

Ordinary Meeting

Meeting Date: Tuesday, 26 February, 2019

Location: Council Chambers, City Administrative Building, Bridge Road, Nowra

Attachments (Under Separate Cover)

Index

8. Mayoral Minute

MM19.2	Mayoral Minute - Recruitment of General Manager	
	Attachment 4	Division of Local Government Guidelines for the Appointment & Oversight of General Managers.....2

12. Reports

CL19.38	Bi-Annual Delivery Program and Operational Plan Report - 1 July 2018 to 31 December 2018	
	Attachment 1	First Bi-Annual Report - July to Dec 2018.....48
CL19.39	2020 Local Government (Council) Elections	
	Attachment 2	Frequently asked Questions - Administration of the September 2020 elections75
CL19.40	Investment Report - January 2019	
	Attachment 1	January 2019 Monthly Investment Report89
CL19.41	2018/19 Council Borrowings - Loan Agreement	
	Attachment 1	TCorp Loan Agreement.....107

Division of Local Government
Department of Premier and Cabinet

GUIDELINES FOR THE
APPOINTMENT & OVERSIGHT OF
GENERAL MANAGERS



July 2011

These are Director General's Guidelines issued pursuant to section 23A of the *Local Government Act 1993*.

ACCESS TO SERVICES

The Division of Local Government, Department of Premier and Cabinet is located at:

Levels 1 & 2
5 O’Keefe Avenue
NOWRA NSW 2541

Locked Bag 3015
NOWRA NSW 2541

Phone 02 4428 4100
Fax 02 4428 4199
TTY 02 4428 4209

Level 9, 323 Castlereagh Street
SYDNEY NSW 2000

Locked Bag A5045
SYDNEY SOUTH NSW 1235

Phone 02 9289 4000
Fax 02 9289 4099

Email dlg@dlg.nsw.gov.au
Website www.dlg.nsw.gov.au

OFFICE HOURS

Monday to Friday
8.30am to 5.00pm
(Special arrangements may be made if these hours are unsuitable)
All offices are wheelchair accessible.

ALTERNATIVE MEDIA PUBLICATIONS

Special arrangements can be made for our publications to be provided in large print or an alternative media format. If you need this service, please contact our Executive Branch on 02 9289 4000.

DISCLAIMER

While every effort has been made to ensure the accuracy of the information in this publication, the Division of Local Government, Department of Premier and Cabinet expressly disclaims any liability to any person in respect of anything done or not done as a result of the contents of the publication or the data provided.

© NSW Division of Local Government, Department of Premier and Cabinet 2011
ISBN 1 920766 93 6

Produced by the Division of Local Government, Department of Premier and Cabinet



TABLE OF CONTENTS

DEFINITIONS..... 4

PURPOSE..... 5

INTRODUCTION..... 5

A. STAFFING OF COUNCIL 6

 1. ORGANISATION STRUCTURE 6

 2. APPOINTMENT OF STAFF..... 6

B. RECRUITMENT AND SELECTION 7

 1. REQUIREMENTS OF THE LOCAL GOVERNMENT ACT 1993 7

 2. THE PRE-INTERVIEW PHASE 7

 3. INTERVIEW PHASE..... 8

 4. SELECTION PANEL REPORT 8

 5. FINALISING THE APPOINTMENT..... 9

C. ROLE OF THE GENERAL MANAGER..... 10

 1. KEY DUTIES OF ALL GENERAL MANAGERS 10

 2. DUTIES DELEGATED TO GENERAL MANAGERS..... 11

D. DAY-TO-DAY OVERSIGHT AND LIAISON WITH THE GENERAL
MANAGER 13

E. PERFORMANCE MANAGEMENT..... 14

 1. GENERAL MANAGER PERFORMANCE MANAGEMENT FRAMEWORK 14

 2. ESTABLISHING THE FRAMEWORK FOR PERFORMANCE MANAGEMENT 14

 3. ESTABLISHING THE PERFORMANCE AGREEMENT 16

 4. PERFORMANCE REVIEW PROCESS 16

 5. CONTRACT RENEWAL OR SEPARATION 17

 6. REWARD AND REMUNERATION 17

F. SEPARATION OR RENEWAL 18

 1. TERMINATION OF A GENERAL MANAGER’S EMPLOYMENT..... 18

 2. SUSPENSION OF GENERAL MANAGER 18

 3. DISPUTE RESOLUTION..... 19

 4. RENEWING A GENERAL MANAGER’S CONTRACT 19

APPENDIX 1 - PERFORMANCE MANAGEMENT TIMELINES..... 21

APPENDIX 2 - STAGES OF PERFORMANCE MANAGEMENT 22

APPENDIX 3 – STANDARD CONTRACT OF EMPLOYMENT 23

DEFINITIONS

Code of Meeting Practice means a code of meeting procedure complying with requirements set out in the *Local Government Act 1993* and the Local Government (General) Regulation 2005

GIPA means the *Government Information (Public Access) Act 2009*

Integrated Planning and Reporting:

Integrated Planning and Reporting Guidelines means the Guidelines issued by the Division of Local Government in 2009

Community Strategic Plan as prescribed under the *Local Government Act 1993*

Delivery Program as prescribed under the *Local Government Act 1993*

Operational Plan as prescribed under the *Local Government Act 1993*

Resourcing Strategy as prescribed under the *Local Government Act 1993*

LGSA means the Local Government and Shires Associations of NSW

LGMA means Local Government Managers Australia (NSW)

Model Code of Conduct means the Model Code of Conduct for Local Councils in NSW prescribed by the *Local Government Act 1993*

Ministerial Investment Order means any investment order approved by the Minister for Local Government under the *Local Government Act 1993*

Quarterly Budget Review Statements means the draft Guidelines issued by the Division of Local Government in October 2010

Senior Staff means senior staff as defined by the *Local Government Act 1993*

Standard Contract means the standard form of contract for the employment of the general manager approved by the Director General (or delegate) pursuant to section 338(4) of the *Local Government Act 1993*

Statutory and Other Offices Remuneration Tribunal means the Statutory and Other Offices Remuneration Tribunal (SOORT) as constituted under the *Statutory and Other Offices Remuneration Act 1975*

The Act means the *Local Government Act 1993*

The Regulation means the Local Government (General) Regulation 2005

PURPOSE

The purpose of these Guidelines is to assist councillors to be aware of their obligations under the *Local Government Act 1993* (the Act) and the Local Government (General) Regulation 2005 (the Regulation) when recruiting, appointing, reappointing and overseeing general managers. It provides a summary of the essential matters that must be addressed by councils when engaging in these processes.

These Guidelines are issued under section 23A of the *Local Government Act 1993* and must be taken into consideration by council's governing body when exercising council functions related to the recruitment, oversight and performance management of general managers.

These Guidelines should be read in conjunction with the following:

- Provisions of the Act and the Regulation 2005
- Local Government General Managers Performance Management Guidelines – LGSA & LGMA
- Practice Note 5: Recruitment of General Managers and Senior Staff – DLG
- The standard form of contract for the employment of the general manager

Any references to sections are references to sections of the Act. Where there are any inconsistencies between these Guidelines and the documents above (with the exception of the Act and Regulation 2005), the Guidelines prevail.

INTRODUCTION

The position of general manager is pivotal in a council. It is the interface between the governing body comprised of elected councillors, which sets the strategy and monitors the performance of the council, and the administrative body of the council, headed by the general manager, which implements the decisions of the governing body. The relationship between the general manager and the councillors is of utmost importance for good governance and a well functioning council.

The Act requires all councils' governing bodies to appoint a person to be general manager (section 334). The Guidelines provide a guide and checklist for councillors to refer to when considering:

- the recruitment and appointment of general managers
- re-appointment of general managers or ending contracts
- conducting performance reviews of general managers, and
- engaging in the day to day oversight of general managers.

They are designed to promote a consistent approach across NSW councils to the recruitment, appointment, and oversight of general managers.

There are appendices to the Guidelines which do not form part of the Guidelines.

These Guidelines were prepared with the assistance of the Local Government and Shires Associations of NSW (LGSA) and the Local Government Managers Association (NSW) (LGMA).

A. STAFFING OF COUNCIL

1. Organisation structure

A council should have sufficient and appropriately qualified staff for the efficient and effective delivery of its functions.

The Act requires the governing body of council to determine an organisation structure, the senior staff positions within that structure and the resources to be allocated towards the employment of staff (s332).

When considering the most appropriate organisation structure for council to adopt, the governing body of council needs to consider what human resources are necessary to successfully achieve the goals articulated in the council's Community Strategic Plan, Delivery Program and Resourcing Strategy. For this reason, a Workforce Strategy is an essential component of a council's Resourcing Strategy. A council's organisation structure should align with its Workforce Strategy and be designed to support its Delivery Program and the achievement of its Community Strategic Plan.

The governing body of council must approve and adopt their organisation structure by council resolution. Councils must review and re-determine the council's organisation structure within 12 months of an ordinary election.

Councils may review and re-determine the council's organisation structure at any other time. Generally a council should consider reviewing its organisation structure in the event of a significant change to its Community Strategic Plan, Delivery Program or Resourcing Strategy.

Councillors are entitled to access the council's organisation structure when required and upon request to the general manager.

2. Appointment of Staff

The only staff position that is appointed by the governing body of council is that of the general manager. The position of general manager is a senior staff position (s334).

The general manager is responsible for the appointment of all other staff (including senior staff) in accordance with the organisation structure and resources approved by the council's governing body (s335(2)).

However, the general manager may only appoint or dismiss senior staff after consultation with the governing body of council (s337).

B. RECRUITMENT AND SELECTION

1. Requirements of the Local Government Act 1993

As with the appointment of all council staff, the council must ensure that the appointment of the general manager is made using merit selection principles (section 349).

Recruitment using merit selection is a competitive process where the applicant who demonstrates that they have the best qualifications and experience relevant to the position is appointed.

Equal Employment Opportunity principles also apply to the recruitment of general managers (sections 349 and 344).

The recruitment process must be open and transparent, but the confidentiality of individual applicants must be maintained. A failure to maintain appropriate confidentiality may constitute a breach of the Act and/or Privacy legislation.

2. The pre-interview phase

The council's governing body is responsible for recruiting the general manager.

The governing body of council should delegate the task of recruitment to a selection panel and approve the recruitment process. The panel will report back to the governing body of council on the process and recommend the most meritorious applicant for appointment by the council.

The selection panel should consist of at least the mayor, the deputy mayor, another councillor and, ideally, a suitably qualified person independent of the council. The LGSA and the LGMA can be contacted for assistance to identify suitable independent recruitment committee members and recruitment consultants. The selection panel membership should remain the same throughout the entire recruitment process.

Selection panels must have at least one male and one female member (other than in exceptional circumstances).

The council's governing body should delegate to one person (generally the mayor) the task of ensuring:

- the selection panel is established
- the general manager position description is current and evaluated in terms of salary to reflect the responsibilities of the position
- the proposed salary range reflects the responsibilities and duties of the position
- the position is advertised according to the requirements of the Act
- information packages are prepared
- applicants selected for interview are notified.

The mayor, or another person independent of council staff, should be the contact person for the position and should maintain confidentiality with respect to contact by potential applicants.

3. Interview Phase

Interviews should be held as soon as possible after candidates are short listed.

Questions should be designed to reflect the selection criteria of the position and elicit the suitability of the candidate for the position.

Interviews should be kept confidential.

All written references must be checked.

A selection panel must delegate the task of contacting referees to one panel member. Other panel members should not contact referees.

If contact with someone other than a nominated referee is required, the applicant's permission is to be sought.

At least 2 referees must be contacted and asked questions about the candidate relevant to the selection criteria.

Where tertiary qualifications are relied on they should be produced for inspection and if necessary for verification.

Appropriate background checks must be undertaken, for example bankruptcy checks. For more guidance on better practice recruitment background checks, councils are referred to the Australian Standard AS 4811-2006 *Employment Screening* and ICAC publications, which can be found on the ICAC website at <http://www.icac.nsw.gov.au>.

4. Selection Panel Report

The selection panel is responsible for preparing a report to the council's governing body that:

- outlines the selection process
- recommends the most meritorious applicant with reasons
- recommends an eligibility list if appropriate
- recommends that no appointment is made if the outcome of interviews is that there are no suitable applicants.

This report should be confidential and reported to a closed meeting of council.

The council's governing body must by resolution approve the position of the general manager being offered to the successful candidate before that position is actually offered to that candidate.

5. Finalising the appointment

The mayor makes the offer of employment after the governing body of council has resolved to appoint the successful candidate. The initial offer can be made by telephone.

Conditions such as term of the contract (1-5 years) and remuneration package (within the range approved by the governing body of council) can be discussed by phone, but must be confirmed in writing.

The Standard Contract for the Employment of General Managers as approved by the Chief Executive of the Division of Local Government must be used. The Standard Contract (Annexure 3 of these Guidelines) is available in the 'Information for Councils', 'Directory of Policy Advice for Councils' section of the Division's website at <http://www.dlg.nsw.gov.au>.

The terms of the Standard Contract must not be varied. Only the term and the schedules to the Standard Contract can be individualised.

General managers must be employed for 1 – 5 years.

The contract governs:

- the duties and functions of general managers
- performance agreements
- the process for renewal of employment contracts
- termination of employment and termination payments
- salary increases
- leave entitlements.

It should be noted that the Chief Executive of the Division of Local Government cannot approve individual variations to the standard terms of the contract.

Those candidates who are placed on the eligibility list and unsuccessful applicants should be advised of the outcome of the recruitment process before the successful applicant's details are made public.

6. Record keeping

Councils should keep and store all records created as part of the recruitment process including the advertisement, position description, selection criteria, questions asked at interview, interview panel notes, selection panel reports and notes of any discussions with the selected candidate. These records are required to be stored and disposed of in accordance with the *State Records Act 1998*.

C. ROLE OF THE GENERAL MANAGER

Councillors comprise the governing body of a council and make decisions by passing resolutions. It is the general manager's role to implement council decisions and carry out functions imposed by legislation. A council's governing body monitors the implementation of its decisions via reports by the general manager to council meetings.

