

Local Government Act 1993
Section 438A
Performance Improvement Order

SCHEDULE 1

Reasons for Order – section 438A(3)(a)

There is evidence to suggest that Council has failed to meet its legislative responsibilities in relation to its financial management. Specifically, these include:

1. There is evidence Council has accessed restricted funds without approval and used those funds for purposes other than for which they were intended in breach of the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979 in order to fund Council's operating expenses.
2. There is evidence to suggest that Council may not be able to pay its debts as they fall due.
3. There were, and continue to be, serious risks faced by the Council due to its financial position having deteriorated to the extent that it has insufficient cash to cover all internal and external restrictions.
4. There is evidence to suggest that Council's records do not adequately indicate Council's true financial position.
5. There is evidence that Council has not effectively monitored its liquidity.
6. There is evidence that there are inadequacies in relation to the oversight and reporting on the financial circumstances of the Council.
7. There is evidence to suggest that Council has not fully or correctly reported the construction costs of the Blue Haven aged care facility (Blue Haven).
8. There is evidence to suggest that Council has not operated the Blue Haven aged care facility in accordance with relevant legal requirements, including the Aged Care Act 1997 (C'wealth).
9. There is evidence that the continued operation of the Blue Haven aged care facility has caused, and is continuing to cause, significant financial stress to Council.

Given the difficult financial circumstances facing the Council, it is important that Council remains on track with the financial strategies that have been put in place to reduce expenditure and increase revenue.

The community needs to have confidence that Council's financial management and performance has close oversight and is being closely monitored.

Council has failed to meet its statutory reporting obligations with respect to its 2021/2022 financial statements.

In my opinion, a temporary adviser with the requisite financial expertise is needed to advise Council, to report on and oversee the implementation of the financial aspects of the performance improvement order.

In my opinion, a temporary adviser with requisite skills in financial management is needed to provide advice and assistance in relation to Council's implementation of the governance aspects of the performance improvement order.

Kiama Municipal Council response to reasons

The Minister for Local Government has issued Kiama Municipal Council (KMC) with a notice of intention to issue a performance improvement order. The proposed order requires Council to make a submission in respect to the proposed Order before the Minister makes a final decision. Council is mindful of its legislative responsibilities and Councillors are aware of the considerable time, resources and energy that have been devoted to date improving Council's financial management practices since first discovering many of these challenges in late December 2021. There has been a concerted effort and significant resources channelled to have the financial reports audited for the year **2020/21**, not the year 2021/22 as noted in the PIO.

Council has been open and transparent wherever possible in its issues and endeavours to remedy the situation. A range of public (and confidential) documents have been prepared including the following:

- Report to Council on the use of restricted reserves in August 2021, inclusive of a recommendation to undertake forensic assessment and establishment of Finance Advisory Group (October 2021). (Report and resolution attached – public)
- Creation of Blue Haven Advisory Board and board papers (December 2021) disclosing operating losses for residential aged care and construction costs / defects at Blue Haven Bonaira. (Terms of Reference attached and record of minutes of meetings attached – public).
- Correspondence to Minister on potential maladministration (December 2021). (Confidential)
- State of the Organisation briefing (held in January 2022 and released publicly in February 2022). (Copy of report attached – public.)
- Aged care consultants Critical Success Solutions engaged to assist with accreditation and clinical care support (February to April 2022) were part of a considerable investment (circa \$600k) in accreditation assessment and improvement of operations and management. Project and outcomes regularly reported to the BHAB and to Council. (Record of engagement and weekly progress reports attached – confidential).
- Strategic Improvement Plan (April 2022), including monthly progress reports (May, June and July 2022). (Copies of report attached – public).
- Hopwood Governance Report and implementation (April 2022) Copy attached. This report ensured several governance matters and required resources were invested in improving the organisation. (Copy of report attached – public).
- Correspondence to the Office of Local Government regarding cash flow (May 2022). (Confidential)
- Forensic financial assessment report (completed in April and formally endorsed in May 2022), an executive summary is being prepared for public release. This report explored the previous five years of financial statements and audits, and closely examined cash flow and expenditure from reserves. The report made 26 findings for key improvements, and these are being systematically worked through by the CFO and CEO. (Copy of report attached – confidential).
- Appointment of new Interim Chief Operating Officer Blue Haven, Joe Gaudiosi with executive industry experience (May 2022) in aged care and prior experience as a CFO, auditor and CEO. (Resume attached - confidential).
- Blue Haven construction costs / business case information highlighting the significant cash shortfall and therefore need for internal cash reserves of circa \$25M to balance the new resident accommodation receipts against the total construction project costs.

