accommodate Asquith Boys High School and the nearby medium-density housing. Installation of rain gardens, new street tree plantings and associated gardens which will bring improved shade and scale to the medium density housing are also included. The safety of pedestrians has been addressed with the relocation of pedestrian crossings and bus shelters to improve sightlines for drivers.

The initial contractor engaged to undertake the Peats Ferry Road Asquith works has ceased operating and a new contractor has been engaged to complete the project. Works have been completed on the shared path construction, central landscaped median strip and some pavement works. Remaining works are expected to be completed in early 2023 following decommissioning of a water main by Sydney Water.

Design works are underway for the Asquith to Mt Colah corridor to provide some basic improvements (wider footpaths and landscaping along the Pacific Highway and the construction of pedestrian refuge(s) at selected locations with the agreement of TfNSW. Council will consider these works in the second half of 2022 and subject to sufficient funds this work is expected to commence in 2023.

The total life to date expenditure to 31 December 2022 on this project is \$4.362 million out of a budget of \$9.3 million, funded from development contributions. Year to date expenditure at 31 December 2022 is \$1.062 million compared to a year to date budget of \$1.350 million. The variance is due to delays securing approvals to improve street lighting and decommissioning of a water main between Asquith Bowling Club and Hookhams corner.

- **Galston Aquatic Centre Refurbishment** - A tender for the refurbishment of the Galston Aquatic Centre was advertised in June 2021 and works commenced in November 2021.

Tendered costs for the refurbishment of this facility increased due to the impact of COVID-19 lockdown measures and cost increases largely arising from associated supply chain issues. Progressing with the original scope of work required an additional allocation to increase the budget by \$1.5 million from \$5.6 million to \$7.1 million. These costs include project scoping, detailed design, approvals, construction and contingency costs. An informal briefing in October 2021 was provided to Councillors in respect to budget increases following the tender results. This included a range of options from project deferral, staging of works and funding the original scope of work and the associated impact on Council's budget. Councillors supported the original scope planned for this project with funding sources identified. Concurrently the September 2021/22 Quarterly Review included budget changes to increase the project cost by \$1.5 million that required the use of internally restricted assets, deferment of maintenance, reallocation of grants funds and the partial use of the Original 2021/22 Budget surplus to fund increased capital costs. Council was also successful in obtaining a grant from the NSW State Government to cover part of the increased cost.

This report recommends a further increase to the budget of \$0.5 million from \$7.1 million to \$7.6 million. This additional amount is a contingency to provide for ongoing supply chain challenges and an increased cost in materials and labour caused by recovery following the COVID-19 pandemic and the war in Ukraine.

The facility is scheduled for completion in mid-2023 due to wet weather conditions and the forementioned supply chain challenges.

The total life to date expenditure to 31 December 2022 on this project is \$2.808 million out of a budget of \$7.1 million. Year to date expenditure at 31 December 2022 is \$1.102 million compared to a year to date budget of \$2.446 million. The variance is due to wet weather and procurement challenges.

- **Wisemans Ferry** – Construction is being managed by Council and includes a new three-lane boat ramp and 150 spaces for trailer and vehicle parking, as well as intersection upgrades and other ancillary works. The original budget for the project was \$3.85 million and was to be funded from a contribution from The Hills Shire Council and an external grant from the NSW State Government.

The project was impacted by the flooding of the Hawkesbury River in March 2021 and the September 2021/22 Quarterly Review included budget changes to increase the budget by \$3.75 million from \$3.85 million to \$7.6 million. Council Officers sought funding from NSW Public Works Advisory, the Environmental Protection Authority and other government agencies to cover the cost increase and the outcome of these applications are currently pending.

The December 2021/22 Quarterly Review noted that at least a further \$1.7 million in funding was required to complete the project following a claim from the contractor for additional money under the NSW Building and Construction Security of Payment Act, 2021. The review identified a risk to the total project budget that would be confirmed by a revised cost estimate being calculated at the time.

During the quarter ended 31 March 2022 the project was impacted by a second flood event that caused further damage to the site and some of the works undertaken to date. A further flood in July 2022 also affected the site. Council Officers estimated that to complete the project a further budget change of \$3.65 million was required that resulted in a further increase to the budget from \$7.6 million to \$11.25 million. The life to date expenditure incurred to 31 December 2022 is \$10.657 million.

It is noted that the General Manager has directed that an external review be undertaken for this project examining the construction and financial challenges that have occurred following the flooding of the Hawkesbury.

The works associated with the facility (including a toilet block) were completed in November 2022. Discussions are continuing with NSW Fisheries about the best way to protect the adjacent mangroves.

Works associated with paid parking at the site are the subject of a separate tender and are separately funded with an available budget of \$475K.

BUDGET

This Report provides the December 2022 Quarter Review of the 2022/23 Operational Plan (Budget), which, if adopted, will achieve a forecast surplus at 30 June 2023 of \$2.032 million. The predicted Budget result at 30 June 2023 is satisfactory in maintaining financial benchmark indicators in respect to liquidity.

While financial liquidity is satisfactory as part of this 2022/23 December Quarter Review, it should be noted that Council's long term financial capacity is forecast to decline below acceptable levels during

the next ten years as reported within General Manager's Report GM34/22, Adoption of a Draft Long Term Financial Plan for 2023/24 – 2032/33 and Progression of a Special Rate Variation Application for 2023/24 at the 23 November 2022 General Meeting. Accordingly, Council is progressing an application for a Special Rate Variation to improve future financial capacity as recommended in the Long Term Financial Plan.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

Council's consideration of this Report ensures that relevant statutory requirements have been met. The December 2022 Performance Report and quarterly budget review demonstrate that Council remains in a stable position to deliver local services and facilities in a financially responsible manner at 31 December 2022. However, financial capacity is forecast to fall below acceptable levels during the next 10 years unless recommendations to improve future financial direction included within Council's LTFP are addressed.




RESPONSIBLE OFFICER

The officers responsible for preparation of this Report are the Manager, Strategy and Place –Julie Ryland and the Chief Financial Officer – Duncan Chell. They can be contacted on 9847-6773 and 9847-6822 respectively.