1. Key duties of all general managers

The general manager is generally responsible for the effective and efficient operation of the council's organisation and for ensuring the implementation of the council's decisions without undue delay. The general manager carries out all their functions within the guidelines and policy framework approved by the council.

The general manager also has a role to play in assisting the governing body of council develop its strategic direction. The general manager is responsible for guiding the preparation of the Community Strategic Plan and the council's response to it via the Delivery Program. The general manager is responsible for implementing the Delivery Program and will report to the governing body of council on its progress and conduct regular updates and reviews.

The general manager is responsible for recruiting and appointing staff within the organisation structure determined by the governing body of council. This must be in accordance with the budget approved by the council's governing body and be for the purpose of carrying out the council's statutory functions and implementing council's Community Strategic Plan, Delivery Program and Operational Plan.

The general manager must consult with the governing body of council before appointing or dismissing senior staff. The general manager must report to the council at least annually on the contractual conditions of senior staff (cl.217 of the Regulation).

The general manager is responsible for performance management of staff, including staff discipline and dismissal.

The general manager is also responsible for ensuring councillors are provided with information and the advice they require in order to make informed decisions and to carry out their civic duties.

The governing body of council may direct the general manager to provide councillors with advice or a recommendation, but cannot direct as to the content of that advice or recommendation.

Generally, requests by councillors for assistance or information should go through the general manager, except where he or she has authorised another council officer to undertake this role. The Guidelines for the Model Code of Conduct contemplate that a council should develop a policy to provide guidance on interactions between council officials. This policy should be agreed to by both the council's governing body and the general manager.

Councillors could reasonably expect general managers will report routinely on significant industrial issues and/or litigation affecting the council, particularly those that impact on the council's budget or organisation structure.

The general manager should ensure that the council meeting business papers are sufficient to enable the council to make informed decisions, as well as to allow councillors to properly monitor and review the operations of the council. This will assist councils in ensuring that they are complying with any relevant statutory obligations, keeping within the budget approved by the council and achieving the strategic goals set by the council in its Delivery Program and Operational Plan.

Councillors should receive a number of financial reports during the year, including the Quarterly Budget Review Statements included in the Code of Accounting Practice and Financial Reporting and which are referred to in the draft Quarterly Budget Review Statements Guidelines, reports required by the Regulation and any legislation. In addition, the council should receive at least quarterly a report about any significant litigation affecting the council.

Councillors should also receive reports, at least half yearly, on progress towards implementation of the Community Strategic Plan and Delivery Program (see clause 203 of the Regulation or page 20 of the Integrated Planning and Reporting Guidelines).

Clause 10 of the Model Code of Conduct sets out the obligations on general managers and council staff to provide councillors with information in order for councillors to carry out their civic functions.

Councillors have a right to sufficient information to make informed decisions. Applications for information under the *Government Information (Public Access) Act 2009* (GIPAA) are available to everyone including councillors.

2. Duties delegated to general managers

A governing body of council may delegate certain functions to the general manager. A delegation of a council function must be made by a council resolution (Chapter 12 Part 3 ss 377-381 of the Act).

A governing body of council cannot delegate the functions set out in section 377(1) of the Act.

A council's governing body may not delegate the adoption of a Code of Meeting Practice, a Code of Conduct, or the endorsement of Community Strategic Plans, Resourcing Strategies, Delivery Programs and Operational Plans.

Each governing body of council must review its delegation of functions during the first 12 months of each term of office (s.380). To assist with this review, it is recommended that, within the first 6 months of the new term, the governing body of council reviews what functions have been delegated and to whom they have been delegated to determine if the delegation and the policies guiding those delegated decisions have been working effectively.

It should be noted that the general manager may sub-delegate a function delegated to him/her by the governing body of council (s378). However, the general manager still retains responsibility to ensure that any sub-delegated function is carried out appropriately.

Where functions are delegated to the general manager to perform on behalf of a governing body of council, it is important for the governing body of council to ensure there are policies in place to guide the decision making. The governing body of council should keep policies guiding the delegated decisions under regular review.

For example, where media liaison is delegated to the general manager, the governing body of council should adopt a media policy to guide statements to the media.

It is important that council's governing body ensure that proper records are kept of applications that are determined under delegation and that there is regular reporting on the implementation of delegated functions. This is essential so that council's governing body can be provided with assurance that the delegated function is being undertaken in accordance with any relevant council policies and regulatory framework, eg, development application decisions.

The council's internal audit function is another important internal control to ensure that delegated functions are complying with relevant policy and legislation. A well designed internal audit program should give council independent assurance that council's internal controls are working effectively.

Where authority to make a decision is delegated this does not remove a council's authority to make a decision.

Matters that fall outside the terms of a council policy, delegation, or day to day management (section 335), should be referred to the governing body of council for a decision.

D. DAY-TO-DAY OVERSIGHT AND LIAISON WITH THE GENERAL MANAGER

Council's governing body is required to monitor and review the performance of the general manager as discussed in Section C, above. However, a council's governing body should delegate to the mayor the role of day-to-day oversight of and liaison with the general manager.

The mayor's role in the day-to-day management of the general manager should include:

- approving leave
- approving expenses incurred
- managing complaints about the general manager.

The council's governing body should ensure there are adequate and appropriate policies in place to guide the mayor in the day-to-day oversight of and liaison with the general manager and keep those policies under regular review.

Some of the key policies the governing body of council should have in place relate to:

- leave
- travel
- credit cards
- purchasing and procurement
- expenses and facilities
- petty cash
- financial and non-financial delegations of authority.

The governing body of council should also ensure there are adequate policies in place with respect to expenditure of council funds, as well as adequate reporting requirements in relation to that expenditure.

The council's governing body should satisfy itself that any policy governing the conferral of a benefit on the general manager, such as use of a motor vehicle, allows the actual dollar value of that benefit to be quantified so it can be accurately reflected in the general manager's salary package in Schedule C to the Standard Contract.

Within 6 months of the date of these Guidelines, council's governing body should check to ensure these key policies are in place. They should then be kept under regular review.

E. PERFORMANCE MANAGEMENT

1. General manager performance management framework

The general manager is made accountable to their council principally through their contract of employment.

The role of the governing body is to oversee the general manager's performance in accordance with the Standard Contract.

The performance of the general manager must be reviewed at least annually against the agreed performance criteria for the position. Council may also choose to undertake more frequent interim reviews of the general manager's performance.

The agreed performance criteria are set out in an agreement that is signed within three months of the commencement of the contract. Development of the performance agreement is discussed below.

2. Establishing the framework for performance management

The council's governing body is to establish a performance review panel and delegate the task of performance reviews of the general manager to this panel. The extent of the delegation should be clear.

It is recommended that the whole process of performance management be delegated to the performance review panel, including discussions about performance, any actions that should be taken and the determination of the new performance agreement.

Performance review panels should comprise the mayor, the deputy mayor, another councillor nominated by council and a councillor nominated by the general manager. The council's governing body may also consider including an independent observer on the panel. Panel members should be trained in the performance management of general managers.

The role of the review panel includes:

- conducting performance reviews
- reporting the findings and recommendations of those reviews to council
- development of the performance agreement.

The governing body of council and the general manager may agree on the involvement of an external facilitator to assist with the process of performance appraisal and the development of new performance plans. This person should be selected by the governing body of council or the performance review panel. The LGSA and the LGMA can be contacted for assistance to identify suitable independent facilitators to assist in the performance management process.

All councillors not on the panel can contribute to the process by providing feedback to the mayor on the general manager's performance.

All councillors should be notified of relevant dates in the performance review cycle and be kept advised of the panel's findings and recommendations.

The panel should report back to the governing body of council in a closed session the findings and recommendations of its performance review as soon as practicable following any performance review. This should not be an opportunity to debate the results or re-enact the performance review of the general manager. The general manager should not be present when the matter is considered.

The performance management report of any council staff member, including the general manager, should not be released to the public and should be retained on the appropriate confidential council employment file. Release of such personal information to other than the Performance Review Panel, the general manager and the councillors in confidence may be a breach of privacy legislation.

3. Establishing the performance agreement

The performance agreement is the most important component of successful performance management. The performance agreement should include clearly defined and measurable performance indicators against which the general manager's performance can be measured.

As one of the general manager's key responsibilities is to oversee the implementation of council's strategic direction, it is important to align the general manager's performance criteria to the goals contained in the council's Community Strategic Plan, Resourcing Strategy, Delivery Program and Operational Plan.

The performance agreement should also include the general manager's personal contribution to the council's key achievements and the general manager's core capabilities, including leadership qualities.

The performance agreement should contain but not be limited to key indicators that measure how well the general manager has met the council's expectations with respect to:

- service delivery targets from the council's Delivery Program and Operational Plan;
- budget compliance;
- organisational capability;
- timeliness and accuracy of information and advice to councillors;
- timely implementation of council resolutions;
- management of organisational risks;
- leadership etc.

4. Performance Review Process

The Standard Contract requires that the performance of the general manager must be formally reviewed at least annually. The governing body of council may also undertake interim performance reviews as appropriate.

The assessment should include:

- self assessment by the general manager
- assessment by the review panel of the general manager's performance against the performance agreement.

The performance review meeting should be scheduled with sufficient notice to all parties and in accordance with clauses 7.6 and 7.7 of the Standard Contract.

The meeting should concentrate on constructive dialogue about the general manager's performance against all sections of the agreed performance plan.

The meeting should identify any areas of concern and agree actions to address those concerns.

In undertaking any performance review, care must be taken to ensure that the review is conducted fairly and in accordance with the principles of natural justice and that the laws and principles of anti-discrimination are complied with. The

appointment by a council, in agreement with the general manager, of an external facilitator (see above) to advise on the process should assist council in complying with these laws and principles.

The council's governing body must advise the general manager, in writing, in clear terms, the outcome of any performance review.

The new performance agreement for the next period should be prepared as soon as possible after the completion of the previous period. The agreement should be presented to the governing body of council for discussion in a closed meeting together with the outcomes of the previous review period.

5. Contract Renewal or Separation

It is important that any decision by the governing body of council to renew a contract for the general manager and the term of that contract be reported back to an open meeting of council, together with the total amount of any salary package agreed to.

Termination of a contract on the basis of poor performance can only occur where there has been a formal review undertaken against the signed performance agreement where performance difficulties were identified and have not subsequently been remedied. For further discussion on separation or renewal of general managers' contracts, see section F, below.

6. Reward and Remuneration

An annual increase in the salary package, equivalent to the latest percentage increase in remuneration for senior executive office holders as determined by the Statutory and Other Offices Remuneration Tribunal, is available to the general manager under the Standard Contract on each anniversary of the contract.

Discretionary increases to the general manager's total remuneration package under the provisions of the Standard Contract may only occur after a formal review of the general manager's performance has been undertaken by the governing body of council and the governing body of council resolves to grant such a discretionary increase because of better than satisfactory performance.

Discretionary increases are intended to be an incentive for general managers to perform at their maximum throughout the life of the contract. Discretionary increases are also intended to encourage contracts of the maximum duration.

Any discretionary increases should be modest and in line with community expectations.

All discretionary increases in remuneration, together with the reasons for the increase, must be reported to an open meeting of council.

F. SEPARATION OR RENEWAL

1. Termination of a general manager's employment

The Standard Contract for general managers sets out how a general manager's contract can be terminated before its expiry date by either the governing body of council or the general manager (clause 10 of the Standard Contract).

Termination can be by agreement of both parties. The general manager may terminate the contract by giving 4 weeks written notice to the governing body of council.

A governing body of council may terminate the contract by giving 4 weeks written notice where the general manager has become incapacitated for 12 weeks or more, has exhausted their sick leave and the duration of the incapacity is either indefinite or for a period that would make it unreasonable for the contract to be continued.

Termination of a contract on the basis of poor performance may only occur where there has been a formal review undertaken against the signed performance agreement, where performance difficulties have been identified and have not been remedied as agreed. In these instances, the council must give the general manager either 13 weeks written notice of termination or termination payment in lieu of notice calculated in accordance with Schedule C of the Standard Contract.

A governing body of council may terminate the general manager's contract at any time by giving the general manager 38 weeks written notice or pay the general manager a lump sum of 38 weeks remuneration in accordance with Schedule C of the Standard Contract. If there are less than 38 weeks left to run in the term of the general manager's contract, a council can pay out the balance of the contract in lieu of notice.

In the circumstances set out at 10.4 of the Standard Contract, a council may summarily dismiss a general manager. The remuneration arrangements under these circumstances are set out in clause 11.4 of the Standard Contract.

Section 336 (2) of the Act sets out other circumstances where a general manager's appointment is automatically terminated.

2. Suspension of General Manager

The governing body of council may suspend the general manager. However, great caution should be exercised when considering such a course of action and it would be appropriate for a governing body of council to seek and be guided by expert advice from a person or organisation that is suitably qualified and experienced in such matters. The governing body may authorise the Mayor to obtain such expert advice.

Suspension should be on full pay for a clearly defined period.

Any decision to suspend a general manager should be taken by a governing body of council at a closed council meeting, having first carefully considered any independent expert advice obtained on the specific matter.

It would not be appropriate to seek advice from council human resources staff on the issue of suspending the general manager.

The principals of natural justice and procedural fairness apply to any decision to suspend a general manager, ie, the general manager must be advised of the circumstances leading to the suspension, the reasons for the suspension, the period of the suspension and be given a right to respond to the decision to suspend.

3. Dispute resolution

The Standard Contract contains a dispute resolution clause at clause 17.

These provisions are designed to encourage councils and general managers to attempt to negotiate agreement on disputes where they arise.

The governing body of council should ideally resolve to delegate this function to the mayor or a panel of 3 councillors including the mayor.

If the dispute involves the mayor then the deputy mayor should take the mayor's place. If there is no deputy mayor then the governing body should resolve to appoint another councillor to take the mayor's place.

The governing body of council and general manager should agree on an independent mediator to mediate the dispute. The LGSA and LGMA can provide assistance to their members to identify a suitable mediator.

The Standard Contract allows the Chief Executive of the Division of Local Government to appoint a mediator where the parties cannot agree on one.

