



ORDINARY MEETING OF COUNCIL SUPPLEMENTARY ITEMS

To be held at 5.00pm on

Tuesday 19 March 2024

Council Chambers

11 Manning Street, KIAMA NSW 2533

Members

Mayor

Councillor N Reilly

Deputy Mayor

Councillor I Draisma

Councillor M Brown

Councillor M Croxford

Councillor J Keast

Councillor S Larkins

Councillor K Renkema-Lang

Councillor K Rice

Councillor W Steel

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
18	LATE ITEMS	3
18.1	Finance & Governance Plan in Response to Notice of Intention to Vary a Performance Improvement Order.....	3
18.2	CEO Note in respect to Item 16.1	19

18 LATE ITEMS

18.1 Finance & Governance Plan in Response to Notice of Intention to Vary a Performance Improvement Order

CSP Objective: Outcome 5.1: Public funds and assets are managed strategically, transparently, and efficiently

CSP Strategy: 5.1.1 Public funds are managed in accordance with Financial Management Standards and the Local Government Act.

Delivery Program: 5.1.1.1 Improved financial reporting and legislative compliance through reporting, scrutiny oversight and processes

Item 18.1

Summary

Council has previously been informed about the State Government's intention to vary the Performance Improvement Order (PIO) due to remaining significant concerns regarding financial and governance matters. The details of these matters are contained in the schedules to the letter and based on the review findings of the OLG appointed independent Financial Advisor John Rayner. These documents have previously been tabled at the February meeting of Council, and as such are not reattached.

The Letter and the schedules can essentially be summarised into three key areas:

- Financial Management
 - implementation of a Finance & Governance Plan to remedy Council's financial performance including balanced budgets and a sustainable unrestricted funds balance by 2026/27.
- Blue Haven
 - actions and issues both with or without Bonaira, including a strategic review of Terralong – plan of management, asset condition, asset upgrade reserve and pricing.
- Financial Accounting & Management Systems
 - implementation of TechOne, improved financial reporting and governance recommendations from earlier Hopwood Governance Review and Auditor Management Letter.

Financial implication

The financial circumstances of Council are well documented and publicly known. Council has a recurring structural deficit that requires urgent intervention and correction. The PIO should drive all financial and operational decisions of the Council.

Supplementary Reports

18.1 Finance & Governance Plan in Response to Notice of Intention to Vary a Performance Improvement Order (cont)

Risk implication

Council must remain financially sustainable and meet the ratios described in the Local Government Act 1993 and related regulations. Failing to meet these risks the failure of the organisation.

Policy

Local Government Act 1993.

Consultation (internal)

A series of executive meetings have been held over recent weeks to work through aspects of the PIO. Managers have been briefed and all staff meetings have been held where the PIO was discussed.

The PIO and Raynor Report were discussed with ARIC, FAC and Blue Haven Advisory Committee in their most recent meetings.

Communication/Community engagement

The PIO and Raynor report were previously reported to Council and the community in February.

Attachments

- 1 Cash Flow Strategy Summary Updated March 2024 [↓](#)
- 2 Implementation Team Organisational Chart [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council

1. Adopt the report of the Chief Executive Officer dated and titled Finance and Governance Report and the attachment titled "Financial Sustainability and Cashflow Strategy";
2. At the next workshop of the Finance Advisory Committee the two documents adopted in recommendation (1) above be discussed with an intention to consolidating the finance matters into one concise document to be titled the Finance Plan as required by the Performance Improvement Order;
3. Endorse the existing members of the audit and improvement committee (ARIC) to continue on in their roles for a further two years, concluding their tenure in December 2026 in order to ensure to continuity in oversight of Performance Improvement Order and financial statements; and
4. Endorse the existing members of the finance advisory committee (FAC) to continue on in their roles for a further two years, concluding their tenure in December 2026 in order to ensure to continuity in oversight of Performance Improvement Order and financial statements; and

Supplementary Reports

18.1 Finance & Governance Plan in Response to Notice of Intention to Vary a Performance Improvement Order (cont)

-
5. The terms of reference for both ARIC and FAC be updated as an administrative change to reflect the extended tenure as outlined in recommendation (4) above.