GLEN MAGUS
Director - Corporate Support
Corporate Support Division

STEVEN HEAD
General Manager
Office of the General Manager

Attachments:

1.  Performance Report - December 2022
2.  Quarterly Budget Review Statement - December 2022
3.  Consolidated Budget Results

File Reference: F2022/00059
Document Number: D08556131

2 INVESTMENTS AND BORROWINGS FOR 2022/23 - STATUS FOR PERIOD ENDING 30 NOVEMBER 2022 AND 31 DECEMBER 2022

EXECUTIVE SUMMARY

- This Report provides details of Council's investment performance for the periods ending 30 November 2022 and 31 December 2022, as well as the extent of its borrowings at the end of the same period.
- Council invests funds that are not, for the time being, required for any other purpose. The investments must be made in accordance with relevant legislative requirements and Council's policies and the Chief Financial Officer must report monthly to Council on the details of funds invested.
- All of Council's investments have been made in accordance with the requirements of the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.
- In respect of Council's cash and term deposit investments:

The portfolio achieved an annualised return for November 2022 of 4.19% which includes a yield of 21.99% from TCorp Managed Funds.

The portfolio achieved an annualised return for December 2022 of 1.45% which includes a yield of -17.93% from TCorp Managed Funds.
- On a financial year to date basis the portfolio achieved a positive annualised return of 2.69% at 31 December 2022 which includes a yield of 4.14% from TCorp Managed Funds.

RECOMMENDATION

That the contents of Director's Report No. CS1/23 be received and noted.

PURPOSE

The purpose of this Report is to advise Council of funds invested in accordance with Section 625 of the Local Government Act; to provide details as required by Clause 212(1) of the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy; and to advise on the extent of Council's current borrowings.

BACKGROUND

Legislation requires that a report be submitted for Council's consideration each month detailing Council's investments and borrowings and highlighting the monthly and year to date performance of the investments. Initial investments and reallocation of funds are made, where appropriate, after consultation with Council's financial investment adviser and fund managers.

DISCUSSION

Council invests funds which are not, for the time being, required for any other purpose. Such investment must be in accordance with relevant legislative requirements and Council Policies, and the Chief Financial Officer must report monthly to Council on the details of the funds invested.

Council's investment performance for the months ending 30 November 2022 and 31 December 2022 is detailed in the attached documents. In summary, the portfolio achieved an annualised return for November 2022 of 4.19% and December 2022 of 1.45%.

On a financial year to date basis the portfolio achieved an annualised return of 2.69% at 31 December 2022 which includes a yield of 4.14% from TCorp Managed Funds.

In respect of Council borrowings, the interest rate payable on the outstanding loan taken out in June 2013 (the last time that Council borrowed), based on the principal balances outstanding, is 5.89%. The Borrowings Schedule as at 30 November 2022 and 31 December 2022 is also attached for Council's information.

BUDGET

Budgeted investment income for the year is \$4,788,420 with an average budgeted monthly income of \$399,035.

Net investment income for the month ended 30 November 2022 was \$1,031,287 including an unrealised gain of \$353,742 from TCorp Managed Funds.

Net investment income for the month ended 31 December 2022 was \$396,066 including an unrealised loss of \$363,365 from TCorp Managed Funds.

Budgeted investment income year to date at 31 December 2022 was \$2,394,211. Total investment income year to date at 31 December 2022 is \$4,117,246 which includes a year-to-date unrealised net gain of \$434,617 from TCorp Managed Funds.

Approximately 53.29% of the investment income received by Council relates to externally restricted funds (e.g. Stronger Communities Grant funding and Section 7.11 and Section 7.12 development contribution funds) and is required to be allocated to those funds. All investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.

Returns from TCorp Managed Funds are presently experiencing significant market volatility due to external economic conditions caused by the recovery from the COVID-19 Pandemic. It is noted that this product has a 7-year investment horizon and will, therefore, reflect marked to market valuations

monthly. Advice provided by Council's independent investment advisor, Prudential Investment Services, is to hold this investment for the 7-year timeframe originally planned. This is due to the anticipated net positive performance returns that will be gained over the long term for this investment.

CONCLUSION

The investment of Council funds and the extent of its borrowings as at 30 November 2022 and 31 December 2022 is detailed in the documents attached to this Report. Council's consideration of the Report and its attachments ensures that the relevant legislative requirements and Council protocols have been met in respect of those investments and borrowings.





RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Chief Financial Officer – Duncan Chell - who can be contacted on 9847 6822.

DUNCAN CHELL
Chief Financial Officer
Corporate Support Division

GLEN MAGUS
Director - Corporate Support
Corporate Support Division

Attachments:

1.  HSC Investments Summary Report November 2022
2.  HSC Borrowings Schedule November 2022
3.  HSC Investments Summary Report December 2022
4.  HSC Borrowings Schedule December 2022

File Reference: F2004/06987-02
Document Number: D08548328

3 COUNCILLOR EXPENSES AND FACILITIES POLICY - REPORTING REQUIRED BY SECTION 15 OF THE POLICY

EXECUTIVE SUMMARY

- The Councillors' Expenses and Facilities Policy, which is modelled on the Office of Local Government's Better Practice Template, requires that a report on the provision of facilities and payment of expenses to Councillors is to be tabled at a Council Meeting at six monthly intervals.
- Council last considered the required report at the General Meeting of 10 August 2022.
- This report covers the 6-month period from 1 July 2022 to 31 December 2022. Details are provided of expenditure grouped according to specific categories, summarised by individual Councillor and as a total for all Councillors.
- It is recommended that Council note the contents of the Report.

RECOMMENDATION

THAT Council note that details regarding the provision of Councillor expenses and facilities for the period from 1 July 2022 to 31 December 2022 have been tabled in accordance with the Councillors' Expenses and Facilities Policy.

PURPOSE

The purpose of this Report is to comply with Clause 15 of the Councillors' Expenses and Facilities Policy which requires regular reporting of the details of expenses incurred, and cost of facilities provided, for each Councillor. The Report is to include expenditure grouped according to specific categories, summarised by individual Councillor and as a total for all Councillors.