4. Renewing a general manager's contract

Clause 5 of the Standard Contract describes how a general manager's appointment may be renewed.

The terms of the new contract, and in particular the schedules to the new contract, should be set out in the letter of offer. Before offering a new contract, the council should carefully review the terms of the schedules to the new contract.

The governing body of council should ensure that the performance management terms of the new contract adequately reflect its expectations as to the general manager's performance.

The governing body of council should also have regard to the previous performance reviews conducted under previous contracts.

The process of deciding whether or not to offer a general manager a new contract should be that:

- a performance review is conducted
- findings and recommendations are reported to a closed council meeting in the absence of the general manager
- the closed meeting considers and decides whether or not to offer a new contract and on what terms as set out in the schedules to the contract
- the general manager is then advised of the governing body of council's decision in confidence by the mayor.

Details of the decision to offer a new contract and a salary package should be reported to an open council meeting.

MM19.2 - Attachment 4

Appendix 1 - Performance Management Timelines

Timeline	Activity	Responsibility
At commencement of each new council	Provide induction training on performance management of the general manager	Council
Within 3 months of the commencement date of the contract	A performance agreement setting out agreed performance criteria must be signed between the general manager and the council	Council or council panel General Manager
Within 2 months of the signing of the performance agreement	The general manager must prepare and submit to council an action plan which sets out how the performance criteria are to be met	General Manager
21 days notice (before annual review)	The general manager gives the council written notice that an annual performance review is due	General Manager
At least 10 days notice	The council must give the general manager written notice that any performance review is to be conducted	Council or council panel
After 6 months	The council may also decide, with the agreement of the general manager, to provide interim feedback to the general manager midway through the annual review period	Council or council panel General Manager
Prior to the annual review	Ensure all councillors on the Review Panel have been trained in performance management of general managers	Council
Prior to the annual performance review	The general manager may submit to council a self assessment of his/her performance	General Manager
Annually	The general manager's performance must be reviewed having regard to the performance criteria in the agreement	Council or council panel General Manager
Annually	The performance agreement must be reviewed and varied by agreement	Council or council panel General Manager
Within 6 weeks of the conclusion of the performance review	Council will prepare and send to the general manager a written statement with council's conclusions on the general manager's performance during the performance review period	Council or council panel
As soon as possible after receipt of the statement	The general manager and the council will agree on any variation to the performance agreement for the next period of review	Council or council panel General Manager

Appendix 2 - Stages of performance management

STAGE	ACTION	PROCESS
1. Developing performance agreement	<ul style="list-style-type: none"> ▪ Examine the position description and contract ▪ List all position responsibilities from the position description ▪ Identify stakeholder expectations ▪ List the key strategic objectives from the Service Delivery and Operational Plans ▪ Develop performance measures (identify indicators - set standards) 	<ul style="list-style-type: none"> ▪ Good planning ▪ Direct and effective communication ▪ Open negotiation ▪ Joint goal setting
2. Action planning	<ul style="list-style-type: none"> ▪ Develop specific strategies to meet strategic objectives ▪ Identify resources ▪ Delegate tasks (eg, put these delegated tasks into the performance agreements for other senior staff) 	<ul style="list-style-type: none"> ▪ Detailed analysis ▪ Two way communication ▪ Detailed documentation
3. Monitoring progress (feedback half way through the review period)	<ul style="list-style-type: none"> ▪ Assess performance ▪ Give constructive feedback ▪ Adjust priorities and reset performance measures if appropriate 	<ul style="list-style-type: none"> ▪ Communication ▪ Avoid bias ▪ Counselling ▪ Coaching ▪ Joint problem solving
4. Annual	<ul style="list-style-type: none"> ▪ Assess performance against measures ▪ Give constructive feedback ▪ Identify poor performance and necessary corrective action ▪ Identify outstanding performance and show appreciation 	<ul style="list-style-type: none"> ▪ Evaluation of the reasons behind performance being as assessed ▪ Open, straightforward communication (as bias free as possible) ▪ negotiation ▪ Counselling, support, training ▪ Documenting ▪ Decision making
5. Developing revised agreement	See stage 1	See Stage 1

Appendix 3 – Standard Contract of Employment

**STANDARD CONTRACT OF
EMPLOYMENT**

for

**GENERAL MANAGERS OF LOCAL
COUNCILS IN NEW SOUTH WALES**

Acknowledgements

TABLE OF CONTENTS

CLAUSE	PAGE NO
1. Position	4
2. Term of employment	4
3. Definitions	5
4. Contract operation and application	6
5. Renewal of appointment	7
6. Duties and functions	7
7. Performance agreement and review	10
8. Remuneration	11
9. Leave	12
10. Termination	14
11. Termination payments	16
12. Expenses and credit cards	17
13. Intellectual property	17
14. Confidential information	18
15. Waiver	18
16. Inconsistency and severance	18
17. Dispute resolution	18
18. Service of notices	19
19. Variations	20
20. Other terms and conditions	20
21. Signed by the employee and Council	21
Schedule A	22
Schedule B	23
Schedule C	24

Contract of Employment

This Contract of Employment is made on

Date _____

between

Name of Council _____

[Referred to in this contract as "Council"]

Address _____

and

Name of Employee _____

[Referred to in this contract as "the employee"]

Address _____

1 Position

The position to which this contract applies is that of General Manager.

Note: A person who has held civic office in relation to Council must not be appointed to any paid position on the staff of Council within 6 months after ceasing to hold the office: section 354 of the Act.

2 Term

Subject to the terms and conditions in this contract, Council will employ the employee for a term of:

[Length of term] _____

Note: The term of this contract must not be less than 12 months or more than 5 years (including any option for renewal): section 338 of the Act.

commencing on [date] _____

and terminating on [date] _____

3 Definitions

3.1 In this contract, unless otherwise stated or indicated:

the Act means the *Local Government Act 1993*.

Code of conduct means the document within the meaning of section 440 of the Act adopted by Council and which incorporates the provisions of the model code.

Commencement date means the date that this contract commences as specified in clause 2.

Confidential information means any and all confidential information, data, reports, operations, dealings, records, materials, plans, statistics, finances or other agreements and things (other than that which is already in the public domain), whether written or oral and of whatever type or nature relating to property, assets, liabilities, finances, dealings or functions of Council or any undertaking from time to time carried out by Council.

Director-General means the Director-General of the New South Wales Department of Local Government.

Equal employment opportunity management plan means the document a council must prepare under Part 4 of Chapter 11 of the Act.

Minister means the New South Wales Minister for Local Government.

Model code means the Model Code of Conduct for Local Councils in NSW prescribed by the Regulation.

Month means a calendar month.

Performance agreement means the agreement referred to in clause 7.

Performance criteria means the criteria to which a performance review is to have regard.

Performance review means a review of the employee's performance conducted in accordance with the procedures under clause 7.

the position means the position referred to in clause 1.

the Regulation means the *Local Government (General) Regulation 2005*.

Senior executive office holder (New South Wales Public Service) means the holder of a senior executive position within the meaning of the *Public Sector Employment and Management Act 2002*.

Statutory and Other Officers Remuneration Tribunal means the Statutory and Other Officers Tribunal constituted under the *Statutory and Other Officers Remuneration Act 1975*.

Termination date means the date that this contract terminates as specified in clause 2.

3.2 Expressions in this contract corresponding with expressions that are defined in the Act have those meanings.

4 Contract operation and application

- 4.1 This contract constitutes a contract of employment for the purposes of section 338 of the Act, and governs the employment of the employee while in the position.
- 4.2 A reference in this contract to any Act or regulation, or any provision of any Act or regulation, includes a reference to subsequent amendments of that Act, regulation or provision.
- 4.3 A reference to a Schedule to this contract refers to a Schedule as may be varied in accordance with this contract, and applies whether or not the Schedule has been physically attached to this contract.
- 4.4 Where the mayor or any other person is lawfully authorised to act as Council or Council's delegate for the purpose of this contract, this contract will be construed as if:
- (a) any reference to Council includes a reference to that authorised person, and
 - (b) any reference to a requirement for Council's approval includes a reference to a requirement for that authorised person's written approval,
- 4.5 Any staff entitlement under a lawful policy of Council as adopted by Council from time to time and that is set out in Schedule A will apply to the employee unless this contract makes express provision to the contrary. Schedule A may be varied from time to time by agreement between the employee and Council, such agreement not to be unreasonably withheld.

Note: Only those policies that create entitlements are to be set out in Schedule A. Schedule A policies are distinct from those which create a *duty or function* as referred to in subclause 6.1.4 and which are *not* required to be set out in Schedule A.

- 4.6 Subject to clauses 7 and 13, the terms of this contract, as varied from time to time in accordance with this contract, represent the entire terms of all agreements between the employee and Council and replace all other representations, understandings or arrangements made between the employee and Council that relate to the employment of the employee in the position.

Note: The contract authorises the making of agreements that are linked to the contract. Clause 7 requires the parties to sign a performance agreement. Clause 13 allows either party to require the other to sign a confidentiality agreement for the purpose of protecting intellectual property.

5. Renewal of appointment

- 5.1 At least 9 months before the termination date (or 6 months if the term of employment is for less than 3 years) the employee will apply to Council in writing if seeking re-appointment to the position.
- 5.2 At least 6 months before the termination date (or 3 months if the term of employment is for less than 3 years) Council will respond to the employee's application referred to in subclause 5.1 by notifying the employee in writing of its decision to either offer the employee a new contract of employment (and on what terms) or decline the employee's application for re-appointment.
- 5.3 At least 3 months before the termination date (or 1 month if the term of employment is for less than 3 years) the employee will notify Council in writing of the employee's decision to either accept or decline any offer made by Council under subclause 5.2.
- 5.4 In the event the employee accepts an offer by Council to enter into a new contract of employment, a new contract of employment will be signed.

6. Duties and functions

- 6.1 The employee will:
 - 6.1.1 to the best of their ability, meet the performance criteria set out in the performance agreement as varied from time to time,
 - 6.1.2 carry out the duties and functions imposed by the Act and Regulation, or any other Act and associated regulations, which include but are not limited to:
 - (a) the efficient and effective operation of Council's organisation,
 - (b) implementing, without undue delay, the decisions of Council,
 - (c) exercising such of the functions of Council as are delegated by Council to the employee,
 - (d) appointing staff in accordance with an organisation structure and resources approved by Council,
 - (e) directing and dismissing staff,
 - (f) implementing Council's equal employment opportunity management plan,

- (g) consulting with Council prior to the appointment or dismissal of senior staff,
- (h) reporting to Council, at least once annually, on the contractual conditions of senior staff,
- (i) giving immediate notice to Council on becoming bankrupt or making a composition, arrangement or assignment for the benefit of the employee's creditors and providing Council, within the time specified by Council with any further information concerning the cause of the bankruptcy or of the making of the composition, arrangement or assignment,
- (j) subject to subclause 6.2.3, providing advice and recommendations to Council or the mayor if directed to do so,
- (k) not engaging, for remuneration, in private employment or contract work outside the service of Council without the approval of Council,
- (l) not approving, where appropriate, any member of Council staff from engaging, for remuneration, in private employment or contract work outside the service of Council that relates to the business of Council or that might conflict with the staff member's Council duties,
- (m) acting honestly and exercising a reasonable degree of care and diligence in carrying out the employee's duties and functions,
- (n) complying with the provisions of the code of conduct,
- (o) preparing and submitting written returns of interest and disclosing pecuniary interests in accordance with the Act and the Regulation,

Note: Sections 335, 337, 339, 341, 352, 353, 439, 440 and 445 of the Act.

- 6.1.3 carry out the duties and functions set out in Schedule B as varied from time to time by agreement between the employee and Council, such agreement not to be unreasonably withheld,

Note: Schedule B may include additional duties and functions, for example, those related to special projects.

- 6.1.4 carry out the duties and functions set out in the policies of Council as adopted by Council from time to time during the term of this contract,

-
- 6.1.5 observe and carry out all lawful directions given by Council, in relation to the performance of the employee's duties and functions under this contract,
 - 6.1.6 work such reasonable hours as are necessary to carry out the duties and functions of the position and the employee's obligations under this contract,
 - 6.1.7 obtain the approval of the Council for any absences from the business of Council,
 - 6.1.8 promote ethical work practices and maintain a culture of integrity and professionalism where Council staff members treat each other, members of the public, customers and service providers with respect and fairness,
 - 6.1.9 facilitate Council staff awareness of the procedures for making protected disclosures and of the protection provided by the *Protected Disclosures Act 1994*,
 - 6.1.10 take all reasonable steps to ensure that actions and policies of Council accord with the strategic intent of Council,
 - 6.1.11 take all reasonable steps to maximise compliance with relevant legislative requirements,
 - 6.1.12 maintain effective corporate and human resource planning,
 - 6.1.13 maintain the Council staff performance management system,
 - 6.1.14 maintain satisfactory operation of Council's internal controls, reporting systems (including protected disclosures), grievance procedures, the documentation of decision-making and sound financial management,
 - 6.1.15 develop procedures to ensure the code of conduct is periodically reviewed so that it is in accordance with the Act and Regulation and adequately reflects specific organisational values and requirements,
 - 6.1.16 promote and facilitate compliance with the code of conduct ensuring that each councillor and Council staff member is familiar with its provisions, and
 - 6.1.17 report to Council on any overseas travel taken by the employee or any Council staff member where that travel is funded in whole or in part by Council.
- 6.2 Council:

-
- 6.2.1 will provide adequate resources to enable the employee to carry out the duties and functions specified in subclause 6.1 and Schedule B,
 - 6.2.2 will provide the employee with reasonable opportunities to participate in professional development initiatives relevant to the duties and functions under this contract subject to the operational needs of Council, and
 - 6.2.3 will not direct the employee as to the content of any advice or recommendation made by the employee.

Note: section 352 of the Act.