This clearly has had a major impact on the current cash reserve position (June 2022) (Copy of report attached – public).

- Finance Advisory Committee recommendations for cash flow improvements greater than the Long-Term Financial Plan (July 2022) (Copy of report attached – confidential)
- Aged care and retirement village Consultant Valuer Nelson Partners engaged to undertake business valuation (July 2022) (Copy of report can be provided – commercial in confidence)
- Blue Haven residential aged care financial industry benchmarking report prepared for the Finance Advisory Committee and Audit, Risk and Improvement Committee for information. (Copy attached – public).
- Prudential Policy for Blue Haven including Liquidity Management Strategy (August 2022) (Copy of report attached – public).
- Acquisition and Disposal Policy for land and assets (August 2022). Council had not previously had a policy and new policy position was developed, placed on public exhibition, and adopted to guide divestments. (Copy of report attached – public).
- Engagement of external property asset consultants at a cost of circa \$95k to prepare an asset management plan for Blue Haven. Work has been completed by Public Works, and CEO has reviewed. COO will progress the information in a report to Council. This work gives vital information to age and condition of assets and required financial investment.
- KPMG employed to work with CEO and CFO to prepare cash flow analysis and going concern review focussing on initial 2 years to 2024. Work completed, Councillors briefed, report adopted, and information submitted to the Audit Office of NSW for review. (September 2022) (Copy of report attached – confidential). Significant steps underway to implement the operational efficiencies and continued assets divestment of Noorinin, all Akuna Street lots and Irvine Street, Barney Street, and Riverside Drive.
- Aged care and retirement village consultant Paul Sadler Consultancy (Mr Paul Sadler) and Stuart Brown Advisory Consultants (Grant Corderoy) engaged to undertake Blue Haven Strategic and Governance keep/sell review (October 2022) along with a communications consultant to undertake community consultation. Both companies are experts in the field of aged care and well credentialed to report to work with the COO in terms of completing this work prior to December 2022. (Copies of the consultancy brief attached – commercial in confidential)
- Decommissioning process of the old residential aged care facility at Havilah Place has been budgeted for and will be put to tender for completion soon. Once cleared this site represents a significant opportunity for continued divestment or joint venture explorations.
- Improved monthly financial reports, with further presentation and commentary improvements being made by the CFO and COO. Initial improvements were undertaken by KPMG and have assisted in presenting Council and Management with monthly financial reports.
- ICAC Section 11 reporting (May, August, September, and October) (Confidential)
- Discussion paper for Local Government providers of aged care distributed in draft (October 2022) and two meetings held with counterpart Local Government providers. This paper has helped bring to the State's and the Peak Body for local government attention the challenges facing the sector. (Copy attached – working draft)
- Blue Haven residential aged care accreditation assessment completed (October 2022) based on initial report from the Aged Care Quality and Safety Commission – awaiting

final report and Commissioner's decision on approval. (Executive summary attached – confidential)

- Response to Federal Health and Aged Care and ACQSC under section 9-3B Notice for Information re financial concerns and use of resident accommodation deposits reported in local media. Council's response to this notice of information was comprehensive and detailed that KMC has never missed a refund of RADS and has an up-to-date Prudential Standards Policy. Verbal feedback from Compliance Officer indicates that KMC has satisfactorily addressed - awaiting written confirmation (October 2022) (Copies of Correspondence and reply attached – confidential).
- draft Restricted Reserves Policy put to Council for adoption (October 2022). This policy provides a much clearer and plain English guide to the use of restricted reserves, delegations and required reporting. (Report attached – public).
- Appointment of new Chief Financial Officer Mr Christy Ratnakuma who has significant Local Government experience and detailed expertise in audits, and TechOne (October 2022 resume attached - Confidential)
- Council has recently resolved to undertake processes to sell Blue Haven Bonaira aged care (residential and community) and retirement village operations.

Council maintains that it has staff with the requisite skill including, Chief Operating Officer for Blue Haven, and Chief Financial Officer who report to the CEO. These staff are part of the executive and provide expert advice to Council on financial matters.

It is worth noting that the evidence and actions cited above has all been self-identified and dutifully reported to relevant agencies.

Direct Responses to the Reasons for the Order -

Issue of use of Restricted Reserves (1)

The issue of historic use of restricted reserves was self-identified in August 2021. This matter was then dutifully reported to Council, with correction and transactions to restore the funds.