Current work undertaken to support the Performance Improvement Order

Council is still awaiting the final issued PIO however, in preparation much work has been undertaken. The following key tasks have been progressed:

1. The creation of a temporary **Implementation Team** to lead the coordination and delivery of PIO work. A copy of the team chart is attached. The team will use resources allocated to the Project Management Office on a temporary two-year basis and consists of 4 FTE's. The Head of Implementation will report to the CEO and will be responsible for the following types of activities:
 - Compliance reporting on the PIO and monitoring of implementation.
 - Coordination of catalyst site business cases for 11 Manning Street, consolidation of depot sites, repurposing of the old Havilah place site, broader precinct planning / vision for the Terralong street land holdings, and Spring Creek.
 - Coordinating the delivery of the governance and finance report.
 - Consolidation of legal services.
 - Public Officer duties and governance oversight.
 - Preparation of advocacy documentation for key infrastructure requirements.
 - Rolling program of service reviews, business plans and service catalogues.

Key appointments to two roles has already occurred. The Head of Implementation will commence 28th March 2024, and Legal and Governance Services Implementation lead will commence 2 April 2024. The remaining temporary appointments will be made in coming weeks. Structural changes to free up reporting lines to CEO is also progressing.

2. A draft Financial Sustainability & Cash Flow Strategy has been prepared and updated, which helps map out overall strategies that respond to the PIO. Detailed actions will be workshopped with FAC and Councillors. This report will form the finance report which is called for in the PIO.
3. Preparation of a new Governance Plan has commenced and is being led by subject matter expert Mr Todd Hopwood from Wollongong City Council. An audit

Supplementary Reports

18.1 Finance & Governance Plan in Response to Notice of Intention to Vary a Performance Improvement Order (cont)

approach will be used Key staff have already been interviewed, data exchanged, and report preparation is underway.

4. Terralong dilapidation report is well under way, asset register established, and audit of asset completed. Quality assurance processes are underway to test data reliability, along with identification of gaps and omissions. Public report will need to be prepared. Background work on maintenance plan, renewal plan and planning for upgrade reserve underway.
5. Options analysis and risk assessment of council's decision making concerning Blue Haven Bonaira was undertaken by the executive. Intensive executive effort continues to focus on implementation of Council's decision on divestment.

➤ ***Specific actions taken on governance matters in PIO***

Todd Hopwood has been engaged to perform a follow up review to the initial review of 2021. The focus will also be relevant matters and concerns noted within the PIO.

The current review is occurring mid-March and a report expected by the end of March.

NSW Audit Office are currently onsite undertaking the 2023 Financial Audit and part of the audit will be to review progress against 2022 Management Letter points and determine a current 2023 Management Letter. The audit and Management Letter will be completed and available at the end of April. It is to be noted that ARIC receive periodic updates of the earlier Hopwood review and actions taken, and similarly with progress made on the 2022 Management Letter.

Consultation with OLG has occurred on retaining ARIC members beyond the usual terms, due to concern of loss of continuity and risks associated with knowledge loss at a critical time. It is proposed that ARIC members continue for an additional two-year term. Noting that the new preferred candidate for ARIC will be appointed in December 2025. The candidate has non-compete clauses to wait out, the appointment will in 2025 will allow adequate hand over and ensure continuity of knowledge.

A similar strategy of retention of skills and knowledge ought to be applied to Finance Advisory Committee to ensure continuity of advice and support. The PIO specifically ties FAC to the incoming and existing Council and provides a deliberate opportunity for interaction three times per year.

It is worth noting that all Councillors have always had the opportunity to attend FAC and ARIC as observers and receive copies of all reports tabled.

Losing members and efforts of both of these key bodies (ARIC and FAC), at the same time, as the groups were founded at the same time would be too greater risk for Council. Particularly when considering the upcoming election. Given the PIO will bind this council and the incoming council it is imperative that the two bodies continue to support the momentum of work and ensure oversight. As such this report recommends that their respective tenure be extended.