7. Performance agreement and review

- 7.1 Within 3 months after the commencement date, the employee and Council will sign a performance agreement setting out agreed performance criteria.
- 7.2 In the event that the employee and Council are unable to agree on the performance criteria, Council will determine such performance criteria that are reasonable and consistent with the employee's duties and functions under clause 6 and in Schedule B.
- 7.3 The performance agreement may be varied from time to time during the term of this contract by agreement between the employee and Council, such agreement not to be unreasonably withheld.
- 7.4 Within 2 months after signing or varying the performance agreement, the employee will prepare and submit to Council an action plan which sets out how the performance criteria are to be met.
- 7.5 Council will ensure that the employee's performance is reviewed (and, where appropriate, the performance agreement varied) at least annually. Any such review is to have regard to the performance criteria.

Note: Council may review the employee's performance every 6 months or more frequently if necessary.

- 7.6 The employee will give Council 21 days' written notice that an annual performance review in accordance with subclause 7.5 is due.
- 7.7 Council will give the employee at least 10 days notice in writing that any performance review is to be conducted.

-
- 7.8 The structure and process of the performance review is at the discretion of Council following consultation with the employee.
- 7.9 The employee may prepare and submit to Council an assessment of the employee's own performance prior to a performance review.
- 7.10 Within 6 weeks from the conclusion of a performance review, Council will prepare and send to the employee a written statement that sets out:
- (a) Council's conclusions about the employee's performance during the performance review period,
 - (b) any proposal by Council to vary the performance criteria as a consequence of a performance review, and
 - (c) any directions or recommendations made by Council to the employee in relation to the employee's future performance of the duties of the position.
- 7.11 The employee and Council will, as soon as possible after the employee receives the written statement referred to in subclause 7.10, attempt to come to agreement on any proposal by Council to vary the performance criteria and on any recommendations by Council as to the future performance of the duties of the position by the employee.
- 7.11 Subject to the employee being available and willing to attend a performance review, Council undertakes that if a performance review is not held in accordance with this clause, this will not operate to the prejudice of the employee unless the employee is responsible for the failure to hold the performance review.

8. Remuneration

- 8.1 Council will provide the employee with the total remuneration package set out in Schedule C.
- 8.2 The total remuneration package includes salary, compulsory employer superannuation contributions and other benefits including any fringe benefits tax payable on such benefits.

Note: Compulsory employer superannuation contributions are those contributions required under the *Superannuation Guarantee Charge Act 1992* of the Commonwealth and any contributions required to be paid for an employee under a superannuation arrangement entered into by Council for that employee. See Schedule C.

-
- 8.3 Council may, on only one occasion during each year of this contract, approve an increase in the total remuneration package where the employee's performance has been assessed in accordance with a performance review as being of a better than satisfactory standard.
 - 8.4 Any increase in remuneration approved under subclause 8.3 will not be paid as a lump sum.
 - 8.5 On each anniversary of the commencement date, the total remuneration package will be increased by a percentage amount that is equivalent to the latest percentage amount increase in remuneration for senior executive office holders as determined by the Statutory and Other Officers Remuneration Tribunal.

Note: When making determinations referred to in subclause 8.5, the Tribunal takes into account key national economic indicators and movements in public sector remuneration across Australia, market conditions, the Consumer Price Index and wages growth as measured by the Wage Cost Index. Tribunal determinations are published in the Government Gazette and are available at www.remtribunals.nsw.gov.au. The Premier's Department issues periodic Memoranda summarising the Tribunals determinations. These Memoranda are available at www.premiers.nsw.gov.au.

- 8.6 The structure of the total remuneration package may be varied from time to time during the term of this contract by agreement between the employee and Council, such agreement not to be unreasonably withheld.
- 8.7 The total remuneration package, as varied from time to time, remunerates the employee for all work undertaken by the employee while in the position. No other remuneration, benefit, overtime or allowances other than those to which the employee may be entitled under this contract will be paid to the employee during the term of this contract.

9. Leave

9.1 General

- 9.1.1 Council will pay remuneration calculated in accordance with Schedule C to the employee proceeding on paid leave under this clause.
- 9.1.2 On the termination of this contract, and if the employee is not re-appointed to the position under clause 5 or appointed to any other position in Council's organisation structure, the Council will pay:
 - (a) to the employee in the case of annual leave, or

- (b) to the employee or new employer council in the case of long service leave,

accrued but unused leave entitlements calculated at the monetary value of the total remuneration package as specified in Schedule C.

- 9.1.3 If the employee is re-appointed to the position under clause 5 or appointed to any other position in Council's organisation structure within 3 months after the termination of this contract, the employee will be taken to have continuing service with Council for the purpose of determining the employee's entitlement to annual leave, long service leave and sick leave.

- 9.1.4 Any leave accrued with Council standing to the credit of the employee immediately prior to entering into this contract will be taken to be leave for the purposes of this contract.

9.2 Annual leave

The employee is entitled to four weeks paid annual leave during each year of employment under this contract to be taken as agreed between the employee and Council.

9.3 Long service leave

- 9.3.1 The employee's entitlement to long service leave is to be calculated by the same method that applies to a non-senior member of Council staff.

- 9.3.2 Long service leave is transferable between councils in New South Wales in the same manner that applies to a non-senior member of Council staff.

9.4 Sick leave

- 9.4.1 The employee is entitled to 15 days paid sick leave during each year of employment under this contract provided that:

- (a) Council is satisfied that the sickness is such that it justifies time off, and
- (b) satisfactory proof of illness to justify payment is provided to Council for absences in excess of two days.

- 9.4.2 Sick leave will accumulate from year to year of employment under this contract so that any balance of leave not taken in any one year may be taken in a subsequent year.

9.4.3 Council may require the employee to attend a doctor nominated by Council at Council's cost.

9.4.4 Accrued but unused sick leave will not be paid out on the termination of this contract.

9.5 Parental leave

9.5.1 Parental leave includes supporting parent's leave, maternity leave, paternity leave and adoption leave.

9.5.2 The employee is entitled to the same parental leave that a non-senior member of Council staff would be entitled.

9.6 Carer's leave

The employee is entitled to the same carer's leave that a non-senior member of Council staff would be entitled.

9.7 Concessional leave

The employee is entitled to the same concessional leave that a non-senior member of Council staff would be entitled.

9.8 Special leave

Council may grant special leave, with or without pay, to the employee for a period as determined by Council to cover any specific matter approved by Council.

10 Termination

10.1 General

On termination of this contract for any reason the employee will immediately return to Council all property of Council in the employee's possession including intellectual property and confidential information and will not keep or make any copies of such property and information.

10.2 Termination date

The employment of the employee under this contract terminates on the termination date.

10.3 Termination by either the employee or Council

This contract may be terminated before the termination date by way of any of the following:

10.3.1 written agreement between the employee and Council,

10.3.2 the employee giving 4 weeks' written notice to Council,

10.3.3 Council giving 4 weeks' written notice to the employee, or alternatively by termination payment under subclause 11.1, where:

- (a) the employee has been incapacitated for a period of not less than 12 weeks and the employee's entitlement to sick leave has been exhausted, and
- (b) the duration of the employee's incapacity remains indefinite or is likely to be for a period that would make it unreasonable for the contract to be continued,

10.3.4 Council giving 13 weeks' written notice to the employee, or alternatively, by termination payment under subclause 11.2 where Council:

- (a) has conducted a performance review, and
- (b) concluded that the employee has not substantially met the performance criteria or the terms of the performance agreement,

10.3.5 Council giving 38 weeks' written notice to the employee, or alternatively, by termination payment under subclause 11.3.

10.4 Summary dismissal

10.4.1 Council may terminate this contract at any time and without notice if the employee commits any act that would entitle an employer to summarily dismiss the employee. Such acts include but are not limited to:

- (a) serious or persistent breach of any of the terms of this contract,

-
- (b) serious and willful disobedience of any reasonable and lawful instruction or direction given by Council,
 - (c) serious and willful misconduct, dishonesty, insubordination or neglect in the discharge of the employee's duties and functions under this contract,
 - (d) failure to comply with any law or Council policy concerning sexual harassment or racial or religious vilification,
 - (e) commission of a crime, resulting in conviction and sentencing (whether or not by way of periodic detention), which affects the employee's ability to perform the employee's duties and functions satisfactorily, or in the opinion of Council brings Council into disrepute,
 - (f) absence from the business of Council without Council approval for a period of 3 or more consecutive business days.

10.4.2 This contract is terminated immediately without notice if the employee becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit.

11 Termination payments

- 11.1 On termination of this contract under subclause 10.3.3, where written notice has not been given, Council will pay the employee a monetary amount equivalent to 4 weeks' remuneration calculated in accordance with Schedule C.
- 11.2 On termination of this contract under subclause 10.3.4, where written notice has not been given, Council will pay the employee a monetary amount equivalent to 13 weeks' remuneration calculated in accordance with Schedule C.
- 11.3 On termination of this contract under subclause 10.3.5, where written notice has not been given, Council will pay the employee a monetary amount equivalent to 38 weeks' remuneration calculated in accordance with Schedule C, or the remuneration which the employee would have received if the employee had been employed by Council to the termination date, whichever is the lesser.
- 11.4 On termination of this contract under subclause 10.3.1, 10.3.2, 10.4.1 or 10.4.2, Council will pay the employee remuneration up to and including the

date of termination calculated in accordance with Schedule C and any other payment to which the employee is entitled under this contract.

12 Expenses and credit cards

In addition to any duties or entitlements that may be set out in any relevant policies of Council as adopted by Council from time to time, the employee will:

- 12.1 keep such records of expenses, travel and motor vehicle use as required by Council from time to time,
- 12.2 be reimbursed by Council for expenses properly incurred on Council business, subject to Council's prior approval to this expense being incurred,
- 12.3 only use any credit card provided by Council for expenses incurred on Council business, and
- 12.4 return any credit card provided by Council on request from Council.

13 Intellectual property

- 13.1 Any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract is the sole property of Council and Council will unless otherwise agreed have the exclusive right to use, adapt, patent and otherwise register it.
- 13.2 The employee will immediately disclose to Council any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee after the commencement date to enable Council to ascertain whether it was discovered, developed or produced wholly outside and wholly unconnected with the course of employment under this contract.
- 13.3 To protect disclosures made in accordance with subclause 13.2, Council or the employee may require a confidentiality agreement to be signed prior to, during or immediately after discussion of the intellectual property being considered.

Note: IP Australia, the Commonwealth Government intellectual property agency, has developed a Confidentiality Agreement Generator for the purpose of preparing intellectual property confidentiality agreements. It is available at <http://www.ipaustralia.gov.au/smartsart/cag.htm>.

13.4 The employee assigns to Council by way of future assignment all copyright, design, design right and other property rights (if any) in respect to any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract.

13.5 At the request and expense of Council the employee will complete all necessary deeds and documents and take all action necessary to vest in Council any literary work, computer program, invention, design, patent, copyright, trademark, improvement or idea developed by the employee in the course of employment under this contract and obtain for Council the full benefit of all patent, trademark, copyright and other forms of protection throughout the world.

14 Confidential Information

The employee will not divulge any confidential information about Council either during or after the term of their employment under this contract.

15 Waiver

The failure of either the employee or Council to enforce at any time any provision of this contract or any right under this contract or to exercise any election in this contract will in no way be considered to be a waiver of such provision, right or election and will not affect the validity of this contract.

16 Inconsistency and severance

16.1 Each provision of this contract will be read and construed independently of the other provisions so that if one or more are held to be invalid for any reason, then the remaining provisions will be held to be valid.

16.2 If a provision of this document is found to be void or unenforceable but would be valid if some part were deleted, the provision will apply with such modification as may be necessary to make it valid and effective.

17 Dispute resolution

17.1 In relation to any matter under this contract that may be in dispute, either the employee or Council may:

-
- (a) give written notice to each other of the particulars of any matter in dispute, and
 - (b) within 14 days of receiving a notice specified in subclause 17.1(a), a meeting will be convened between Council (along with any nominated representative of Council) and the employee (along with any nominated representative of the employee) in an attempt to resolve the dispute.

17.2 The employee and Council will attempt to resolve the dispute at the workplace level.

17.3 Upon failure to resolve the dispute at the workplace level, the employee and Council will:

- (a) refer the dispute to an independent mediator as agreed by the employee and Council, or otherwise as appointed by the Director-General,
- (b) agree to participate in any mediation process in good faith, with such mediation to operate in a manner as agreed by the employee and Council, and
- (c) acknowledge the right of either the employee or Council to appoint, in writing, another person to act on their behalf in relation to any mediation process.

17.4 The cost of the mediation service will be met by Council.

17.5 The employee and Council will each be responsible for meeting the cost of any advisor or nominated representative used by them.

18 Service of notices and communications

18.1 Any communication, including notices, relating to this contract will be in writing and served on the employee or Council at their last known residential or business address in accordance with subclause 18.2.

18.2 Any written communication including notices relating to this contract is taken to be served:

- (a) when delivered or served in person, immediately,
- (b) where served by express post at an address within New South Wales in the Express Post Network, on the next business day after it is posted,

-
- (c) where served by post otherwise in the ordinary course of postage, as set down in Australia Post's delivery standards, and
 - (d) where sent by facsimile, within standard business hours otherwise on the next business day after it is sent.

19 Variations

- 19.1 Where this contract provides that its terms may be varied, that variation will be by agreement in writing signed by the employee and Council.

Note: See clauses 4.5, 6.1.3, 7.3, 8.6 and 19.2.

- 19.2 Where the Director-General approves an amended or substitution standard form of contract for the employment of the general manager of a council, the provisions of this contract may be varied by agreement between the employee and Council to the extent that they are consistent with the provisions of that amended or substitution standard form of contract.

Note: See section 338 of the Act.

20 Other terms and conditions

- 20.1 The employee and Council acknowledge that they have sought or had the opportunity to seek their own legal and financial advice prior to entering this contract.
- 20.2 In accordance with section 731 of the Act, nothing in this contract gives rise to any action, liability, claim or demand against the Minister, the Director-General or any person acting under their direction.

21 Signed by the employee and Council

COUNCIL:

The Seal of

[Council name]

[Seal]

affixed by authority of a resolution of Council.