BACKGROUND

The Councillors' Expenses and Facilities Policy requires that a report on the provision of expenses and facilities to Councillors be tabled at a Council Meeting at regular intervals. The relevant Clause states:

15.1 Council will report on the provision of expenses and facilities to councillors as required in the act and regulations.

15.2 Detailed reports on the provision of expenses and facilities to councillors will be publicly tabled at a council meeting every six months and published in full on council's website. These reports will include expenditure summarised by individual councillor and as a total for all councillors.

Council last considered a report on Councillors' Expenses and Facilities at the 10 August 2022 General Meeting (Report No. CS59/22). In accordance with Section 15 of the Policy reporting takes place on a six-monthly basis. This Report includes expenses incurred in the 6-month period from 1 July 2022 to 31 December 2022.

The main categories of expenses facilities are summarised in the table below. The Councillors – Expenses and Facilities Policy was reviewed at the 11 May 2022 General Meeting, as part of Director's Report No. CS4/22. The table below shows the amounts which apply to the financial year 2021/2022, as stated in the Policy Summary, these amounts are to be increased by CPI each year.

General travel expenses (other than travel associated with Conferences and Professional Development)	\$5,250 total for all Councillors	Per year
Interstate, overseas and long-distance intrastate travel expenses	\$0	Per year
Accommodation and meals	As per the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, adjusted annually	Per meal/night
Professional development (includes associated travel and subsistence where applicable)	\$31,500 total for all Councillors	Per year

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Conferences and seminars (includes associated travel and subsistence where applicable)	\$36,700 total for all Councillors (Increased to \$51,700 in the years where the LGNSW Conference is held outside the Sydney metropolitan region.)	Per year
ICT expenses	\$4,750 per Councillor \$2,650 per Councillor	Per year (first year of election) Per year (following years of election)
Carer expenses	\$2,100 per Councillor	Per year
Home office expenses (equipment and facilities other than stationery)	\$350 per Councillor	Per year
Stationery	\$3,150 total for all Councillors	Per year
Postage stamps	Provided by Council	Not relevant
Christmas or festive cards	\$1500 for the Mayor \$500 total for all other Councillors	Per year
Access to facilities in a Councillor common room	Provided to all Councillors	Not relevant
Council vehicle and fuel card	Provided to the Mayor	Not relevant
One reserved parking space at Council offices One shared parking space at Council offices	Provided to the Mayor Shared by all Councillors	Not relevant
Furnished office	Provided to the Mayor	Not relevant
Number of exclusive staff supporting Mayor and Councillors	Provided to the Mayor and Councillors	Two
Spousal attendance at conferences	\$1,050 for the Mayor \$550 per Councillor	Per year

Attendance at non-Council functions	\$1,050 for the Mayor \$550 per Councillor	Per year

DISCUSSION

When Council last reviewed its Councillors' Expenses and Facilities Policy in May 2022, it was required to ensure that the Policy was in line with, and modelled on, the "Councillor Expenses and Facilities Policy – Better Practice Template" issued by the Office of Local Government (OLG).

To ensure greater accountability across councils, and public availability of information regarding expenditure on councillor expenses and facilities, the OLG's Better Practice Template, and subsequently Council's adopted Policy, incorporates a requirement to record expenditure for each individual Councillor, as well as a total for all Councillors, across the categories detailed in the above table. This reporting is required to occur at six monthly intervals and is generally provided to Council in August and February each year.

[N.B. The reporting requirements of the Councillors Expenses and Facilities Policy are in addition to, and provide greater detail than, those which are required by Section 217 of the Local Government (General) Regulation to be included in Council's Annual Report.]

Council officers have established appropriate administrative procedures to ensure that the relevant information is captured in a manner which satisfies the reporting requirements of the Policy.

The table below provides the required information for the 6-month period from 1 July 2022 to 31 December 2022. Where an explanation or clarification is required about particular expenditures (marked with a * in the table), comments are provided in the text following the table.

Expense or Facility July 2022 - December 2022															
	General travel (other than associated with Conferences + Professional Development)	Interstate, overseas + long distance intrastate travel expenses	Accomm + meals (When not associated with a Conference etc)	Professional development (Incl associated accom & travel)	Conferences & seminars (Incl associated Travel & Accom)	ICT - Computer / Ipad Only	Mobile Phone + Data Plan (incl Internet etc for Computer)	Carer expenses	Home office expenses	Stationery	Postage stamps	Christmas or festive cards	Spousal attendance at conferences Name Badges	Attendance at non-Council functions	Total
Ruddock	80	-	-	220	2,245	-	1,034	-	-	-	-	2150*	-	-	\$ 5,729
Tilbury	-	-	-	-	1,845	-	585	-	-	155	-	-	-	-	\$ 2,585
Waddell	53	-	-	220	2,246	-	501	-	-	-	-	-	-	-	\$ 3,021
McIntosh	-	-	-	220	2,326	-	887	-	-	-	-	-	-	-	\$ 3,433
Heyde	145	-	-	220	2,246	-	34	-	-	-	-	-	-	-	\$ 2,645
Ball	-	-	-	220	1,964	-	-	-	-	-	-	-	-	-	\$ 2,184
Greenwood	-	-	-	-	-	-	251	-	-	-	-	-	-	-	\$ 251
McClelland	-	-	-	365	2,015	-	211	-	-	-	-	-	-	-	\$ 2,592
Pillamarri	-	-	-	220	2,246	-	209	-	-	-	-	-	-	-	\$ 2,675
Salitra	978	-	-	602	1,964	-	87	570	-	-	-	-	-	-	\$ 4,200
Total	1,256	-	-	\$ 2,287	\$ 19,098	-	\$ 3,799	\$ 570	-	\$ 155	-	\$ 2,150	-	-	\$ 29,315

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Notes:

- * In supporting the expenditure of \$2,150 on Christmas and Festive cards, it was recognised that the sending of the cards by the Mayor represented, festive greetings on behalf of all Councillors, the General Manager and staff across the organisation. This expenditure is also supporting a local charity organisation.

It is noted that expenses incurred during the reporting period fall significantly under the allocation for each category and in total.