Supplementary Reports

18.1 Finance & Governance Plan in Response to Notice of Intention to Vary a Performance Improvement Order (cont)

Legal services budgets across the organisation will be consolidated in the 2024/25 budget and actively managed by the implementation team. A new Councillor request for legal services advice form has been developed. Costs associated with all current matters will be tracked and reported separately in the annual reports.

The Public Officer role will be fulfilled by the implementation team led for governance and legals. This officer will attend Council meetings to ensure Meeting Code of Practice compliance and review report recommendations.

The CEO continues to meet with the OLG as specified by the PIO and report on performance.

Item 18.1

➤ ***Specific actions taken on Finance matters in PIO***

Initial work undertaken by the executive on finance related matters in the PIO currently centres around three key areas. These are noted and briefly explained as follows:

1. Business Efficiency

A series of urgent executive meetings were held to work through achieving the following.

- a) Achieving a balanced budget
 - ✓ *No Operating Loss*
 - ✓ *Financial discipline in all teams and budget build for each department with oversight from management.*
 - ✓ *Improvement target of \$8M over 3 years. Aiming for respectively in \$4M in 2024/25 & 2025/26.*
- b) Focus on core essential services
 - ✓ *Understand delivery models and staffing for core services.*
 - ✓ *Understand discretionary expenditure and services.*
 - ✓ *Understand operations in terms of general funds vs restricted funds.*
- c) IP&R and Service Reviews
 - ✓ *Completing the four revenue focused areas, improving delivery dates where possible.*
 - ✓ *Additional service reviews for parks maintenance / mowing services and for Tourism and Events. Both bodies of work have been scoped and are out for quotations.*

Supplementary Reports

18.1 Finance & Governance Plan in Response to Notice of Intention to Vary a Performance Improvement Order (cont)

-
- ✓ *Rolling program of service reviews developed for completion in 2024 and outward cycle years planned for next five years.*
 - ✓ *Work commenced on development of service catalogue.*
 - ✓ *Work commenced on community satisfaction survey on services and facilities to inform the 2025/26 budget. Survey to be undertaken in 2024.*
 - ✓ *Work commenced rescoping the CSP to reflect the PIO and engagement planning process to be used.*
 - ✓ *Community engagement strategy being prepared and work underway.*

Item 18.1

2. Strategic Asset Planning

a) Strategic Review of Key Asset Holdings

- ✓ *Strategic assessment of key sites completed and business cases identified and scoped for the implementation team to lead.*
- ✓ *Review of all land underway.*
- ✓ *Draft property divestment plan currently being worked on with the scheduled used to inform the development of the LTFP.*

b) Terralong ILU

- ✓ *Strategic Plan to be developed in 2024/25*
- ✓ *Asset condition / dilapidation report well underway.*
- ✓ *Upgrade requirements and Reserve Funds being explored.*

c) Havilah Place

- ✓ *Sub-division work commenced and business case scoped and ready for implementation team to lead.*

d) Leisure Centre & sports ground

- ✓ *Service review findings must be considered and engagement process underway.*
- ✓ *Integration with Havilah Place Options Review*
- ✓ *Review the work completed on the sports masterplan and identify what opportunities existing to consider whole of precinct planning.*
- ✓ *Engagement with key stakeholders to be undertaken in coming weeks.*

Supplementary Reports

18.1 Finance & Governance Plan in Response to Notice of Intention to Vary a Performance Improvement Order (cont)

-
- e) Manning Street
 - ✓ *business case scoped and ready for implementation team to lead.*
 - f) Depot consolidation
 - ✓ *business case scoped and ready for implementation team to lead.*
 - g) Springcreek and Glenbrook Drive land holdings
 - ✓ *Business cases to be developed on best use of springcreek site.*
 - ✓ *Both sites cannot be progressed until State Government lifts caveat over land.*