Signed
by Council

Date

Name of signatory
in full [printed]

Office held [printed]

Signed by Witness

Name of Witness
in full [printed]

THE EMPLOYEE:

Signed
by the employee

Date

Name of employee
in full [printed]

Signed by Witness

Name of Witness
in full [printed]

Schedule A – Council policies

Note: This Schedule may be varied during the term of this contract in accordance with subclauses 4.5 and 19.1 of this contract.

This Schedule operates on and from

Date _____

For the purposes of subclause 4.5 of this contract, the following policies apply to the employee:

Signed by Council _____

Signed by the employee _____

Schedule B - Duties and functions

Note: This Schedule may be varied during the term of this contract in accordance with subclauses 6.1.3 and 19.1 of this contract.

This Schedule operates on and from

Date _____

In addition to the duties and functions specified in clause 6 of this contract, the employee will carry out the following duties and functions:

Signed by Council _____

Signed by the employee _____

Schedule C - Remuneration

Note: This Schedule may be varied during the term of this contract in accordance with subclauses 8.7 and 19.1 of this contract.

This Schedule operates on and from

Date _____

The Annual Total Remuneration Package is as follows:

\$ _____

The Total Remuneration Package is comprised of:

ANNUAL REMUNERATION	\$

The employee agrees and acknowledges that deductions under subclause 8.2 of this contract are made principally for the benefit of the employee and that the Council relies on that statement in providing the non-cash benefits requested by the employee.

In the case of an employee who is a member of a defined benefit division of the Local Government Superannuation Scheme (or equivalent) compulsory employer superannuation contributions are the long term or “notional” employer contribution, as advised by the Actuary for the Local Government Superannuation Scheme from time to time.

The employee’s superable salary will be the amount of the total remuneration package less the amount of compulsory superannuation contributions.

Signed by Council _____

Signed by the employee _____



Delivery Program & Operational Plan

6 MONTH REPORT
(July 2018 – Dec 2018)



Contents

Six Monthly Reporting Structure	3
1.0 Resilient, Safe and Inclusive Communities	5
Key Priority 1.1 – Build inclusive, safe and connected communities	6
Highlights	6
Key Priority 1.2 – Activate communities through arts, culture and events	8
Highlights	8
Key Priority 1.3 – Support active and healthy communities	10
Highlights	10
2.0 Sustainable Liveable Environments	12
Key Priority 2.1 – Improve and maintain our road and transport infrastructure	13
Highlights	13
Key Priority 2.2 – Plan and manage appropriate and sustainable development	14
Highlights	14
Key Priority 2.3 – Protect and showcase the natural environment	15
Highlights	15
3.0 Prosperous Communities	16
Key Priority 3.1 – Maintain and grow a robust economy with vibrant towns and villages	17
Highlights	17
4.0 Responsible Governance	19
Key Priority 4.1 – Deliver reliable services that meet daily community needs	20
Highlights	20
Key Priority 4.2 – Provide advocacy and transparent leadership through effective government and administration	22
Highlights	22
Key Priority 4.3 – Inform and engage with the community about the decisions that affect their lives	25
Highlights	25

Six Monthly Reporting Structure

Council is committed to building an organisation that is open and transparent in all its activities. To help meet this objective, Council has several reporting mechanisms in place. This Six-Monthly Report provides information on how Council is progressing with its Delivery Program Goals and how the organisation is working towards achieving the community's Key Priorities as detailed in the Community Strategic Plan.

The Six-Monthly Report is divided into four Themes.

- 1.0 Resilient, Safe and Inclusive Communities
- 2.0 Sustainable Liveable Environments
- 3.0 Prosperous Communities
- 4.0 Responsible Governance

Each Theme has several Key Priorities that Council is focusing on to achieve the objectives contained in the Community Strategic Plan. Key Priority highlights are provided to indicate some of the achievements made over the past six months. To support the delivery of the Key Priorities Four-year Goals have been created and provided in a table format. The associated Delivery Program Goals are shown with its status, six monthly comment and the lead section that maintains Goal ownership.

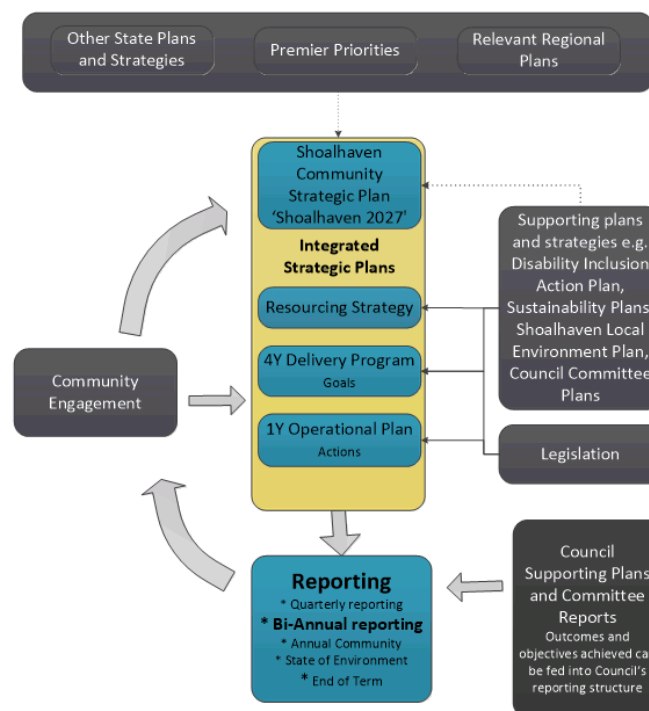


Figure 1: Council's Integrated Planning and Reporting Framework

This Bi-Annual report is the first for the new financial year and is just one document in a reporting suite of documents as shown in Figure 1. Along with the reporting comes the need to plan for next year's Operational Plan. Work is currently underway to develop next year's budget and Actions that Council will commit to for the 2019/20 financial year. The Operational Plan budget and Actions will help achieve the Council's four-year Goals and the Community's Key Priorities.

Key

Status	On Target	Goal progressing as planned
	Needs Attention	Goal requires attention to ensure it is brought back on-track

Comment	Comment on Goal
Section	Section responsible for Goal



1.0 Resilient, Safe and Inclusive Communities

This Theme encapsulates a wide variety of concepts including: natural disaster preparedness; access and equity issues; cultural activities; recreation and active living; heritage issues; consultation networks; public health and safety; education and affordable housing; waste management; providing and maintaining community facilities. Resilient, safe and inclusive communities include three Key Priorities:

KP 1.1 - Build inclusive, safe and connected communities

KP 1.2 - Activate communities through arts, culture and events and

KP 1.3 - Support active and healthy communities

Key Priority 1.1 – Build inclusive, safe and connected communities

Highlights

Council continues to work towards building inclusive, safe and connected communities. Council provides infrastructure that supports the community, opportunities for communication and engagement and continued emergency management support and planning. Some key highlights for the reporting period include:

- CCTV installations around the Shoalhaven river foreshore, Nowra CBD and Sanctuary Point on track after funding secured
- Funding has also been sourced to train key stakeholders in Crime Prevention Through Environmental Design (CPTED)
- Learn to Ride facility at Parramatta Park delivered helping to achieve Council's Community Infrastructure Strategic Plan
- Over 5,000 tonnes of materials have been diverted from land fill in the last 6 months.
- Completion of the fit out of the Emergency Services Operations Centre with new furniture, white boards and flat screen monitors
- Shoalhaven Levee bank repairs completed
- Updated flood studies underway for Shoalhaven River and St Georges Basin
- Wattle Fire Trail upgrade works commenced
- Asset management planning for Rural Fire Service facilities is ahead of schedule with all new projects completed

Goal No	Delivery Program Goal	Status	Six Monthly Progress Comment	Section
1.1.01	Undertake to prevent, prepare for, respond to and recover from natural disasters	On Track	60% of all Asset Protection Zones on Council owned or managed land have been maintained and inspected to date Continued preparations are occurring to ensure that Council is ready to respond to and recover from natural disasters including active participation on the Local Emergency Management Committee, review of the Emergency Management Plan, review of other emergency management documents, ongoing training, review of Council's Business Continuity Plan and participation in best practice processes and studies. Bush fire mitigation measures and flood management planning is ongoing. The upgrade of the Wattle Fire Trail commenced December 2018	Environmental Services & Executive Strategy
1.1.02	Support communities to become safer and stronger through positive and	On Track	Council have delivered several community events and delivered projects that align with Council's Crime Prevention Plan. Staff have met with Inter-agencies on several issues that affect the Shoalhaven. Funding has been secured through	Recreation, Community and Culture

	effective planning, partnerships and programs		the Safer Communities program for delivery of safety and CCTV around the Shoalhaven river foreshore and ongoing works in Nowra CBD and Sanctuary Point. Funds have also been secured to deliver Crime Prevention Through Environmental Design (CPTED) training to internal and external stakeholders.	Executive Strategy
1.1.03	Plan for an inclusive, caring and accessible community	On Track	Council staff have reviewed the Crime Prevention Plan and Disability Inclusion Action Plan. Several community events and projects that align with Council's Community Infrastructure Strategic Plan and the Disability Inclusion Action Plan have been delivered. These have included: Learn to Ride at Parramatta Park. Council staff have worked with the Advisory Committees to develop Strategic Plans aligned with their Terms of Reference and delegations.	Recreation, Community and Culture
1.1.04	Provide solid waste and recycling collection, resource recovery and landfilling	On Track	In the last 6 months Waste Services has lifted 1.2 million garbage bins, landfilled 13,600 tonnes of waste, lifted 0.5 million recycling bins, and recovered 5,400 tonnes.	Works and Services
1.1.05	Plan for connected communities and enable housing options for all	On Track	Range of work advancing or underway	Strategic Planning
1.1.06	Use Council's regulatory powers and government legislation to enhance community safety	On Track	The Compliance and Ranger Services Teams continue to undertake investigations and resolve matters to improve and enhance community safety. These matters are identified via complaint and through pro-active patrols.	Building and Compliance & Environmental Services
1.1.07	Continue to maintain and improve emergency service facilities	On Track	RFS are regularly updated, currently all funded RFS projects have been completed, except for Berry Broughton Vale earthworks (on track for completion by June 30)	Asset Management

Key Priority 1.2 – Activate communities through arts, culture and events

Highlights

There have been several arts and culture events and programs that have been run throughout the reporting period. Some of the key highlights include:

- Shoalhaven Entertainment Centre (SEC) continues to work closely with community based performing arts groups and professional touring shows, offering the Shoalhaven Community a wide range of shows and events
- More than 600 people attended the launch of the 2019 SEC season
- Nationally significant exhibitions have been hosted by the Shoalhaven Regional Gallery
- Funding sourced to help bring other significant exhibitions to the Gallery as well as being able to help with the replacement cost of the environmental management system
- The Library service continues to flourish with; the introduction of a second mobile library service in early 2019, grant funding for the refurbishment of Milton Library and planning for a new Library in the Bay and Basin area

Goal No	Delivery Program Goal	Status	Six Monthly Progress Comment	Section
1.2.01	Bring the Arts to the community	On Track	<p>The Entertainment Centre, Regional Gallery and Library Service have continued to provide a broad range of accessible services, programs and workshops for the community.</p> <p>The exhibitions at the gallery have been well attended, education and public programs continue to grow and relationships with community-based arts organisations have been strengthened through collaboration on their exhibitions.</p> <p>The Entertainment Centre had a successful 2019 Season Launch and staff continue to work closely with community based performing arts groups and professional touring shows and promoters to offer the Shoalhaven Community an interesting and varied program of shows and events. Through the Shoalhaven Arts Board grants and number of local arts-based projects have been supported.</p>	Recreation, Community and Culture
1.2.02	Provide cultural facilities that meet the needs of the community	On Track	<p>The Entertainment Centre has had a successful 6 months to round off its 10th year - offering a broad range of shows and public programs to support and complement the 2018 season. Additionally, staff have strengthened relationships with community performing arts organisations, providing support and assistance to the Shoalhaven Eisteddfod and Albatross Musical Theatre Company, as well as hosting several dinner functions and school formals. The Morning Matinees series has gone from strength to strength and the pre and post show dining are successful. The 2019 season launch in December saw over 600 people in attendance and ticket sales for 2019 season are strong. The venue also hosted a visit from Arts On Tour and the feedback from performers and customers alike is very positive.</p> <p>The Shoalhaven Regional Gallery continues to impress with several nationally significant exhibitions, the most recent being Guy Warren River, Rainforest, Rock. A broad range of public and education programs are being offered to complement the exhibitions, including artist talks - In Conversation and</p>	Recreation, Community and Culture

workshops. Education packages have also been developed to align with primary and high curriculums. The Gallery has also continued to support and encourage local artists through its community exhibitions and has worked with the Shoalhaven Arts Society on their 53rd Annual Open Art Competition and the Shoalhaven Woodcraft Society, Spinners, Weavers and Potters in the staging of their exhibitions. The Gallery has been successful in securing several grants which will support the touring of the Promiscuous Providence exhibition to several Regional Galleries, and more recently funding towards the replacement of the Environmental Management System. The Gallery continues to provide opportunities for volunteering and has established a strong and highly skilled group of volunteers who are invaluable to the Gallery's operation.

Shoalhaven Libraries remain a much-valued service, the introduction of a second mobile library service, which has been funded through a grant will be operational in early 2019, extending our services in the southern Shoalhaven. The Friends of Milton Library were successful in securing grant funding to refurbish the Milton Library and the planning for the new library to service the growing needs of the Bay and Basin Community is progressing. The Library collaborated with the organisers of the inaugural Shoalhaven Readers & Writers Festival.

1.2.03	Recognise and protect our cultural heritage	On Track	Range of projects underway	Strategic Planning
---------------	---	----------	----------------------------	--------------------

Key Priority 1.3 – Support active and healthy communities

Highlights

The following list provides highlights of the works and services undertaken over the past six months to 30 June 2018.