BUDGET

The categorisation and reporting of expenditure in respect of councillors' expenses and facilities in the manner required and presented within this Report assists with the monitoring of expenses for that provision within Council's adopted budget. The overall total expenses reported for the 6-month period from July 2022 to December 2022 of \$29,315 is considerably less than the total budget provision for the financial year. All expenses have been approved as required by the General Manager or other staff under delegation.

POLICY

The Report meets the requirements of the provisions of Section 15 of Council's Councillors' Expenses and Facilities Policy.

CONCLUSION

The Councillors' Expenses and Facilities Policy requires details of expenditure and the provisions of facilities to Councillors, summarised by individual Councillor and expense category, as well as a total for all Councillors, to be presented to Council at an open meeting. The expenditure by Councillors for the period July 2022 to December 2022 is well within the budget provision and requirements of the Policy. This Report provides the relevant information as required by the Policy and ensures all statutory requirements are met.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Governance and Customer Service Branch – Stephen Colburt - who can be contacted on 9847 6761.

STEPHEN COLBURT
Manager, Governance and Customer Service
Corporate Support Division

GLEN MAGUS
Director - Corporate Support
Corporate Support Division

Attachments:

There are no attachments for this report.

File Reference: F2004/09552-02

Document Number: D08559666

ITEM 3

4 ELECTION OF DEPUTY MAYOR

EXECUTIVE SUMMARY

- In accordance with Section 231 of the Local Government Act, Councillors may elect a person from among their number to be the Deputy Mayor, with the term of such office being either equal to that of the Mayoral term or for a shorter period.
- This Report provides details about the role of a Deputy Mayor and the choices that Council has about the period and method of election to such office.
- If Council decides to elect a Deputy Mayor, it will need to determine the term for which the Deputy Mayor will serve and the method of voting to be used for electing the Deputy Mayor. It will also need to appoint the General Manager (or his delegate) to conduct the election.

RECOMMENDATION

THAT:

1. Council determine if it wishes to elect a Deputy Mayor.
2. If a Deputy Mayor is to be elected, Council:
 - a) Determine the period for which the Deputy Mayor is to be elected.
 - b) Determine if the election of the Deputy Mayor is to be by preferential ballot, ordinary ballot or open voting.
 - c) Request the Returning Officer to conduct the election, using the election method determined in b) above.
3. If a Deputy Mayoral election is held, the ballot papers (if any) be destroyed following the declaration of the election.

PURPOSE

The purpose of this Report is to provide Council with the opportunity to consider whether or not it wishes to elect a Deputy Mayor. The Report includes information about the role of the Deputy Mayor and the different methods of voting which can be used to elect a Deputy Mayor.

BACKGROUND

In accordance with Section 231 of the Local Government Act, Councillors may elect a person from among their number to be the Deputy Mayor, with such term of office being either equal to that of the Mayoral term or for a shorter period.

Prior to the March 2004 local government elections, Hornsby Council's Mayor was elected annually by the Councillors. It was also Council's practice to annually elect a Deputy Mayor. At the 2004 election, the method of electing Hornsby's Mayor was changed to be by the residents/ratepayers across the Shire for the term of the elected Council, i.e. a popularly elected Mayor rather than by the elected Councillors on an annual basis.

Although Councillors no longer have the responsibility of electing the Mayor, it is still necessary for Council to decide whether or not to elect a Deputy Mayor and, if so, to determine the period of the term to be served by the Deputy Mayor. Council's latest decision in this regard was at the General Meeting held on 9 February 2022, when it considered Director's Report No. CS7/22 and elected Councillor Tilbury as Deputy Mayor for the period February 2023.

DISCUSSION

The Role of Deputy Mayor

The Deputy Mayor may exercise any function of the Mayor, at the request of the Mayor, if the Mayor is prevented by illness, absence or otherwise from exercising the function, or if there is a casual vacancy in the office of Mayor. If there was to be a casual vacancy in the office of Mayor up until 18 months prior to the date specified for the next ordinary election, a by-election for the position of Mayor would need to be conducted in accordance with a timetable set by the Local Government Act. If the vacancy occurred within 18 months of the next ordinary election, the vacancy would be filled by the NSW Governor appointing a Councillor nominated by the Council to be the Mayor. The Deputy Mayor would usually fulfil the duties of Mayor during the above periods until a new Mayor was elected or appointed.

Period of Election of the Deputy Mayor

Under Section 231 of the Local Government Act, Councillors may elect a Deputy Mayor for the same period as the Mayoral term or for a shorter period. As Council's Mayor is popularly elected, the current Mayoral term is until the next local government elections, currently scheduled for September 2024. Council may, therefore, determine that a Deputy Mayor be elected for the period until September 2024 or for some shorter period e.g. six months. The practice at Hornsby Council has been to elect a Deputy Mayor for a 12-month period (September to September).

Method of Election

If a Deputy Mayor is to be elected, the method of election is in accordance with Schedule 7 of the Local Government (General) Regulation 2005. A Councillor may be nominated without notice for election as Deputy Mayor provided the nomination is made in writing by two or more Councillors (one of whom may be the nominee) and the nominee consents to the nomination in writing. The nomination is to be delivered or sent to the Returning Officer. A nomination form in respect of a Deputy Mayoral Election is included as an attachment to this Report.

If only one Councillor is nominated for election as Deputy Mayor, that Councillor is elected. If more than one Councillor is nominated, an election shall be held at which the General Manager (or his nominee) is the Returning Officer. The Council must resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting. Historically Council has used the open voting method to elect the Deputy Mayor. To ensure probity of the election process, the counting of votes where necessary is undertaken in the presence of the Returning Officer and at least one other staff member.

It should be noted that any recommendation on the method of election (if any) is dependant to some extent on the number of candidates – see below.

Preferential Ballot

Preferential ballot would only normally be used if there are three or more candidates. Under this system, Councillors indicate their order of preference for all candidates. If a candidate receives more than half the first preference votes (i.e. an absolute majority), he or she is declared elected. If no candidate has an absolute majority, the candidate with the lowest number of votes is excluded and his or her preferences are allocated to the other candidates and so on, until one candidate has more than half the votes. A preference for each candidate standing for election must be indicated on a ballot paper, or the ballot paper will be declared invalid.