Item 18.1

3. Financial Management & Treasury

- a) Review and establish new restricted reserves
 - ✓ *Establish Working Capital Reserve.*
 - ✓ *Terralong ILU Reserve planning for establishment underway.*
 - ✓ *Strategic Future Fund planning for establishment underway.*
 - ✓ *Balances of all reserves being established.*
 - ✓ *Infrastructure plan and policy to inform use of restricted reserves from development contributions.*
- b) Work continues on clear processes and tracking of operational unrestricted and restricted fund flows.
- c) Debt finances
 - ✓ *Policy development underway to ensure debts and loans are only for major strategic initiatives with identifiable repayment plan established.*
 - ✓ *Renegotiated TCorp loan with Bonaira proceeds to go towards to repayment of final loan instalment.*

Conclusion

The upcoming PIO will require a Finance & Governance Plan to plan and direct the actions required to address the requirements of the PIO but more importantly to build on current progress to restore Council financial sustainability.

Supplementary Reports

18.1 Finance & Governance Plan in Response to Notice of Intention to Vary a Performance Improvement Order (cont)

Council's previous Financial Sustainability & Cash Flow Strategy (update attached for information) along with both versions of Strategic Improvement Plans have been valuable documents with some cross over into the new Finance & Governance Plan along with some new or updated actions.

The draft Finance aspects noted above will be further reviewed and considered at the next Financial Advisory Committee meeting. The intention is to compile the financial actions above into the financial sustainability and cash flow plan, rebrand the document to the Finance Plan as required by the PIO. It is recommended that to complete this work, this report and the draft updated document attached be workshopped with the Finance Advisory Committee and submitted to Council in either April or May at the ordinary meeting.

Likewise, once written up the Governance review will be shared with ARIC and Council for consideration and adoption, as required by the PIO at the ordinary Council meeting in either April or May.

These two documents – finance and governance reports will provide the PIO roadmap for the organisation and the community. It is important to have the foundations in place for the commencement of the implementation team so that their work is clearly informed by Council's direction.

FINANCIAL SUSTAINABILITY AND CASH FLOW STRATEGY

5 Years to June 2027

Presented to Council February 2023

Updated February 2024

CONTEXT

KMC financial sustainability and cash position has been identified as a serious issue requiring urgent and significant action. This has been highlighted in Budget and LTFP documents prepared mid year 2022 and formally recognised by Auditors, NSW Audit Office and Office for Local Government.

Audited Financial Statements for 2021 could not be signed off without confidence pertaining to KMC's ability to demonstrate going concern viability. The OLG further concluding that a Performance Improvement Order was imposed with some other matters noted in addition to the going concern issue.

Federal Health and Aged Care through ACQSC also had concerns issuing a formal notice requesting explanation and clarification of financial matters and concerns specifically relating to the aged care operations of Blue Haven.

NSW Audit Office and NSW Treasury Corp specifically requested 2 year cash flow (by month) from July 2022 to June 2024 to assess going concern viability.

Update 2024

Throughout 2022 and 2023 many improvements were implemented and focused effort on improving the business were applied. Whilst progress was made the structural and pervasive of KMC financial sustainability remains a key concern for not only KMC but also NSW OLG and NSW Audit Office. KMC diligently met all compliance reporting for the PIO and submitted its final outcomes in June 2023. Towards the end of 2023 the State Government wrote to Council advising that the Minister was commissioning an independent review of KMC's decisions regarding asset divestment and progress against the PIO. The review was undertaken in January 2024 by Mr John Raynor. The Raynor report was tabled at Council publicly in February 2024 once reviewed and it echoed concerns over structural deficits and acute dire financial circumstances.

Subsequent to the Raynor Review the Minister advised of its the State Government Notice of Intention to vary the Performance Improvement Order. Whilst the Raynor report noted clear evidence of the continuing progress it also highlighted actions still required in financial performance and governance. These findings were used to inform the varied PIO and noted the following:

- Audited Financial Statements for 2021 and 2022 have been completed, with the 2023 audit currently occurring. The 2024 audit will occur in the normal October timeframe. Significant accounting, financial management and reporting improvements have occurred.
- NSW Audit Office "going concern" requirements have been satisfied.