- The illuminator floodlighting control system continues to be rolled out to Shoalhaven sporting facilities.
- The Shoalhaven Indoor Sports Centre in Bomaderry is progressing with management and operation currently being implemented
- Seasonal beach patrols have commenced with services at eight locations
- Master-planning has begun for the Bay and Basin Sporting hub and Marriott Park and detailed design for Boongaree Nature Playspace, Artie Smith Oval and Ulladulla Croquet
- Parks and reserves continue to receive positive feedback from community on their upkeep and presentation
- Planning is well advanced for a 24-hour gym at the Ulladulla Leisure Centre

Goal No	Delivery Program Goal	Status	Six Monthly Progress Comment	Section
1.3.01	Undertaken maintenance and enhancements of Council parks and sporting fields	On Track	Parks & Sports Fields are being maintained to funded levels of service	Works and Services
1.3.02	Provide recreation and leisure facilities to meet community needs	On Track	<p>Council staff have delivered enhanced sporting facilities through top dressing, weed eradication, drainage and irrigation. The illuminator floodlighting control system is being progressively rolled out. A meeting was held with the summer sports ground users to inform them of Council's works program. This was well supported, and a meeting of the winter sports has been scheduled in Quarter 3 of this year.</p> <p>Swim and Fitness continue to provide a broad range of quality services and is registered with the Active Kids program for provision of learn to swim programs. Salti Board classes have been introduced and are very popular, planning is well advanced for the introduction of a 24 hours gym at Ulladulla Leisure Centre. Planning is advancing for the management and operation of the Shoalhaven Indoor Sports Centre and the seasonal Beach Patrol Service at 8 beach locations has commenced.</p>	Recreation, Community and Culture
1.3.03	Plan, manage and provide for the social and recreational infrastructure needs of the community to ensure access, equity and sustainability	On Track	Staff have progressed a broad range of infrastructure projects throughout the Shoalhaven, through either master-planning - Bay & Basin Sporting Hub, Marriott Park, or detailed design - Boongaree Nature Playspace, Artie Smith Oval, Ulladulla Croquet, and the delivery of Shoalhaven Indoor Sports Centre, Learn to Ride at Parramatta Park, playgrounds at Vincenia, Wool Lane and Titania Park.	Recreation, Community and Culture

1.3.04	Operate and maintain the water and sewer schemes	On Track	The water and sewer schemes have been maintained and meet statutory requirements.	Water Operations
---------------	--	----------	---	------------------



2.0 Sustainable Liveable Environments

This Theme encapsulates a wide variety of concepts including: Roads, drainage, paths and waterways; total water cycle management; preserving biodiversity; protecting specific environmental features; climate change impacts and initiatives; alternative energy sources; air quality; environmental impact of development; environmentally sound operation of assets; built environment – urban design and planning for growth. Sustainable liveable environments encompass three Key Priorities and includes:

- KP 2.1 - Improve and maintain our road and transport infrastructure
- KP 2.2 - Plan and manage appropriate and sustainable development
- KP 2.3 - Protect and showcase the natural environment

Key Priority 2.1 – Improve and maintain our road and transport infrastructure

Highlights

The following list provides highlights of the works and services undertaken over the past six months to 31 December 2018.

- Council continues to advocate to all levels of government on the Princes Highway and its sub-projects. Council has also embraced and advocated on state and federal government regional transport initiatives.
- Active transport initiatives have been programmed now that grant funding is in place

Goal No	Delivery Program Goal	Status	Six Monthly Progress Comment	Section
2.1.01	Advocate for improvements to regional transport linkages	On Track	Advocating to government at all levels that the Princes Highway and its component sub-projects need attention, both inside and outside Shoalhaven, to deliver a road transport network capable of delivering benefits to the area's business community. Initiatives by the state and federal governments to improve regional transport infrastructure has been embraced by Council and advocacy in this regard has occurred in many forums.	Economic Development
2.1.02	Manage and maintain administrative buildings, depots, jetties & boat ramps	On Track	Maintaining and developing a program of works to achieve buildings depots jetties and ramps and to provide Asset Management Plans review to all areas Council staff are currently reviewing the Administration Building subject to growth space arrangements	Asset Management
2.1.03	Build and improve roads, bridges and drainage	On Track	Road & Capital Projects generally on track. Some reallocation of drainage projects will be required given delays due to prolonged negotiations with owners.	Works and Services
2.1.04	Manage footpaths and cycle ways	On Track	Grant Funding in place for active transport and programmed	Asset Management
2.1.05	Manage roads, drainage and bridges	On Track	Council capital program in place Roads to Recovery (R2R), and Bridge program in place	Asset Management

Key Priority 2.2 – Plan and manage appropriate and sustainable development

Highlights

The following list provides highlights of the works and services undertaken over the past six months to 31 December 2018.

- Major review of the Growth Management Strategy for Shoalhaven underway
- Complex development applications resolved over the past six months. Two being the multi-level car park for Nowra CBD and several large multi-unit developments.
- A joint research project studying past subdivision and building approvals in bushfire prone areas will be undertaken by Council's Compliance Team with support from Rural Fire Service's (Head Office)

Goal No	Delivery Program Goal	Status	Six Monthly Progress Comment	Section
2.2.01	Develop quality land use plans	On Track	Range of projects underway including major review of Growth Management Strategy	Strategic Planning
2.2.02	Facilitate the provision of development that meets the changing needs and expectations of the community	On Track	The Development and Subdivision Teams have assessed development applications and resolved complex matters. By way of example, the multi-level car park for the Nowra CBD and several large multi-unit developments. All Development Applications are notified on Council's tracking website and in accordance with the Community Consultation Policy.	Development Services
2.2.03	Manage development to ensure compliance with land use plans and approvals	On Track	The Compliance Team carry out assessments of development when complaints are received. The Team also patrol development under construction to check on sedimentation and site management issues. The Team is about to carry out a study of past subdivision and building approvals in bushfire prone areas. This is a project supported by the RFS head office and the findings will feed into their research program. Only a few Council's will participate in this initial program.	Building and Compliance
2.2.04	Provide strategic planning support services to the organisation and community	On Track	Range of support provided to staff within the Strategic Planning Section and other sections of Council.	Strategic Planning

Key Priority 2.3 – Protect and showcase the natural environment

Highlights

Council continued to undertake activities and projects that aimed to protect and showcase the natural environment of Shoalhaven City. Some of these included:

- Progress to tender phase for the installation of solar panel arrays at Bamarang Water Treatment Plant and Berry Sewage Treatment Plant
- Certification of the Coastal Zone Management Plan was obtained
- Commencement of foreshore restoration grant projects at River Rd, Shoalhaven Heads and Bolong Rd, Shoalhaven River
- Successful completion of the Shoalhaven Flood Levee repair project

Goal No	Delivery Program Goal	Status	Six Monthly Progress Comment	Section
2.3.01	Improve protection of valuable natural and cultural roadside assets	On Track	Verge side maintenance in place, shoulder maintenance has been programmed	Asset Management
2.3.02	Develop strategies to help to reduce Shoalhaven's carbon footprint	On Track	Solar Panel Arrays for Bamarang Water Treatment Plant and Berry Sewage Treatment Plant have progressed to the request for quotation (RFQ) stage	Shoalhaven Water
2.3.03	Maintain and enhance the natural environment	On Track	Implementation of regulatory programs on track. Certification of Coastal Zone Management Plan obtained. Commencement of foreshore restoration grant projects for River Rd, Shoalhaven Heads and Bolong Rd Shoalhaven River. Completion of Shoalhaven Flood Levee repair project.	Environmental Services Building and Compliance



3.0 Prosperous Communities

This Theme encapsulates a wide variety of concepts including: regional economic profiles and opportunities; economic sustainability strategies; commercial and industrial opportunities; small business strategies; tourism; providing vocational pathways; supply chain issues; transport and trade links with other centres; activating town centres. The Prosperous Communities Theme focuses on the Key Priority of:

KP 3.1 - Maintain and grow a robust economy with vibrant towns and villages

Key Priority 3.1 – Maintain and grow a robust economy with vibrant towns and villages

Highlights

Council has continued to focus on delivering and supporting a range of initiatives for our community. Part of this work has included seeking significant grant contributions from both State and Federal Governments. Key programs, projects or grants success have included:

- Range of projects commenced or underway to help revitalise the Nowra CBD including; Nowra Retail Strategy and development of an historic walk
- “Proudly Shoalhaven” a featured program has improved visitation and review of Council’s Economic Development website – ‘Productive Shoalhaven’
- Success in obtaining a SMART grant for storm water management across Illawarra and Shoalhaven
- Tourism Shoalhaven won 1st place in the Destination Marketing Category at State for its 100 Beach Challenge campaign
- Significant strategic marketing over the winter months seems to be obtaining results with initial reports indicating an increase in numbers over the off season and lengthening of the shoulder season
- Tourism volunteers continue to grow with more than 50 helping visitors at the tourist centres and out in the regions
- Based on REMPLAN Reports current economic impact of events in the Shoalhaven is \$18.8 million.

Goal No	Delivery Program Goal	Status	Six Monthly Progress Comment	Section
3.1.01	Work with business, government and other entities to build a strong and productive Shoalhaven economy	On Track	<p>Council continues to promote the positive aspects of doing business in Shoalhaven. The "proudly Shoalhaven" program has featured on the ED's Productive Shoalhaven website and has enhanced visitation and review of the site resulting in an upturn of enquiries.</p> <p>Combined with a LinkedIn presence as "Productive Shoalhaven" business page views of the promotional content and posts are reaching the business community.</p> <p>Work with industry to grow their business, especially those generating income from outside the immediate area.</p>	Economic Development
3.1.02	Actively pursue innovative processes and new technologies for the benefit of the Shoalhaven community	On Track	Participated and were successful in a SMART grant for storm water management across Illawarra-Shoalhaven.	Economic Development
3.1.03	Promote and service the Shoalhaven as a diverse tourist destination	On Track	Council continues to focus on promoting the diversity of the region via the 100 Beach Challenge in summer - encouraging dispersal of visitors to lesser populated areas and significant strategic marketing throughout the winter months to drive visitation in the off	Tourism

			season with anecdotal feedback suggesting the shoulder season has pushed out significantly this year. Highlights this quarter include the 100 Beach Challenge winning 1st place in the Destination Marketing Category at the State Tourism Awards, scheduled to go on to the Nationals in March. High profile issues in the media including PFAS chemical contamination and over-tourism continue to take up considerable time for the team and present a potential risk to brand reputation long term.	
3.1.04	Provide tourism services for the Shoalhaven	On Track	Visitors Services continue to provide a high level of service to both locals and visitors in our city. Highlights this quarter include; continued recruitment and training of local volunteers, now a total of almost 50 working in the centres and out in region; sales of local produce is very popular and hampers have proven to be a successful product for Christmas; staff were on location at Huskisson over peak times after Christmas and were well received by locals, businesses and visitors alike; 2019 Visitors Guides delivered throughout the region to support businesses in and were very well received.	Tourism
3.1.05	Identify individual trends and develop strategies for Holiday Haven Tourist Parks which meet business needs.	On Track	Strategies are continually being reviewed and developed to better meet the needs of the community and business.	Business and Property Services
3.1.06	Make our CBDs and town centres active places	On Track	Range of projects commenced or underway including Nowra Retail Strategy and Historic walk	Recreation, Community and Culture Strategic Planning
3.1.07	Partner with industry, government and business	On Track	Range of submissions provided to NSW Government on relevant matters	Strategic Planning



4.0 Responsible Governance

This Theme encapsulates a wide variety of concepts including: policy frameworks; decision-making principles and allocation of priorities; leadership and representation; levels of service; financial sustainability of the council; council's role as a responsible employer; business efficiency and probity expectations of the council; ethical practices; consultation and community participation in decision making; community ownership and implementation of the strategic plan; provision of services to the community; internal services. Responsible Governance encapsulates the Key Priorities of:

KP 4.1 - Deliver reliable services that meet daily community needs

KP 4.2 - Provide advocacy and transparent leadership through effective government and administration

KP 4.3 - Inform and engage with the community about the decisions that affect their lives

Key Priority 4.1 – Deliver reliable services that meet daily community needs

Highlights

Over the past six months Council has continue to deliver consistent services to the community and to focus on ensuring long term sustainability for the organisation. Key programs and projects have included:

- Review of the Family Day Care’s internal systems to enable a more streamlined and accessible service.
- Improved business operations with the installation of the new Bereavement Services’ cremator and completion of civil works for segment 11 at the Worrigeer Memorial Gardens and Lawn Cemetery
- Shoalhaven Indoor Sports Centre is now at lockup stage, fit-out will occur over the next two quarters
- Shoalhaven Water’s reclaimed water scheme (REMS 1B) is currently 85% complete with Bomaderry and Nowra treatment plants entering commissioning phase
- Sewer design for Woollamia and St Andrews Way progressing, completion by June 2019

Goal No	Delivery Program Goal	Status	Six Monthly Progress Comment	Section
4.1.01	Provide quality customer service through the customer service unit	Needs Attention	Increasing customer service demands (in development applications and enquiries) has increased workloads and pressures on front line customer service team. Recruitment of additional resources in progress to assist with managing workloads and streamlining of processes.	HR, Governance and Customer Service
4.1.02	Provide an accessible quality Family Day Care service	On Track	Family Day Care Coordination Team continue to provide a quality service to Shoalhaven Families. A review has been undertaken of internal system and processes to enable a more streamlined and accessible service to be provided. The team are currently recruiting new educators which will enable the service to expand to meet local needs.	Recreation, Community and Culture
4.1.03	Provide sustainable burial, cremation, memorial services and cemetery maintenance to the Shoalhaven community and seek to influence policy development in the industry.	On Track	Bereavement Services is continually improving its business operations and has been exemplified by the installation of the new cremator. Segment 11 is progressing well with the civil works completed.	Business and Property Services