Ordinary Ballot

Ordinary ballot would normally apply where there are two or more candidates and Council decides to proceed by secret ballot. If there are only two candidates, the candidate with the higher number of votes is elected. If the two candidates are tied, the one **elected** is chosen by lot. If there are three or more candidates, the candidate with the lowest number of votes is excluded and a fresh vote is taken and so on, until there are only two candidates. A final vote between the two candidates is then taken and the candidate with the higher number of votes is declared elected. If at any stage during a count up until two candidates are remaining, there is a tie on the lowest number of votes, the one **excluded** is chosen by lot.

Open Voting

Open voting uses the same system as ordinary ballot, except that voting is by a show of hands or similar means and not by secret ballot. This method of voting has previously been the preferred practice for Hornsby Council.

Choosing by Lot

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the Returning Officer; folded, to prevent the names being seen; mixed and then drawn at random by the Returning Officer. The candidate whose name is on the drawn slip is chosen.

Appointment of Scrutineers and Inspection of Ballot Papers and Progress of Count

Council has previously sought legal advice about the ability of Councillors to inspect ballot papers and the progress of the count as well as the ability of election candidates to appoint scrutineers. In summary, the advice was that candidates are not entitled to appoint scrutineers; an inspection of the ballot papers should not be permitted; the progress of the count should not be revealed; and the ballot papers (if any) for the Deputy Mayoral election should be destroyed after the election has been declared.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

Council needs to consider the contents of this Report and determine whether or not it wishes to elect a Deputy Mayor. If it does decide to elect a Deputy Mayor, Council will also need to determine the term of office and method of voting to be used to elect the Deputy Mayor. It will also need to request the General Manager, or his nominee, to conduct the election.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Governance and Customer Service – Steve Colburt, who can be contacted on 9847 6761.

STEPHEN COLBURT

Manager, Governance and Customer Service
Corporate Support Division

GLEN MAGUS

Director - Corporate Support
Corporate Support Division

Attachments:

1.  Nomination Form - Deputy Mayor - February 2023

File Reference: F2004/07075

Document Number: D08559681

5 CONFLICT OF INTEREST POLICY FOR COUNCIL-RELATED DEVELOPMENT AND APPLICATIONS INVOLVING COUNCIL STAFF OR COUNCILLORS

EXECUTIVE SUMMARY

- In response to recommendations by the NSW Ombudsman, changes have been made to the Environmental Planning and Assessment Regulation to strengthen transparency and accountability in the planning system.
- The changes come into effect on 3 April 2023 and require Council to have a formal policy that sets out how it will manage any potential conflicts of interest that may arise in relation to council-related development. A management statement must also be prepared and exhibited with the development application, which details any potential conflict and the way it is proposed to be managed.
- The Department of Planning and Environment has prepared a Council-related Development Application Guidelines to provide a sample policy and management strategy statement that may be used as a template by councils when developing their policy.
- Council's existing policy has been amended in accordance with the new legislative requirements and in consideration of the Department's sample policy.
- It is recommended that Council adopt exhibit the draft Policy for community comment and subject to no objections being received raising significant issues, delegation be granted to the General Manager to approve the Policy to seek to ensure it is in place prior to 3 April 2023.

RECOMMENDATION

THAT:

1. Council endorse the amended 'Conflict of Interest Policy for Proposed Council Development and Applications Involving Council Staff or Councillors' attached the Director's Report No.1/23 for public exhibition.
2. The Policy be exhibited for a minimum of 28 days and subject to no objections being received raising significant issues, delegation be granted to the General Manager to approve the Policy.

PURPOSE

The purpose of this report is to update Council's Conflict of Interest Policy for determining development applications in response to changes to the Environmental Planning and Assessment Regulation 2021.

To implement the Regulation, it will be necessary for Council to have an adopted Policy and for Council to have regard to the Policy in determining council development applications.

BACKGROUND

In May 2022, the Department of Planning and Environment sought submissions on a draft Conflict of Interest Policy for council development applications. The Policy was prepared in response to an Ombudsman's report addresses allegations that Broken Hill City Council had breached the *Environmental Planning and Assessment Act 1979* by allowing its own unfinished Civic Centre to be used for large public functions, despite not having the necessary certification that it was safe to do so. The Ombudsman found that the Council had acted contrary to law by allowing parts of the centre to be occupied and took no compliance or enforcement action against itself for that breach.

The draft Policy included requiring councils to have a policy that sets out how they intend to manage any potential conflicts of interests, consider the policy before determining any council-related development applications, and publicly communicate any management approach(es) the council proposes.

Council officers made a submission on the draft Policy indicating general support for new initiatives demonstrating best practice approaches to the management of potential conflicts. However, Council's submission noted that Hornsby Council currently has a policy aimed to ensure impartial and comprehensive development assessment of development applications submitted by Council, Councillors or staff.

Further, Council's Policy is supported by the Planning Panel process which requires applications by Council, Councillors, members of staff involved in development assessments, members of parliament or relative to be reported to an independent Planning Panel for determination. Council's submission suggested that councils should have the discretion to draft their own Policy and consider the contents of the model Policy.

In October 2022, the Department advised that changes have been made to the Environmental Planning and Assessment Regulation to require all councils to have a policy in place by 3 April 2023 that advises how they would manage any potential conflict of interest that may arise when a council assesses development applications, where they have a commercial interest in the outcome. This report presents a draft Policy in response to the legislative changes.

DISCUSSION

Council's existing conflict of interest policy (copy attached) for Council Development, titled 'Proposed Council Developments' was adopted on 12 September 2018. The Policy requires development that is proposed by Council, Councillor, or a staff member, to be assessed by independently external consultants unless the application is considered by the Branch Manager as 'non-controversial small-scale development' or 'routine operational development'.

Existing legislative measures for conflict-of-interest include the requirement that Development Applications be determined by the Panel for which the applicant or land owner is the Council, a Councillor, a member of Council staff who is principally involved in the exercise of Council's functions under the Environmental Planning and Assessment Act 1979, a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or a relative of the above.

Council applications with a Capital Investment Value (CIV) of more than \$5 million are required to be determined by the Regional Planning Panel in accordance with State Environmental Planning Policy (Planning Systems) 2021.