The Forsyth report explored and evidenced these concerns and much work has been done on addressing the 26 issues raised, including reporting the relevant departments. The CFO and COO continue to be responsible for implementing the actions noted, reporting regularly to the CEO on progress made.

Council has also adopted for public consultation a new draft Restricted Assets Policy which will provide a clear framework for reporting, and documenting movements from or between reserves on a monthly basis.

Issues related to Council not being able to pay debts as and when they fall due (2) and (3)

Council has prepared an

- annual budget for 2021/22,
- annual budget for 2022/23
- long term financial plan (LFTP)
- two-year cash flow projection.

The cash flow demonstrates that with the potential asset sale of: Blue Haven Bonaira factored into the next years, alongside the exchange and settlement of Akuna Street and several other properties, KMC is able to pay its debts as and when they fall due.

Financial experts, KPMG were contracted to prepare the cash flow for KMC and provided a comprehensive briefing to Council on the two-year projections. Council held a workshop

shortly after this discuss its response to the cash flow. The ARIC and FAC also provided advice to Council on the cash flow. (Copy attached – confidential).

As of 21 October 2022 the Akuna Street landholdings contracts have been exchanged, with settlement to occur in 42 days.

Council's financial data clearly shows that KMC will have sufficient cash reserves to pay its debts as and well they fall due. It is also worth noting that any potential divestment of aged care services and assets will yield an ongoing operational saving with a reduction in employee overheads.

Council has good, restricted reserve balances and has resolved that subject to the settlement for Akuna Street, that the proceeds will be directed towards a number of reserves and uses that will assist with cash flow and improved balances for items such as leave entitlements.

Completing the audit for 2020/21 has remained a core focus and external audit costs are currently in the order of \$330k and NSW Audit Office (AO) costs of approx. \$64k. In comparison, in prior years audit costs were in the order of \$60,000 in total. A copy of the submitted financial statements is attached.

The expenditure of ratepayer monies to the magnitude mentioned above to obtain an audit opinion that we already understand will be a qualified or disclaimed one, serves no useful purpose and any further expenses are to be avoided if possible.

As such, the Council has requested the AO provide an audit opinion based on the returns and information already submitted by Council.

The opening balances for the 2021/22 year are imperative to allow Council to understand its true cash flow situation and any work to expedite this process would be appreciated.

The Department has provided approval for the 2021/22 financial statements to be submitted by December 2022 and the AO have advised they will personally be conducting the audit.

Issues related to record keeping, liquidity management, and financial reporting (4, 5 and 6)

It is acknowledged that Council's financial record keeping practices has been an issue in the past. The CFO and COO, with the assistance of KPMG have worked hard to improve the monthly financial reports and ensure that management has access to budgets and good levels of financial literacy. Staff training for managers has occurred and improvement to the finance modules of TechOne are urgently being made to ensure that reports are easily generated, easy to access and provide accurate and timely data on the finances. Data cleansing has occurred and was led by KPMG and experts form TechOne are now working with the team to refine the system and ensure it meets financial reporting needs of the organisation.

The CFO and COO continue to implement the 26 actions recommended by Forsyth's report and once complete this will help the organisation have clear processes, workflows and procedures for storing and completing financial information.

Since commencing as CEO financial reports to Council have been re-established, and improvements to data quality and presentation made. Regular financial briefings to Council by the executive and specialist consultant such as Forsyth's and KPMG have also assisted in giving Councillors a clear understanding of liquidity and cash flow. This work will continue.

The organisation and Elected Representatives are currently well supported by a dedicated group of local experts on the Finance Advisory Committee (FAC), each of whom have stellar financial experience and were chosen via application and open meritorious recruitment based primarily on their financial acumen. Work is underway to reinstate the Blue Haven Committee (BHC) and the Audit, Risk and Improvement Committee (ARIC) continues to provide quality expertise to Council executives, the NSW AO and to the Elected Representatives.

Monthly financial reports to Council have been reinstated and monthly statement of investment reports have also been delivered to Council. Council commissioned KPMG from May to Sept 2021 to work with the Finance Department to significantly improve financial information and record keeping practices. KPMG created the monthly report format, which staff continue to improve.

KPMG also reviewed the TechOne system that supports the finance department. Subsequently, TechOne executives held a meeting with CEO and Senior Staff in September 2021 and were notified that no further contract modules would be rolled out and KMC will consider existing the contract unless concerted effort is made by TechOne to ensure the product and system works and can deliver effective monthly reports, as the product does in many other Councils.

To this end, a full review has occurred and a workshop with users scheduled for October 2022. Greater system improvements are anticipated which will improve the quality of financial reporting available to Council and the Department.