4.1.04	Manage the delivery of infrastructure, roads, drainage and bridges	On Track	<p>Milestone achieved on Shoalhaven Indoor Sports Centre - lockup stage by Christmas 2018. Delays experienced in Far North Collector Rd, Veron's Estate (orchids, powerlines necessitated redesign).</p> <p>Capital works projects currently on track bar four projects that will extend into first quarter 2019/20.</p> <ul style="list-style-type: none"> • Archgate bridge replacement • Wheelbarrow Rd bridge replacement • Bundewallah Rd bridge replacement • Lake Circuit road repair 	Project Delivery and Contracts
4.1.05	Deliver a full range of Council's services at Ulladulla Service Centre	On Track	The full range of Council services can be delivered through the Ulladulla Service Centre.	Ulladulla Customer Service Centre
4.1.06	Deliver Water and Sewerage Capital Works	On Track	REMS 1B 85% complete. Bomaderry STP entering commissioning phase. Woollamia and St Andrews Way sewer design underway and on target for completion in June 2019.	Water Asset Planning and Development
4.1.07	Plan for water and sewage capital work	On Track	Capital budget process for 2019/20 commenced utilising Sensei product with Microsoft Project On-line platform	Water Asset Planning and Development

Key Priority 4.2 – Provide advocacy and transparent leadership through effective government and administration

Highlights

There are several highlights for the reporting period. These include:

- Council's Workforce Strategy implementation is progressing to ensure Council is meeting its operational needs and be an employer of choice
- Ongoing improvements to internal Council systems and operations through the Technology One roll out. Once complete the integrated Back Office solution will deliver ongoing business improvements and efficiency gains for Council
- Quarterly water account brochures issued to reflect drought, changes to pensioner concessions and new invoice presentation.
- Asset Management Improvement Plan has been updated and improved after adoption of audit recommendations
- Production of Council's Annual Community Report completed in November and published on Council's web site and distributed to Council's Administration centres and Libraries
- Council continues to strengthen its communication and engagement platforms and processes with the aim of providing positive, factual and clear communications about Councils services, decisions and outcomes to the community

Goal No	Delivery Program Goal	Status	Six Monthly Progress Comment	Section
4.2.01	Ensure community needs and priorities are reflected within Council's IP&R framework and that legislative requirements are met	On Track	Integrated Planning and Reporting continues to provide the community with information on how the Council is meeting their needs and wishes. Reports completed over the past six months include: Second Biannual Report for 2017/18, September Quarterly report and the Annual Community Report. Reports were made available on Council's web site and for the Annual Community Report was distributed in hard copy format to libraries and administration buildings of Council. Council continues to improve its planning and reporting processes through the implementation of its corporate software systems upgrade.	Executive Strategy
4.2.02	Provide corporate services – GM (Web-design, Internal Audit and Legal services)	On Track	Corporate services have been provided internally including the provision of a comprehensive legal support service. This has assisted in the resolution of several significant legal matters. Internal Audit services continue to be provided through the Internal Auditor with a range and number of audits undertaken in accordance with the Internal Audit Plan. Corporate Planning has been improved through the implementation of the Tech One Corporate Planning module over this reporting period with staff continuing to undertake training to improve their understanding and use of the system.	Executive Strategy

Goal No	Delivery Program Goal	Status	Six Monthly Progress Comment	Section
4.2.03	Maintain and improve Council's reputation and brand within the community and throughout the region	On Track	Proactive response and actions were undertaken during this period to address negative media and community comment. Proactive positive communications and brand building actions were also undertaken to provide positive, factual and clear communications about Council's services, decisions and outcomes to the community.	Executive Strategy
4.2.04	Enhance organisational diversity	Needs Attention	Implementation of Workforce Strategy (which includes organisational diversity initiatives) currently limited by resourcing constraints. Ongoing resourcing needs currently under review.	HR, Governance and Customer Service
4.2.05	Provide corporate services which support the operations of Council including Governance, Human Resource, Insurance/ Risk Management, Work, Health & Safety	Needs Attention	Review of ongoing resourcing needs particularly in the areas of Human Resources and organisational development necessary to ensure key strategic initiatives can be implemented to best place Council to meet its future operational needs and be an employer of choice.	HR, Governance and Customer Service
4.2.06	Continue to provide software and IT solutions to ensure ongoing support for operational requirements	On Track	Information Services continue to provide reliable IT infrastructure and processes for the organisation. Work continues to upgrade networks, servers and software to maintain efficient systems.	Information Services
4.2.07	Continue to provide Financial operations	On Track	Finance continues to support Council through the provision of financial, revenue management, procurement and payroll services. The Section's involvement with the implementation of the new corporate business system is starting to ramp up.	Finance
4.2.08	Continue to deliver the Technology One project to provide ongoing improvements to internal Council systems and operations	On Track	In the past six months, the project has delivered the following capabilities Technology One's 'OneCouncil' solution: <ul style="list-style-type: none"> • Performance planning in July 2018 • Property, Rates and Water Billing in December 2018 <p>This represents the Phase 1 and 2 commitments of Project Q and has resolved a key risk for Council by replacing the soon to be out of support Fujitsu system.</p> <p>Project Q commenced Phase 3 in Q4 2018. Phase 3 consists of Finance, Supply Chain Management, HR, Payroll and Enterprise Asset Management. The successful delivery of Phase 3 will provide Council with a standard and integrated Back Office solution to deliver ongoing business improvements and efficiency gains.</p>	Project Support and Business Improvement
4.2.09	Provide corporate Services - Mechanical and fabrication services	On Track	All fully operational	Works & Services - Section Manager

Goal No	Delivery Program Goal	Status	Six Monthly Progress Comment	Section
4.2.10	Identify and pursue opportunities for investment in property and proactively manage Council's property portfolio to maximise returns	On Track	The Property Unit is continually identifying parcels of land for disposal / acquisition and strives to maintain a high level of occupancy for all properties. Disposals have included 76 Bridge Rd, Nowra and acquisition of 125 Moss Vale & 333 Illaroo Road for the North Collector Road construction.	Business and Property Services
4.2.11	Provide innovative & rigorous customer interaction on all Water Utility services to meet & exceed customer expectations, National standards and Shoalhaven Water Group operations	On Track	Quarterly water account brochures issued to reflect drought, changes to pensioner concessions and new invoice presentation. Customers provided with details of effluent servicing needs for the peak demand period and online forms/payment/workflow strategy progressing.	Water Customer and Business Services
4.2.12	Use Council's regulatory functions and government legislation - Shoalhaven Water	On Track	Achieved 100% of trade waste inspections for 2018.	Water Asset Planning and Development
4.2.13	Enhance Asset Management Capability - Shoalhaven Water	On Track	Following recent internal audit, recommended actions incorporated into Asset Management Improvement Plan. e.g. 1 Development of hydrant maintenance program. e.g. 2 Identify assets within potential acid sulfate areas These have been included in the Asset Management Plan	Water Asset Planning and Development

Key Priority 4.3 – Inform and engage with the community about the decisions that affect their lives

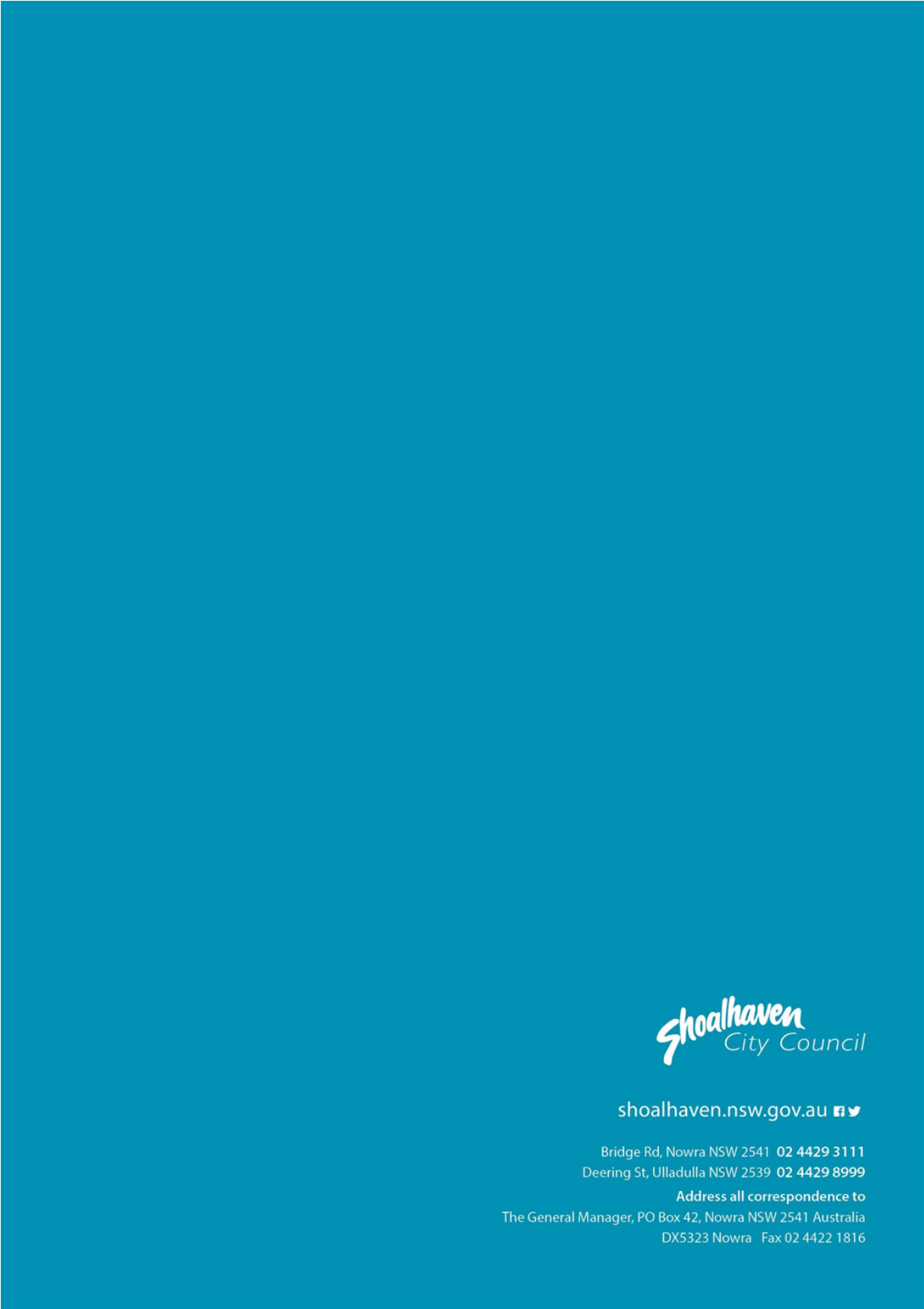
Highlights

Council has retained a focus on improving our communications and engagement with the community. Over the last six months a key focus has been:

- Several community engagement projects delivered, including: successful grant application for management and community education program for the Grey Headed Flying Fox colony at Bomaderry; Threatened Species School program; and education material produced and distributed on coastal hazards and coastal cliffs and slopes
- Retail food safety program working well with 80% of businesses gaining a rating of 4 or 5 stars (very good or excellent)
- Improved communication channels and methods have been implemented to help inform and engage with the community
- Active monitoring and tracking undertaken to improve communication outcomes and measure community sentiment
- A new digital platform to improve digital services and communications with the community is currently being sourced

Goal No	Delivery Program Goal	Status	Six Monthly Progress Comment	Section
4.3.01	Improve and enhance council's communication and engagement with the community about our future direction, major projects, key policies and messages	On Track	Proactive communication plans and strategies have been implemented throughout the reporting period for a range of Council projects, services and decisions. A variety of communication channels and methods have been utilised to assist informing and engaging with the Shoalhaven Community. Active monitoring and tracking has been undertaken to determine outcomes of communications undertaken and to measure community sentiment.	Recreation Community and Culture & Executive Strategy
4.3.02	Support effective communications between Council and community	On Track	Extensive work has occurred on sourcing and procuring a new digital platform to improve digital services and communications with the community. Work on the implementation of this platform has commenced and will continue throughout 2019. Development and enhancement of the offering provided to the community on our existing get involved platform is ongoing. A variety of channels continue to be utilised to provide factual and relevant information to the community about Council's services, projects, actions and decisions.	Executive Strategy & Recreation, Community and Culture
4.3.03	Build community awareness and involvement in the natural environment	On Track	Grey Headed Flying Fox (GHFF) grant successfully obtained and implementation commenced. Community education program and development of management plan for GHFF colony at Bomaderry. Threatened Species Day school competition extremely successfully with council receiving hundreds of entries from Education programs continue around water quality and Beachwatch program. Education material produced and distributed on coastal hazards and coastal cliffs and slopes. Retail food safety program continuing with	Environmental Services

			implementation of Scores on Doors program resulting in approximately 80% of food businesses rating 4 or 5 stars (very good and excellent).	
4.3.04	Continue to inform and consult with the community about planning and development policies and applications in accordance with legislative requirements	On Track	Community engagement or public exhibition undertaken regarding various planning policy matters and specific applications	Strategic Planning & Development Services



shoalhaven.nsw.gov.au  

Bridge Rd, Nowra NSW 2541 02 4429 3111
Deering St, Ulladulla NSW 2539 02 4429 8999

Address all correspondence to
The General Manager, PO Box 42, Nowra NSW 2541 Australia
DX5323 Nowra Fax 02 4422 1816

CL19.38 - Attachment 1

FREQUENTLY ASKED QUESTIONS

Part 1 Decision making on the administration of elections

What decisions must councils make on the administration of their elections?

Under section 296AA of the the Act, each council must resolve by **11 March 2019** either:

- to engage the NSWEC to administer the council's elections, polls and referenda or
- that the council's elections are to be administered by the general manager of the council.

What happens if a council fails to make a decision on the administration of its elections by 11 March 2019?

If a council fails to make a decision on the administration of its elections, polls and referenda by 11 March 2019, it will not be able to engage the NSWEC to administer its ordinary election and it will be required to make its own arrangements for the administration of its elections.

A council that fails to make a decision on the administration of its elections by 11 March 2019 will also be required to publish a notice of that failure on the council's website.

Part 2 Election arrangements with the NSWEC

What election arrangements can councils enter into with the NSWEC?

The election arrangement is a standardised contract for all councils. The service schedule and costs schedule of the standardised contract will vary between councils and are made by the NSWEC in consultation with each council.

Where a council resolves to engage the NSWEC to administer its elections, polls and referenda, the election arrangement with the NSWEC will apply to the 2020 ordinary election and every election, poll and referendum including any by-election or countback election until the contract is automatically terminated 18 months before the following ordinary election of councillors.