24/29527

- TCorp loan repayments of \$30M were made prior to July 2023 and re-negotiation of the remaining \$15M to August 2025 but linked to the sale of Bonaira has been arranged.
- Federal Health & Aged Care compliance matters pertaining to financial governance matters have been addressed. Annual processes exist to ensure ongoing compliance. Additionally, service quality and Accreditation compliance has also been achieved.
- NSW OLG PIO (issued November 2022) criteria responses have been substantively addressed.

RESPONSE

KMC cash flow forecast was updated initially by KPMG and presented to KMC at the end of August 2022 as a minimum 'as-is' or worst case basis without any significant strategic intervention.

This has since been reviewed and updated by KMC Management. Following some initial internal meetings with ARIC, FAC and a separate Councillor workshop, the general consensus was formed that KMC and its cash flow required 2 key areas of focus:

1. Short term 2 years to June 2024
2. Medium to Longer term 3-5 years July 2024 to June 2027 (and beyond)

The cash flow forecast was reviewed, adjusted and presented to Council in late September 2022.

Update 2024

The cash flow (updated and presented to Council in February 2023) showed cash reserves at June 2024 of \$46.5M and Council is on track to meet that (pending Bonaira divestment settlement in June 2024).

The latest correspondence from NSW OLG and its independent Financial Advisor indicates several actions and areas of focus for KMC and suggests two plans be developed

1. **'Finance Plan'** be established to assist.
2. Governance Plan.

The substantive components of KMC's Financial Sustainability & Cash Flow Strategy are captured within the upcoming Finance Plan. Initial work on the Finance Plan has commenced and some of the responses in the following pages will refer to remaining work and new actions likely to be in the Finance Plan.

1. SHORT TERM STRATEGIES - 2 Years to June 2024

The cash "crunch" has arisen primarily due to a capital investment decision circa 2017 to 2019 with related financing and operational costs also contributing. Payment of the TCORP debt along with the general functioning of KMC, thereby satisfying going concern issues, can only occur if asset divestment can produce requisite cash inflows. Re-negotiating some of the TCORP debt (eg \$17M) is a possible option but not preferred and recommended as a last resort.

➤ **Asset Divestment**

The Akuna Street property is a key initial but critically significant divestment initiative. Contracts of Sale have exchanged with settlement of \$28M expected in December 2022.

The cash flow update presented in September 2022 also indicated that “other asset divestment” in the vicinity of \$30M to \$40M would be required to allow full repayment of the TCORP debt of \$45M in August 2023. The conclusion as to which assets would form the “other” was to be determined but clearly Blue Haven was a possibility for a few reasons notwithstanding its ability to reach the substantive value required.

Additional land holding at Akuna Street are being put to the market. Burnetts on Barney’s has been approved for direct negotiation with possible settlement in early to mid 2023.

Note: The recent decision by Council in October 2022 has resolved that the Bonaira site and services component of Blue Haven would be sold, which based on valuations undertaken, could result in a net cash injection of \$20M to \$25M possibly by late 2023. Additionally, and one of the ‘reasons’ why Blue Haven was earlier noted as a ‘clear divestment possibility’ is that the resident loans will be removed from Council Balance Sheet liabilities – for Bonaira this is approx. \$72M.

Section 2 discusses medium term operational strategies and the sale of Blue Haven or Bonaira at this stage would assist in this strategy. The Governance and Strategic Keep / Lease / Sell Business Review is proceeding despite this initial decision by Council and options concerning Terralong are also included.

Update 2024

Akuna Street property was sold in December 2022 and \$28M realised. Additional Akuna St car park has sold recently for \$5.5M. Irvine Street land has sold for \$1.2M. Bonaira divestment is in direct negotiation phase with preferred tenderer and settlement proceeds expected in June 2024.