The changes to the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) require councils to:

- Have a formal policy that sets out how they will manage any potential conflicts of interest that may arise in relation to council-related development.
- Consider the policy before determining any development applications that are Council-related.
- Publicly communicate any management approaches that the council will implement (if any) for each development – council must complete a management strategy and publish it on the NSW Planning Portal together with the development application when it is exhibited.

The Department has prepared a Guideline to assist councils in meeting these requirements by providing a sample policy and management strategy statement that can be used as a template when developing their policies. Councils can adopt their own policy, or the sample policy. A draft Conflict of Interest policy has been prepared and is discussed below.

Amended Conflict of Interest Policy

Council's existing Policy has been amended to address the requirements of the amended Environmental Planning and Assessment Regulation 2021 and in consideration of the Department's sample Policy as follows:

- The Policy has been divided into parts outlining the processes for assessment of development applications submitted by Councillors or Council Staff and Development Applications submitted by Council.
- Inclusion of updates to reflect the role of Local and Regional Planning Panels in the determination of Council Development Applications and those submitted by Councillors and staff.
- Confirmation that Council applications and those submitted by Councillors and staff involved in the assessment process must be undertaken by an Independent Town Planning Consultant.
- Identification of minor forms of Council applications where no management controls are required such as internal alterations and additions; advertising signs; commercial fit outs and minor changes to building facades (such as awnings, verandas, bay windows, flagpoles, pipes, and services).
- Requiring a risk management statement to be prepared and exhibited with the development application, detailing any potential conflict and the way it is proposed to be managed.
- Clarification that the management statement (required by the Regulation) is to be published on the Department's ePlanning Portal website.
- Confirming that Council-related development applications must be exhibited for a minimum of 28 days to ensure transparency during the assessment process.
- Inclusion of update references to changed and new legislation.

The amended draft Policy is attached to this report.

BUDGET

Financial implications may include additional costs where independent planning consultants or other consultants are required in the assessment of Council Development Applications or post approval phase.

POLICY

Exhibition of the Policy is recommended for a period of not less than 28 days. If the exhibition does not raise any significant concerns or issue, it is recommended that delegation be granted to the General Manager to approve the Policy to seek to ensure it is in place prior to 3 April 2023. If there are submissions which warrant reporting, a separate report will be prepared for Council's consideration.

CONCLUSION

Council's conflict of interest policy in relation to Council-related development is required to be amended to meet the requirements of recent legislative changes. A draft policy has been prepared and will be exhibited for 28 days.

This Report provides the relevant information as required by the Policy and ensures all statutory requirements are met.



RESPONSIBLE OFFICER

The officers responsible for the preparation of this Report are Rod Pickles, Manager Assessments and James Farrington, Director Planning and Compliance who can be contacted on 9847 6750.

JAMES FARRINGTON

Director - Planning and Compliance
Planning and Compliance Division

Attachments:

1.  Policy Draft
2.  Council Policy for DAs

File Reference: F2022/00165

Document Number: D08541195

6 REPORTING VARIATIONS TO DEVELOPMENT STANDARDS

EXECUTIVE SUMMARY

- In accordance with the Department of Planning and Environment's *Planning Circular PS 20-002*, Council is required to report variations to development standards for development applications approved under delegated authority, which relied upon Clause 4.6 (Exceptions to development standards) of the *Hornsby Local Environmental Plan 2013 (HLEP)*.
- Council's consideration of this report ensures Council's obligation to monitor variations to development standards is complied with.

RECOMMENDATION

THAT the contents of Director's Report No. PC2/23 be received and noted.

PURPOSE

The purpose of this report is to advise Council of determined development applications under delegated authority involving a Clause 4.6 variation to a development standard for the period 1 October to 31 December 2022.

DISCUSSION

Clause 4.6 (variation to development standards) of the Hornsby Local Environmental Plan 2013 provides flexibility in the application of planning controls by allowing council to approve development applications that may not strictly meet the requirements of the subject development standard but are consistent with the objectives of the development standard and the objectives of the zone.

In these instances, varying a development standard may be allowed by Council when there are sufficient environmental planning grounds to justify contravening the standard. The concurrence of the Secretary of the Department of Planning and Environment must be obtained before consent for development that contravenes a development standard is granted. However, in many cases this concurrence may be assumed by Council.

In 2008, the Department published Planning Circular PS08-014 Reporting variations to development standards. The Circular outlined the procedural and reporting requirements councils must implement with respect to their use of the Secretary's assumed concurrence. The requirements include measures to increase the transparency and accountability in Clause 4.6 decisions, including reporting of decisions, online information on the councils' use of the Secretary's assumed concurrence and quarterly reporting of clause 4.6 variations to the Department.

Monitoring of variations to development standards is important to provide the Department and councils with an overview of the manner in which established development standards are being varied and whether the assumed concurrence is being used as intended. This enables Council and the Department to determine whether development standards are appropriate, or whether changes are required.

Planning Circular PS 20-002 Variations to Development Standards was published by the Department in May 2020 and is the current applicable planning Circular. The Circular retained all the same procedural and reporting requirements as the previous Circular, and further included the requirement for all council reports to be submitted to the Department through the Planning Portal.

The *Circular* provides that councils are required to report on a quarterly basis and adopt the following measures:

1. Establish a register of development applications determined with variations in standards under Clause 4.6.
2. Require all development applications where there has been a variation greater than 10% in standards to be determined by the Hornsby Local Planning Panel.
3. Provide a report to Council on the development applications determined where there had been a variation in standards under Clause 4.6.
4. Make the register of the development applications determined with variations in standards under Clause 4.6 available to the public on Council's website.

In accordance with Point 3 of the Department Circular, attached is a list of development applications determined between 1 October to 31 December 2022.

A copy of the attachment to this report is also reproduced on Council's website.

BUDGET

There are no budget implications.

POLICY

This report addresses Council's reporting obligations for development applications determined where there has been a variation in standards under Clause 4.6.

Since 2009 the Department has undertaken periodic audits of council records from across the State to ascertain whether councils are complying with the procedural and reporting requirements. The Department used external auditors to conduct the most recent audit between September 2022 and November 2022.