A qualified CFO has been appointed to lead the finance department and brings a wealth of local government and TechOne experience to KMC.

Council has prepared an

- annual budget for 2021/22,
- annual budget for 2022/23
- long term financial plan (LFTP)
- two-year cash flow projection.

The cash flow demonstrates that with the potential asset sale of: Blue Haven Bonaira factored into the next years, alongside the exchange and settlement of Akuna Street and several other properties Council will be cash positive.

Issues Related to construction costs for Blue Haven Bonaira (7)

The construction costs for Blue Haven have been reported publicly to the community (a copy of the Council report is attached). Forsyth's report fully investigated this matter to arrive at an informed opinion of the costs of construction and use of operation funds.

Issue related to Aged Care and Retirement Villages and financial stresses being ongoing (8 and 9)

The issue of the historic use of the Residential Aged Care Deposits (RADS) not being in accordance with the Federal Government Aged Care Act has been reported and managed with the Aged Care Commissioner. A new Prudential Policy has been developed and Council has resolved to restore the RADS restricted reserve to the minimum liquidity specified in the adopted policy.

The issue of the historic use of the ILU's deposits for purposes other than for new, replacement or maintenance has been noted, publicly reported and addressed in the new Prudential Policy which sets a minimum liquidity for Council. The same legislative requirements don't apply to ILU regulated under the Retirement Villages Act.

Evidence from 2005/06 was publicly released and shows that Council at the time had resolved in respect to the use of the ILU deposits funds both aged care and for operational purposes. (Released publicly in June).

It is imperative to note that KMC carries all the liabilities associated with the RADS and ILU's as *current liabilities* in its financial accounts for the year 2020/21 and onwards. This will be maintained.

There has been considerable investment in projects that enabled Blue Haven to meet its accreditation (approx. \$600k towards standards accreditation, clinical care, infection control and specialist equipment). Dedicated effort to prepare an asset management plan for Blue Haven (inclusive of aged care and retirement villages) has been undertaken, with valuations and decommissioning tenders underway.

Deliberate recruitment to the key leadership team at Blue Haven has also occurred in recent months helping restore quality assurance, clinical care, Director of Care and Operations and nurse educators. KMC also designated a full-time staff member to Human Resources for Blue Haven to improve recruitment and staffing. The Blue Haven leadership team incorporates the following:

Chief Operating Officer

Residential Aged Care Director of care and operations

Community Services Manager

Independent Living Unit Manager

Quality and compliance (RAC and community) Officer

Maintenance Supervisor

Clinical Nurse Educator

2 x Assistant Clinical Managers

The CFO works closely with the CEO and the management of the facility is supported by dedicated and skilled staff. Operations are regularly reported on the Council in report and to the committee. The accreditation process for the residential aged care was recently completed and final approval is being waited on from the Federal Government.

Significant investment in resources and funding has gone towards improving TechOne, financial reporting and separating the ledgers, understanding cash flow, long term financial planning, and reporting on Blue Haven and Council operations and expenditure.

Management remain focused on delivering quality care services whilst working through Council's recent decision to reclassify land and subject to this process move to divest of aged care services and assets at the Blue Haven Bonaira site. It is fair to say that the business of aged care, as a stand-alone provider is financially stressful for KMC. This situation will continue until such time as Council implements the resolution and proceeds with divestment of aged care services.

Conclusion

Whilst a financial advisor may be of assistance KMC, the organisation has approached this situation with maturity, open communication and dedicated every available resource to improving the situation. In truth the organisation self-identified many of these issues and has proactively led the responses to the issues without the need for State based intervention needing to occur.

It is likely that the cost of the financial adviser appointed for the eight (8) month period, would be a further burden to the ratepayers. A financial advisor is likely to garner an income for this period of service greater than that of the CEO's own remuneration. This extra cost is excessive for a Council of KMC's size and scale.

The organisation has a skilled Chief Operating Officer and Chief Finance Officer both of whom have requisite skills and qualifications and will assist the Executive Leadership Team and Council. The organisation and Elected Representatives are well supported by a dedicated

group of local experts on the Finance Advisory Committee (FAC), each of whom have stellar financial experience and were chosen via application and open meritorious recruitment based primarily on their financial acumen. Work is underway to reinstate the Blue Haven Committee (BHC) and the Audit, Risk and Improvement Committee (ARIC) continues to provide quality expertise to Council executives, the NSW AO and to the Elected Representatives.