A strategic and financial assessment of key asset holdings to identify hold, upgrade or divestment opportunities is required and being pursued.

The following work has been undertaken on the Strategic Review of Key Asset Holdings

- ✓ Strategic assessment of key sites completed and business cases identified and scoped for the implementation team to lead.
- ✓ Review of all land underway.
- ✓ Draft property divestment plan currently being worked on with the scheduled used to inform the development of the LTFP.

Terralong ILU

- ✓ Strategic Plan to be developed in 2024/25
- ✓ Asset condition / dilapidation report well underway
- ✓ Upgrade requirements and Reserve Funds being explored

Havilah Place

- ✓ Sub-division work commenced and business case scoped and ready for implementation team to lead

Leisure Centre & sports ground

- ✓ Service review findings must be considered and engagement process underway.
- ✓ Integration with Havilah Place Options Review
- ✓ Review the work completed on the sports masterplan and identify what opportunities existing to consider whole of precinct planning
- ✓ Engagement with key stakeholders to be undertaken in coming we

Manning Street

- ✓ Business case scoped and ready for implementation team to lead

Depot consolidation

- ✓ Business case scoped and ready for implementation team to lead

Spring Creek and Glenbrook Drive Land Holdings

- ✓ subject to State Government lifting the caveat on the development of the land.
- ✓ A business case of highest and best use of Spring Creek is required along with Council's preferred role.

Any other acquisition or divestment opportunity captured in the Property Divestment Plan.

➤ **Capital Works Program**

The property capital works expenditure was reviewed and adjusted to focus on works that were directly linked to supported funding or grant arrangements but also to better align with realistic internal resource capacity to deliver projects. This resulted in savings of circa \$5M in each of 2023 and 2024.

Update 2024

This has been reflected in intervening Budget and Cash Flow processes although \$1.3M was added back into the 2024 Budget.

The Balanced Budget action in the Finance & Governance Plan that picks up on the operational efficiencies noted in this report and the OLG Financial Advisor Review, is important in this area of capital works due to the impact of depreciation to the operating result.

➤ **Cash Position at June 2024**

The asset divestment strategy would result in KMC having a sufficient cash reserves position, with a respectable "unrestricted funds" position at June 2024. This will provide KMC a platform for its future strategic objectives.

Update 2024

The cash flow (updated and presented to Council in February 2023) showed cash reserves at June 2024 of \$46.5M. A recent cash flow statement presented to KMC Financial Advisory Committee in February 2024 showed forecast cash reserves at June 2024 of \$50M.

18.2 CEO Note in respect to Item 16.1Responsible Director: Office of the Chief Executive Officer

The CEO has today been advised of escalated costs in relation to Item 16.1.

The Director Infrastructure & Livability was advised on 15 March 2024 that, since the business papers were published, the builder has now completed the decontamination and capping works to the revised design and occupational hygienist's recommendations.

The final as constructed costs, to capped and ready for building works, have been reported to Council as \$471,000 (ex GST), including disposal costs of \$442,000 for some 1031 tonnes of ACM. The total decontamination costs have been reported as net of the project contingency i.e. the contingency allowance of \$50,000 has been subtracted from the cost.

These total costs result in a revised request for funding of \$470,600 (ex GST) compared to the \$370,000 request set out in the report for Item 16.1 Request for funding assistance: Gerringong Surf Life Saving Club Reconstruction.

Council Staff require time to ascertain whether the additional shortfall can be met and if it is able to be met within the budget. Given the Council's financial circumstance a request for urgent unfunded and unplanned capital expenditure totalling nearly half million dollars is both alarming and challenging.

It is also noted that whilst the group have done a highly commendable job in raising their own funds for the capital costs, the asset being constructed is and will remain a Council facility which will sit on Council's balance sheet. The excellent community work and service the club delivers is not being questioned in any way, and I am certain are highly valued by both the community and Council.

There are however several lessons to be gleaned in this project in terms of project management, and community driven replacement of Council owned facilities versus planned strategic replacement and renewal of Council assets.