A total of 18 councils were audited on their compliance with procedural and reporting requirements for the 2020- 2021 reporting period. The councils were comprised of 13 new councils not audited in prior audits (including Hornsby Council) and 5 previously audited councils that required follow up on their implementation of the 2020 Audit recommendations.

The Audit Report found that the councils subject to the audit demonstrated a high degree of compliance. Specifically, Hornsby Council consistently implements all the processes, procedures and obligations outlined in Clause 4.6 and planning circulars issued on variations to development standards.

CONCLUSION

Council is required to monitor the manner in which development standards are being varied. This assists in determining whether changes are required to relevant standards. This report provides advice to Council on standards varied under delegated authority which relied upon Clause 4.6 of the HLEP during the reporting period from 1 October to 31 December 2022.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this report is the Director of Planning and Compliance Division – James Farrington, who can be contacted on 9847 6750.

JAMES FARRINGTON

Director - Planning and Compliance

Planning and Compliance Division

Attachments:

1.  Clause 4.6 Return - Oct to Dec 2022

File Reference: F2022/00271

Document Number: D08565479

7 TRAFFIC IMPACTS ASSOCIATED WITH WESTLEIGH PARK

ASKED BY COUNCILLOR TILBURY

TO THE General Manager:

1. The Save Westleigh Park group asserts that the proposed Westleigh Park recreation complex (including three sporting platforms) will bring an enormous increase in traffic to the local area? Is this correct? What does Council's traffic modelling for the site outline and how will traffic be managed?
2. The Save Westleigh Park group alleges that the Sefton/Chilvers Road intersection is currently exceeding capacity. Is this the case?
3. The Save Westleigh Park group alleges that when completed, the Westleigh Park recreation complex will add another 1500 vehicles per day to Sefton Road. Is this correct?
4. The Save Westleigh Park traffic petition alleges that as a result of the Westleigh Park recreation complex, traffic lights will be installed at the Sefton/Duffy Road intersection causing bumper to bumper traffic queues. Is this correct? What is proposed for the Sefton/Duffy Road intersections?

Note from Councillor

It has recently come to my attention that a group called Save Westleigh Park are circulating a petition/form letter within the Westleigh community raising some concerns about the perceived level of some traffic impacts associated with Council's proposal to provide much needed community recreation facilities at Westleigh Park.

I understand that the Save Westleigh Park group have also placarded the Sefton/Chilvers Road intersection with their misinformation about the potential traffic impacts at this intersection.

Whilst Council always encourages people to take an active interest in local matters, I am concerned that what is being asserted by the Save Westleigh Park group may be incorrect and potentially misleading. It is causing unnecessary alarm amongst local residents.

Unfortunately, rather than reaching out directly to engage with Council to clarify any matters that they are unclear about, Save Westleigh Park has chosen to promote this petition in the local community.

I feel that it is important that Council correct the record and provide accurate information about what is proposed at Westleigh Park and potential traffic, and accordingly seek the General Manager's response to these questions.

Attachments:

There are no attachments for this report.

File Reference: F2021/00108-002

Document Number: D08576555

ITEM 7

8 MAYOR'S NOTES 01 DECEMBER 2022 TO 31 JANUARY 2023

Note: These are the functions that the Mayor, or his representative, has attended in addition to the normal Council Meetings, Workshops, Mayoral Interviews and other Council Committee Meetings.

Thursday 1st December 2022 – The Mayor and Deputy Mayor, Councillor Tilbury, attended Get NSW Active – Brooklyn Kangaroo Point Boardwalk and Shared Path at Brooklyn Kangaroo Point.

Friday 2nd December 2022 – On behalf of the Mayor, Councillor Greenwood attended Mount St Benedicts College, Presentation Day at Mount Saint Benedict College, Pennant Hills.

Saturday 3rd December 2022 – On behalf of the Mayor, Deputy Mayor Councillor Tilbury, attended the opening of the rejuvenated Berowra Tennis Centre at Berowra Tennis Centre.

Saturday 3rd December 2022 – The Mayor attended the Art Exhibition, International Day for People with Disability at Wallarobba Arts and Cultural Centre, Hornsby.

Tuesday 6th December 2022 – The Mayor attended Barker College End of Year Presentation Day - Junior School Celebration Ceremony at the Rosewood Centre, Barker College.

Tuesday 6th December 2022 – On behalf of the Mayor, Councillor Waddell, attended Galston High Schools Annual Presentation Evening at Galston High School Assembly Hall, Galston.

Tuesday 6th December 2022 – On behalf of the Mayor, Councillor McClelland attended the Pennant Hills High School Presentation Evening at Robert Stacey Hall, MPC, Pennant Hills High School.

Tuesday 6th December 2022 – On behalf of the Mayor, Councillor Greenwood attended St Matthews Anglican Church Service of Remembrance at St Matthews Anglican Church, West Pennant Hills.

Wednesday 7th December 2022 - The Mayor hosted four Citizenship Ceremonies in the Council Chambers at Hornsby Shire Council in Hornsby.

Wednesday 7th December 2022 – On behalf of the Mayor, Councillor McClelland attended the Barker College End of Year Presentation – Secondary School Celebration Ceremony at the Rosewood Centre, Barker College.

Wednesday 7th December 2022 – On behalf of the Mayor, Deputy Mayor Councillor Tilbury attended the Berowra Christian School Thanksgiving Service at Berowra Christian School, Berowra.

Thursday 8th December 2022 – On behalf of the Mayor, Councillor McClelland attended the Clarke Road School Annual Presentation at Clarke Road School, Hornsby.

Thursday 8th December 2022 – The Mayor attended the Special Volunteers Christmas Party. Mayor Presented Certificates for 5-10 Years' Service at Hornsby Library.

Thursday 8th December 2022 – The Mayor and Councillors attended the Mayor's Annual Christmas Party, which was at Storey Park, Hornsby.

Friday 9th December 2022 – On behalf of the Mayor, Councillor Greenwood attended Cheltenham Girls High School Annual Presentation Day at The Concert Hall of the Sydney Opera House.