The Minister and Department can take comfort in knowing that the remedial work will continue, and it is proposed that a second stage of the Strategic Improvement Plan (SIP) is developed and submitted to the Department, Council and the community to show the work scheduled up until 30 June 2023. Stage 2 of the SIP will likely include the following:

- Continued implementation of the Forsyth's report and actions
- Continued divestment of key properties
- Finalisation of the business case for aged care services
- Divestment steps required to implement the Blue Haven Bonaira resolution
- Asset management plan finalisation
- Improved financial reporting, policies and practices
- Continued implementation of the Hopwood Governance report
- Improved project management and contracts management

Regular monthly reporting to Council would track the delivery of the SIP and could be dutifully sent to the OLG for performance monitoring.

To this end, Council believes that there would be no benefit obtained by the Minister issuing a PIO, when Council and the AO are currently working vigorously together to lodge the completed audit statements as quickly as possible. The actions listed in the PIO are already identified and accepted by Council as needed. More importantly these actions are already being addressed, actioned and in some cases, completed.

Instead, the organisation proposes to complete the second stage of the SIP, with the same timeframes for reporting and would willingly agree to submit progress reports to the Minister and OLG for consideration. Stage 2 of the SIP would continue the proactive work that the organisation has done to date and enable completion of critical tasks that are underway.

Should the Minister appoint a Financial Advisor of course the organisation will work willingly with the Government appointed representative for the betterment of the organisation.

KMC's response to the "Action required to improve performance – section 438A(3)(b)"

With the assistance of the Temporary Adviser, Council is required to implement the following actions to improve its performance.

Part A: Council's Financial Management

1. Review Council's current financial circumstances, including Council's Strategic Improvement Plan.

Response

This work is currently being completed by the CEO and Stage 2 of the SIP will be put to Council for the November Ordinary meeting 2022. A draft report on the completion of the SIP has been completed and shows significant progress against many items. There is no doubt that the SIP has helped improve many aspects of the business and it has proved valuable in directing the resources of the organisation around priority tasks.

Work continues to focus on improving the cash flow projections in the short term through continued asset divestment, operational efficiencies, and reviews of services.

Council has prepared an

- *annual budget for 2021/22, and 2022/23*
- *long term financial plan*
- *two-year cash flow projection.*

The cash flow demonstrates that with the potential asset sale of: Blue Haven Bonaira factored into the next years, alongside the exchange and settlement of Akuna Street and several other properties. Copies of this documentation is attached. Financial experts, KPMG were contracted to prepare the cash flow and provided a comprehensive briefing to Council on the two-year projections. Council held a workshop shortly after this discuss its response to the cash flow.

Council will have sufficient cash reserves to pay its debts as and well they fall due. It is also worth noting that any potential divestment of aged care services and assets will yield an ongoing operational saving with a reduction in employee overheads.

As of 21 October 2022 the Akuna Street landholdings contracts have been exchanged, with settlement to occur in 42 days.

Monthly financial reports to Council have been reinstated and monthly statement of investment reports have also been delivered to Council. Council commissioned KPMG from May to Sept 2021 to work with the Finance Department to significantly improve financial information and record keeping practices. KPMG created the monthly report format, which staff continue to improve.

KPMG also reviewed the TechOne system that supports the finance department. Subsequently, TechOne executives held a meeting with CEO and Senior Staff in September 2021 and were notified that no further contract modules would be rolled out and KMC will consider exiting the contract unless concerted effort is made by TechOne to ensure the product and system works and can deliver effective monthly reports, as the product does in many other Councils. To this end a full review has occurred and a workshop with users scheduled for October 2022. Greater system improvements are anticipated which will improve the quality of financial reporting available to Council and the Department.

A qualified CFO has been appointed to lead the finance department and brings a wealth of local government and TechOne experience to KMC.

2. Review Council's current compliance with accounting principles including the Act, Regulations and Code of Accounting Practice.

Response –

The Forsyth's' report already completed a significant review of Council's adherence to accounting principles and regulations. The report made 26 recommendations to improve KMC's finance department and meet accounting principles, Act and regulations, for both aged care and local government services. It is intended that the CFO will report to ARIC and FAC on the deliverables of the Forsyth's' report and improvement measures being made to Council's compliance with accounting principles every two months so that tracking of progress of these 26 items can be undertaken. In the last four months, 5 of the 26 items have already been addressed, particularly those with highest risks being the restricted reserves, developer contributions and prudential standards.

The organisation now has a CFO appointed with the requisite skills set, who holds a seat on the executive. The Chief Operating Officer who is also a certified accountant and has formally held CFO and CEO roles in aged care and is assisting in providing expertise in financial management. A financial controller for Blue Haven was also recently appointed and is assisting in ensuring financial accounting for Blue Haven meets Federal Government requirements.

It is also worth noting that Council self-identified and reported its non-compliance with restricted reserves. Officers immediately reported this to Council, prepared a policy and introduced monthly reporting documenting movements of reserves. Revisions to this policy have been submitted to the October 2022 Ordinary meeting and are designed to help use plain English and help staff understand reporting obligations. Community feedback will be sought prior to adoption and implementation.

The adjustment and correction to Restricted Funds noted in the forensic report has been made.

Likewise, the work required to bring up to date the Developer Contributions and Infrastructure Contributions has been reported to Council (July 2022) and publicly released. Recruitment to this role is underway so that work can continue.

KPMG was employed to assist in the reestablishment of monthly financial reports, and these continue to be improved upon and reported to Council. Monthly Statement of Investment reports are also provided. The TechOne finance module continues to be worked on and improved with a sense of urgency to ensure that accurate and quality data is provided to council. All Managers have been provided training on financial management and use of the TechOne system.

Staff continue to work on developing on required financial policies and workflows for improved mandatory record keeping on financial information.

3. Review Council's strategies to improve its current financial circumstances, including preparation of its Liquidity Plan.

Response –

Council has prepared and adopted its annual budget, a long-term financial plan and worked further on a two-year cash flow projection to June 2024. This material has been adopted and distributed to the AO NSW. These documents show the liquidity of the organisation and meet its legislative responsibility as defined by IPART. It is not usual for local governments to develop over and above these documents, a specific liquidity plan, as typically the above mentioned documents demonstrate liquidity.

KPMG were engaged to undertake this further cash flow review with the COO then working with the CEO, Executive Team, FAC and ARIC to determine improvement strategies. These strategies concluded in a clear need for significant asset divestment in the 2 years to June 2024 of some \$30M to \$40M in addition to the existing asset sale currently occurring, that would enable

clearing the full debt to TCorp. As noted, Blue Haven Bonaira has subsequently and recently been resolved by Council (subject to land reclassification) to be sold, and further property divestment is being reviewed. Note longer term financial initiatives are discussed below.

The organisation would need to understand what further liquidity documentation the Minister and Department are expecting to see in a liquidity plan over and above legislative IPART requirements to provide further information.

In terms of meeting its prudential requirements, KMC has consulted on and adopted a Prudential Standard Policy that includes the required Liquidity Management Strategy for Blue Haven that complies with the Federal Government Aged Care Act. Additionally, as noted above, a recent concern by Federal Health and Aged Care regarding appropriate financial management of resident funds has been satisfactorily addressed.

4. Develop longer term strategies to ensure its long-term financial security.

Response –

The initial Budget 2023, cash flow forecast and LTFFP was reviewed by the Executive and improvements totalling \$1.7M were identified and adopted in June 2022. These savings did not impact on service delivery and opportunities to continue to refine the capital program and service levels were to be further explored across the organisation in consultation with staff and community as required by legislation. This ongoing work would be included in the SIP Stage 2.

Subsequently, FAC provided KMC with a range of recommendations to improve financial sustainability (July 2022).

NSW AO raised concerns and sought a cash flow (improvement) review for the 2 years to June 2024. The cash flow work noted in the above section focussed on asset divestment as a clear strategy to address immediate cash flow concerns but prudently noted and considered longer term operational improvements or efficiency objectives.

We recognised in our respective FAC and ARIC and ELT reports and meetings that the 2 years to June 2024 was a first step. Therefore, commencing in Year 2 but then extending into Years 3 to 5 (and beyond) the following operational improvements were included for cash flow (and budget) purposes:

- Need to better align capital works program against realistic delivery capability and also to focus initially on only significant and/or funded activities. This resulted in a saving of \$8M for 2023 and \$4M for 2024.*
- Efficiency target of \$8M across revenue and expenditure.*
- The consideration of an SRV application for 2024.*
- A combined 5% savings target across employee costs and materials/ contracts would result in \$4M saving.*
- Exploration of paid parking and resident permit options as revenue source.*
- Service reviews.*
- Review of fees and charges.*

Councillors held a workshop on this and adopted their response in September 2022.

Stage 2 of the SIP will identify key actions for each of the above and identify responsible officers.

5. Undertake a strategic review of its property holdings and investments.

Response –

Council has prepared a property divestment portfolio and is systemically working through valuations and business cases required for any property divestment endorsed by Council. A council resolution that supports the CEO to undertake was passed in July.