Friday 9th December 2022 – On behalf of the Mayor, Deputy Mayor Councillor Tilbury attended the Wideview Public School Presentation Day at Wideview Public School, Berowra Heights.

Sunday 11th December 2022 – On behalf of the Mayor, Deputy Mayor Councillor Nathan Tilbury attended and presented the Hornsby Cup 2022 at Asquith Men's Bowling Club.

Sunday 11th December 2022 – On behalf of the Mayor, Deputy Mayor Councillor Tilbury attended the Community Carols at Asquith Oval, Asquith.

Tuesday 13th December 2022 – The Mayor attended Asquith Boys High School Presentation Day at Asquith Boys High School Mervyn Brown Hall.

Tuesday 13 December 2022 – The Mayor attended Normanhurst Boys 2022 Presentation Night Ceremony at Rosehill Gardens Auditorium, Rosehill.

Thursday 15 December 2022 - On behalf of the Mayor, Deputy Mayor Councillor Tilbury attended Asquith Girls High School Presentation Day at Hornsby RSL Club Showroom, Hornsby.

Thursday 15 December 2022 – The Mayor attended the 2022 Carols under the Stars Churches of Berowra at Warrina Street, Berowra Heights.

Saturday 17th December 2022 – The Mayor attended the Hornsby Community Christmas Party 2022 at Waddell's Orchard, Galston.

Monday 19th December 2022 – The Mayor attending the opening of the Boat Ramp Wisemans Ferry.

Monday 23rd January 2022 – On behalf of the Mayor, Councillor Pillamarri attended the United Australian Lebanese Movement (UALM) Australia Day Award Ceremony at Holroyd Centre, Merrylands.

Wednesday 25th January 2022 – The Mayor attended the CASS Hornsby Activity Group Lunar New Year's Celebration, Hornsby.

Wednesday 25th January 2022 – The Mayor attended Australia Day Celebration Dinner Rotary Club at Pennant Hills Golf Course, Beecroft.

Thursday 26th January 2022 - The Mayor hosted an Australian Day Citizenship Ceremony at Hornsby Park.

Tuesday 31st January 2023 – The Mayor attended Meals on Wheels Event.

Tuesday 31st January 2023 – The Mayor attended Happy Lunar New Year Gala Dinner 2023 in Kuring-Gai at King Dynasty Restaurant, Chatswood.

File Reference: F2004/07053

Document Number: D08570175

9 IMPACT OF CATS ON NATIVE WILDLIFE

COUNCILLOR TILBURY TO MOVE

THAT:

1. Council reaffirm its position that there is a need to proactively address impacts of cats on the environmental qualities of our Shire as:
 - 1.1 Roaming cats are a direct threat to native fauna including threatened species which are found in our local bushland and National Parks.
 - 1.2 Requirements to keep cats at home have significant benefits for cats such as reducing threat of injury, disease and death, allowing beloved cats to live a longer, healthier life.
 - 1.3 Requirements for the responsible ownership of cats would be consistent with requirements for the management of other companion animals such as currently the case for dogs.
 - 1.4 Legislative reforms would allow council the flexibility to introduce cat containment policies in consultation with the local community that meet the specific needs of their area and protect local wildlife would be consistent with the approach of the majority of other States in Australia.
2. Council write to the NSW Government, the Opposition and NSW Greens and Independent Members of Parliament calling for:
 - 2.1 Changes to the Companion Animals Act 1998 to enable Hornsby Council to introduce containment policies in consultation with the local community, NSW National Parks and Wildlife Service and other agencies to meet the specific needs of the area, including phase-in periods, selection of areas within the LGA to which the policy applies and monitoring frameworks including consideration of resource allocation.
 - 2.2 A State-wide grant program to support councils implement domestic cat containment policies.
 - 2.3 Increased investment in programs to support responsible cat ownership such as measures for containment, desexing, identification and registration, and education to encourage people to keep cats indoors.
 - 2.4 Development of a central, State-wide online platform, in consultation with councils, relevant agencies and animal welfare bodies to make responsible pet ownership information easily accessible.

Note From Councillor

It is an established position of Hornsby Council and Local Government NSW that legislative reforms are required to ensure responsible ownership of cats that would keep them safe, while preventing predation on wildlife. However, notwithstanding calls from local government for reforms, there has been no meaningful progress to develop appropriate policies and regulations for cat containment.

There is a need to proactively address this issue as I continue to receive regular representations from constituents raising concerns about the impacts of cats on the environmental qualities of our Shire. The importance of action is highlighted for our community as 70 percent of the Hornsby local government area is characterised by bushland comprising national parks, major waterways, natural reserves and rural landscapes with associated vulnerability for native fauna that make these areas their home.

Pet cats are both a valued companion animal and one of the world's most successful predators. Pet cats allowed to freely roam outside kill an estimated 241 million native Australian animals annually.

Despite these impacts on our native wildlife, the Companion Animals Act 1998 does not currently contain requirements for cats to be secured at home and council officers can only take action if a cat is a nuisance, interfering with the well-being of a neighbour or damaging property. NSW and WA are the only States in Australia that do not enable councils to consider cat containment through State legislation. For example, the respective companion animal management legislation in Victoria, Tasmania, Queensland, and South Australia supports local governments creating locally specific laws for pet containment.

Councillors would recall that last year, Council endorsed a motion for consideration at the NSW Local Government Conference in October 2022 calling for changes to legislation to introduce best practice domestic cat containment requirements to keep cats secured at home. It was determined the Motion could be actioned without a further resolution as it is consistent with current LGNSW position.

It is evident that, for some time, there has been agreement that this issue needs to be addressed and now action is required. Councils should have the flexibility to introduce containment policies in consultation with the local community that meet the specific needs of their area and community, including phase-in periods, selection of which areas within their jurisdiction the policy applies and monitoring frameworks including consideration of resource allocation. Such an approach would also allow Hornsby Council to work with the NSW National Parks and Wildlife Service to identify priority areas to assist in the protection of our Parks.

I call on Council to support my call for the NSW Government to make amendments to the *Companion Animals Act 1998* that would equip local governments with the necessary powers to implement cat containment at a local level.

Attachments:

There are no attachments for this report.

File Reference: F2019/00119

Document Number: D08575487