A working group was formed and meet fortnightly during the SIP to undertake this body of work. A panel of real estate providers established, and several properties progressed to market. Several properties are being valued and options assessed. This is additional to the review and valuations regrading Blue Haven. An additional temporary role was agreed to by the Executive with a Position description prepared and steps taken to progress to recruitment. This role will have dedicated responsibility for managing the property divestment portfolio.

Part B: Blue Haven Aged Care Facility

6. Review Council's management of Blue Haven aged care facility.

Response –

The COO manages the day to day operations of Blue Haven and reports regularly to the Council on management issues. Deliberate recruitment to the key leadership team at Blue Haven has also occurred in recent months helping restore quality assurance, clinical care, Director of Care and Operations and nurse educators. KMC also designated a full-time staff member to Human Resources for Blue Haven to improve recruitment and staffing. The Blue Haven leadership team incorporates the following:

Chief Operating Officer

Residential Aged Care Director of care and operations

Community Services Manager

Independent Living Unit Manager

Quality and compliance (RAC and community) Officer

Maintenance Supervisor

Clinical Nurse Educator

2 x Assistant Clinical Managers

The CFO works closely with the CEO and the management of the facility is supported by dedicated and skilled staff. Operations are regularly reported on the Council in report and to the committee. The accreditation process for the residential aged care was recently completed and final approval is being waited on from the Federal Government.

Continued roster improvements and operational efficiencies will be a key focus of the SIP Stage 2.

Having recently completed the audit process for accreditation the organisation also has a real time pulse on its performance across all 8 Quality Standards and the 44 expected outcomes requirements. With 31 mets and 11 unmets, our continuous improvement plan for Blue Haven will reflect these issues. Overall, KMC takes the quality care of our vulnerable aged residents seriously and all efforts are taken every day to maintain service levels and care standards.

Staffing shortages are an industry problem and KMC does not shy away from the additional cost of agency staff to fill vacant shifts as required to maintain care levels. The service is much better placed today than it has been, given the interventions and initiatives discussed earlier. The upcoming aged care reform agenda is significant but again, we are confident due to the

interventions, that we are better placed today to manage the changes. The financial challenges remain but these are now identified, compared to industry benchmarks and improvements sought notwithstanding the recent sale decision.

The Blue Haven Advisory Committee is in the process of being re-established and Council recently resolved to support the remodelling of the committee. Refer to attached report KMC has been in the business of aged care for 40 years and continues to provide quality aged care services to clients.

7. Prepare Council's business case for options relating to the facility.

Response –

The CEO and COO prepared a brief and sought qualified consultant proposals for this body of work. A leading aged care expert Mr Paul Sadler (recently CEO of national advocacy body ACSA and ACCPA) working in conjunction with Stewart Brown Advisory (leading aged care financial advisory firm) has been appointed and is currently completing this body of work. (Refer attached)

This is estimated for completion mid to late November 2022. The valuation of all Blue Haven services has been undertaken by Nelson Partners (leading aged care and retirement village valuers) and a final report due late October 2022. The executive have been working on this since resolved in May 2022 and have determined that the document needs to be finalised for probity purposes.

A consultant is being sought to lead the public hearing process for the reclassification for the land at Bonaira to reflects its use and was appointed 20 October 2022.

8. Review the operation of the facility and enable Council to make a decision about the retention, sale or lease of the facility.

Response –

In addition to the commentary in section 7, Council resolved at its extraordinary meeting 13 October 2022 to undertake the following:

22/296OC

Resolved that Council rescind motion 22/283OC from the September 2022 ordinary meeting and replace with the following:

That Council

- 1. Retain Blue Haven Terralong (Lot 71 DP 831089) in Council ownership and ensures comprehensive engagement with the community and residents, giving consideration to future use of the decommissioned aged care facility.*
- 2. Undertake to sell Blue Haven Bonaira (Lot 2 DP1215276) subject to the completion of the required notice in accordance with Section 34 of the Local Government Act (public notice to classify or reclassify public land) and the associated planning proposal process, which council has previously resolved to allocate funding towards at its June ordinary meeting.*
- 3. Continue to inform and engage with the community, including those who are cared for by Blue Haven, to reassure all parties that the quality of care and standard of service of the Independent Living Units and Residential Aged Care Facility will be maintained, regardless of ownership.*

4. *Continue the work on the urgent need to improve cash flow to demonstrate 'going concern' status and improve the long-term financial position of Council, including, but not limited to:*
 - a. *paid parking and resident permits*
 - b. *ensuring a proportion of revenue generated from any sale or divestment of any assets be invested in strategies for the generation of income and continuous revenue streams.*
5. *Rescind its previous resolution on the sale through open tender for Barney Street lot and refer to the separate confidential report on this subject matter.*

(Councillors Reilly and Croxford)

Any future decisions related to continued divestment of aged care services or assets will also have the added benefit of the information provided as part of the business case and valuations.

9. Review and report on Council's compliance with the *Aged Care Act 1997* (C'wealth) and other relevant legislation regarding the management of Blue Haven aged care facility, including but not limited to:
 - i. The use of funds, deposits and bonds;
 - ii. The financial circumstances of the facility;
 - iii. Strategies to improve the financial performance of the facility;
 - iv. any response to the facility's accreditation audit

Response –

KMC recently was issued a Section 9-3 (B) letter from the Aged Care Commissioner (September 2022), seeking responses to many of these matters. A response has been developed and copies sent to the OLG, AO and TCorp for information. KMC awaits the Aged Care Commissioner's formal response however initial verbal feedback from the relevant ACQSC Compliance Officer (who will report to the Delegate of the Commissioner) and KMC COO suggests satisfaction with the response submitted.

The development of the Prudential Policy including Liquidity Management Strategy for Blue Haven has also addressed these issues. This formed part of our response to the ACQSC The reestablishment of the BHC with industry experts will also help guide the operations of the facility. The improved financial reporting and the comparison to aged care industry benchmarks has also more clearly identified the financial performance challenges and areas for improvement. KMC continues to lead advocacy efforts to the Federal Government as is working with key stakeholders to this end.

A second meeting of NSW Local Government aged care providers in to be held on 25 October 2022 and a discussion paper has been written and distributed. This group has helped bring to the attention of LG NSW the unique but shared difficulties of local government as aged care providers and is seeking to advocate to the State and Federal Government on this subject matter.

Importantly the assessment visit (unannounced) accreditation for approved provider of aged care status has recently occurred. A four-day audit was held, and the results to date are 11 unmet and 33 met criteria across the 8 quality standards. KMC has prepared a reply to the audit findings and is awaiting a final decision of the Aged Care Commissioner, expected in the next few weeks. Industry experience and knowledge would indicate that accreditation will be granted with a likelihood of a 2 year or maximum 3 year period.

10. Prepare a management plan for the facility

Response –

The initial focus in recent months has been to ensure appropriate care standards and service levels have been maintained and preparing for accreditation and ensure a full complement of leadership staff. Recruitment of key senior staff and the ongoing challenge of care staff shortages has also required focus, in amongst ensuring all COVID-19 matters and requirements have been addressed.

KMC is currently in the process of completing the planning proposal to reclassify the land to operational and is concurrently designing a tender process for the potential sale of Blue Haven Bonaira as resolved by Council.

Operating improvements and continuous improvement plans must remain a focus to ensure appropriate care levels and compliance are maintained whilst the sale process ensues. It is anticipated that the new leadership of Blue Haven Bonaira after receiving the results of the accreditation audit will now have vital information on which to map out the operation continuous improvement plan.

The reestablishment of the Advisory Committee will also assist in providing further operational oversight and expertise to the Elected Representatives.

Part C: Council's Financial Accounting and Management Systems**11. Review Council's current financial accounting and management systems and implement any improvements to these systems**

Response –

The Forysths' report makes 26 recommendations to improve KMC's finance department and the organisation. Some of these have already been actioned. KPMG have been extensively engaged to provide strong assistance and guidance in key areas and financial reporting. The recently appointed CFO with the requisite skills set including strong local government experience, and is complimented by the Chief Operating Officer who is also a certified accountant and has formally held CFO and CEO roles. Their expertise adds significant value to the team at KMC and to Councillors.

It is intended that the CFO with the COO will report to ARIC and FAC on the deliverables of the Forsyth's' report and improvement measures being made to Council's compliance with accounting principles. Additionally, KPMG were engaged to review the resources of the finance department and provide recommendations to the team structure. This report has been received with a briefing held for Councillors.

Recruitment, adjustment to key roles, position descriptions and workflows are all being developed by the CFO and COO. Improvements to Council financial reports are continuing to be made. Importantly the review of TechOne with the additional leadership is identifying suggested improvements for the quality and speed of financial reports. KPMG's review of the TechOne was instrumental in bringing out improving in system use and quality of data.

KMC would be pleased to provide a SIP Stage 2 report to the Minister and OLG on the progress of these items at key dates suggested being – 31 Jan 2023, 29 April 2023 and 31 July 2023.