Where a council resolves to engage the NSWEC to administer its elections, polls and referenda, it should use the model resolutions provided below.

If a council wishes to engage the NSWEC to administer its elections, polls and referenda what form should its resolution take?

Councils wishing to make a resolution that an election arrangement be entered into for the NSWEC to administer all elections, polls and referenda under section 296(3) of the Act should use the following model resolution:

The [insert full description of council] (*"the Council"*) resolves:

1. pursuant to s. 296(2) and (3) of the Local Government Act 1993 (NSW) (*"the Act"*) that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
2. pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.
3. pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

When must the election arrangements with the NSWEC be finalised?

Where councils have resolved to enter into an election arrangement with the NSWEC, the contract with the NSWEC must be finalised no later than 15 months before the next ordinary elections (ie **11 June 2019**).

Can election arrangements with the NSWEC be terminated?

Yes, but only after the council's ordinary election. An election arrangement for the NSWEC to administer all elections, polls and referenda of a council can be terminated by the council or the NSWEC at any time after the ordinary election by giving written notice of termination and in accordance with any notification requirements set out in the contract.

If the election arrangement is not terminated by either party, the arrangement is automatically terminated 18 months before the following ordinary election when the council will be required to determine who will conduct its next ordinary election.

3

If a council does not engage the NSWEC to administer its ordinary election, can it engage the NSWEC to administer a particular by-election, poll or referendum after the ordinary election?

Yes. Where a council does not enter into an election arrangement with the NSWEC to administer its ordinary election, the council may resolve to enter into an election arrangement with the NSWEC to administer a particular by-election, poll or referendum following the ordinary election.

If councils resolve to engage the NSWEC to administer a particular by-election, poll or referendum after the ordinary election, they should use the model resolutions provided below.

If a council wishes to engage the NSWEC to administer a particular by-election or countback election, what form should its resolution take?

Councils wishing to engage the NSWEC to administer a particular by-election or countback election after the ordinary election should use the following model resolution:

The [insert full description of council] (“the Council”) resolves pursuant to ss. 296(2) and (4) of the Local Government Act 1993 (NSW) that:

- 1. an election arrangement is to be entered into for the Electoral Commissioner to administer [insert description of the particular election but do not do so by date in case the election date is changed or postponed]; and*
- 2. such election arrangement is to be entered into by contract between the Electoral Commissioner and the Council.*

Note: Please refer below for additional information concerning limitations with respect to countback elections.

If a council wishes to engage the NSWEC to administer a particular poll, what form should its resolution take?

Councils wishing to engage the NSWEC to administer a particular poll after the ordinary election should use the following model resolution:

The [insert full description of council] (“the Council”) resolves pursuant to ss. 296(2) and (4) of the Local Government Act 1993 (NSW), as applied and modified by s.18, that:

- 1. a council poll arrangement be entered into for the Electoral Commissioner to administer [insert description of the council poll but do not do so by date in case the poll date is changed or postponed]; and*
- 2. such council poll arrangement be entered into by contract between the Electoral Commissioner and the Council.*

If a council wishes to engage the NSWEC to administer a particular referendum, what form should its resolution take?

Councils wishing to engage the NSWEC to administer a particular referendum after the ordinary election should use the following model resolution:

4

The [insert full description of council] (“the Council”) resolves pursuant to ss. 296(2) and (4) of the Local Government Act 1993 (NSW), as applied and modified by s.18, that:

1. a constitutional referendum arrangement be entered into for the Electoral Commissioner to administer [insert description of the constitutional referendum but do not do so by date in case the referendum date is changed or postponed]; and
2. such constitutional referendum arrangement be entered into by contract between the Electoral Commissioner and the Council.

If a council does not engage the NSWEC to administer its ordinary election, can it engage the NSWEC to administer a countback election following the ordinary election?

A countback election to fill a casual vacancy must be conducted by the returning officer who conducted the election at which the person whose departure created the casual vacancy was elected. If that is not possible, the countback election must be conducted by the substitute returning officer at that election and if that is not possible, by another returning officer appointed in accordance with the Act.

If a council appoints a returning officer and substitute returning officer who are employees of a commercial electoral services provider, the council’s option to resolve to enter into an election arrangement with the NSWEC for the administration of a particular countback election may be limited by both the Act as well as the contractual arrangements agreed to between the council and the commercial electoral services provider.

For example, the NSWEC will not be able to administer a countback election for a council where it did not administer its ordinary election if the NSWEC does not have access to the electoral material, data and other information held by the council or a commercial electoral services provider in relation to the ordinary election.

To retain the option to engage the NSWEC to conduct a particular countback election, councils must ensure (amongst other things) that any contractual arrangement they enter into with commercial electoral services providers to manage their ordinary election allows them to retain or to have ongoing access to ballots cast and other electoral material, information and data relating to the ordinary election.

Even where contractual arrangements between the council and a commercial electoral services provider make provision for the retention of electoral material, information and data, it may still not be possible for the NSWEC to undertake a particular countback election for a council because the provider’s systems and procedures with respect to electoral material, information and data may not be compatible with the NSWEC’s systems and procedures.

Part 3 Decisions by councils to administer their own elections

Where a Council resolves that the council’s elections are to be administered by the general manager, what information must be included in the resolution?

Under section 296AA, where a council resolves to administer its own elections, it must include the information specified below in the resolution:

- whether the general manager intends to administer elections personally or to engage an electoral services provider
- if the general manager intends to administer elections personally, whether the general manager has identified any persons to be appointed as the returning officer and substitute returning officer and, if so, their names
- if the general manager intends to engage an electoral services provider, whether the general manager has identified an electoral services provider and, if so, the name of that provider.

As soon as practicable after the resolution is made, the general manager must publish a copy of the resolution on the council’s website.

What should the general manager consider when identifying persons to be appointed as a returning officer and substitute returning officer?

The general manager must ensure that the persons they identify for appointment as the returning officer and substitute returning officer (who exercises the functions of the returning officer in that person’s absence), is **suitably qualified and independent**.

What skills and attributes are required to be a returning officer or substitute returning officer?

The returning officer is the front-line manager for the conduct of elections for a particular council area. The role involves:

- managing the returning officer’s office
- appointing and training staff including polling place managers on how to conduct a count and how to determine formality of ballot papers
- developing procedures to be followed by electoral officials issuing pre-poll, declared institution, postal and election day votes
- preparing all necessary printed election materials such as forms, declaration envelopes, signs etc
- obtaining all necessary election material for use in pre-poll and election day venues such as voting screens, ballot boxes, pencils etc
- determining the quantity of ballot papers required and arranging for their printing, delivery and secure storage
- making Braille ballot papers available, if requested
- dealing with political parties, candidates and the public
- processing candidates’ nominations including acceptance of the deposit and conducting the draw for position of candidates on the ballot paper
- registering ‘how to vote’ material
- putting in place all necessary arrangements to enable pre-poll, declared institution, postal and election day voting including booking the appropriate venues

6

- ensuring delivery and collection of election materials to and from pre-poll and election day polling venues
- conducting the 'check count' of the votes and the distribution of preferences
- declaring the election
- arranging storage (and ultimate destruction) of ballot papers and voting-related materials and data for the statutory period of 18 months
- ensuring the security of ballot papers and voting-related materials and data (including with respect to potential cyber attacks)
- conducting a countback election, if required in the first 18 months following the ordinary election.

General managers must identify for appointment as returning officer and substitute returning officer, persons who are capable of undertaking all these requirements proficiently. It is suggested that key skills and competencies include:

- demonstrated leadership and management experience
- excellent communication skills
- excellent interpersonal skills including an ability to deal with people from all backgrounds
- excellent organisation and time management skills
- ability to work under pressure and meet deadlines as required
- ability to deal with challenging situations and determine appropriate solutions
- ability to work in a methodical manner and with attention to detail

Additionally, to be employed as an electoral official, including as a returning officer, a person must be on an electoral roll and eligible to vote at either New South Wales state or federal elections.

What is meant by 'independent'?

To ensure the conduct of an election is seen to be at arms' length from the council, an employee of a particular council cannot be appointed as a returning officer or substitute returning officer for a particular area (section 296A(4)).

To avoid any perception of bias, friends or relatives of the mayor, councillors, general manager or candidates for election should not be appointed as the returning officer or substitute returning officer.

It is also important that electoral officials, including the returning officer are, and are seen to be politically neutral. For example, they must not have current or recent political affiliations with any political party, candidate, councillor or mayor.

A general manager of any council is ineligible for appointment as a returning officer, substitute returning officer or an electoral official (section 296A(5)).

Is it possible to use the services of a returning officer previously engaged by the NSWEC?

Unlike the Australian Electoral Commission, the NSWEC does not retain a pool of permanent returning officers. General managers are permitted to approach a person who has had prior experience as a returning officer for the NSWEC.

7

Is it possible for the returning officer appointed by the council to be trained by the NSWEC?

The NSWEC has advised that its returning officer training program is customised specifically to complement the NSWEC's own business processes, procedures and IT systems. It combines on-line and face to face training and is centred around training the returning officers in using the NSWEC's computer applications. As such, this training program is not transferable to the differing operating environments of individual councils. Similar constraints apply to any manuals or handbooks prepared by the NSWEC.

The training of returning officers, appointed by general managers administering their council's elections, will necessarily be informed by that council's own procedures and systems.

Is it possible for councils to share a returning officer to conduct several elections concurrently?

The legislation permits councils to share a returning officer. In this way costs (wages of the returning officer, office staff, and office accommodation) could be apportioned to participating councils.

If the decision is taken by councils to engage a single returning officer to conduct a number of concurrent elections, the general manager of each participating council will nonetheless retain ultimate responsibility for the conduct of their council elections.

As many election-related tasks and activities have legislative timetables that are non-negotiable, strategies will need to be put in place to address the challenges of having only one returning officer, and detailed project plans will be required to ensure the delivery of the individual elections satisfies the legislation.

Each general manager in the combined group must issue an instrument of appointment nominating the same person as the returning officer for the group. The allocation of tasks (for example, one council may nominate a staff member to source the cardboard material, another council may nominate someone to work with Vision Australia on the arrangements for Braille ballot papers) and the costs to be apportioned to each council in the group also need to be documented.

Can the services of a commercial electoral services provider be used?

Yes. There are a number of private sector companies providing electoral services for company boards of directors, sporting clubs and associations and the like. Similarly, some electoral commissions, such as the Australian Electoral Commission, may conduct fee for service elections.

While the Act permits the use of such commercial electoral services providers, the general manager will still retain overall responsibility for the administration of the elections.

In considering the use of such providers, it is important to clarify that they can deliver the elections for the council. For example, although the Australian Electoral Commission is not involved in local government elections, its overall election experience may lead a general manager to believe a suitably qualified officer from

8

the Australian Electoral Commission could be engaged as the returning officer for the council's elections.

The general manager would also need to be satisfied that if the provider claims to be able to obtain all the electoral material, or hire the necessary venues, or arrange the printing of the ballot papers, or conduct the count, that they can demonstrate their successful completion of these tasks in similar circumstances.

A key consideration will be whether the provider is able to administer the complex counts required under the weighted inclusive Gregory method of preference allocation that will soon be prescribed under the *Local Government (General) Regulation 2005* (the Regulation) for council elections.

It is also a requirement that the method proposed to be used by the provider to conduct the count of the ballot papers (whether through the use of data entry or scanning equipment) can comply with the formality, scrutiny and record keeping provisions contained in the Act and Regulation.

If the services of a commercial electoral services provider are to be used, the contract must specify a 'natural person' as the returning officer, not simply name the particular company. It is also necessary to ensure that the person engaged as either the returning officer or substitute returning officer is indemnified by the council or has sufficient professional indemnity insurance in the event that an election is challenged or declared void due to any irregularity in the way it was run.

Councils are not restricted to relying on the services of one service provider to deliver all election-related items. For example, while a commercial electoral services provider may be engaged to conduct the count, the council may decide to make its own arrangements in relation to the appointment of a returning officer, the purchase of cardboard material or the printing of the ballot papers.

If council decides to use a commercial electoral services provider is it necessary to go to tender?

Section 55 of the Act exempts councils from tendering when entering into a contract or arrangement for the NSWEC to administer the council's elections, referendums and polls. This exemption does not apply to contracts or arrangements with any other service provider.

As the amount involved in conducting council elections can be significant it is important to ensure that any commercial organisation is providing value for money. It is also important to ensure that as public funds are being expended, principles of openness, transparency and accountability are not compromised.

Unless the cost of administering the elections is under \$150,000 or any of the other exemptions provided for in section 55 apply, councils will be required to go to tender or to conduct a selective tender when engaging a commercial electoral services provider.

What should councils consider when entering into a contract with a commercial electoral services provider?

In negotiating arrangements for the administration of their elections with commercial electoral services providers, councils need to ensure that:

- there will be an appropriate number of pre-poll and polling places
- there will be adequate staffing levels
- the provider uses counting software that is able to undertake counts using the soon to be prescribed weighted inclusive Gregory method
- the potential need for the contractor to administer countback elections in the 18 months following the ordinary election
- that the provider is able to meet the new requirements recommended by the NSW Parliament's Joint Standing Committee on Electoral Matters (JSCEM) which are outlined below.

What is the appropriate number of polling places?

The appropriate number of polling places for any one council will depend on its individual characteristics and factors such as the number of electors, the geographic area it covers, available transport options and suitable venues.

While the cost of hiring venues will be a consideration, general managers should also have regard to the following when determining the number and type of venues to be used:

- How many voters are there in total in the area, and how many voters can each particular venue comfortably handle?
- What venues have been used in the past by either the Australian Electoral Commission for federal elections or the NSWEC for either state or local government elections? What was the previous attendance pattern at these venues?
- Is the venue conveniently located, particularly in light of transport options?
- Is it suitable for the purpose of conducting an election? For example, is there sufficient space for the various tables, voting screens, ballot boxes, throughput of voters? Is there appropriate furniture for electoral officials? For example, if small tables and chairs are used in a primary school these are not appropriate for adults involved in election-related activities.
- Is it easily accessible for all voters and in particular those with a disability, mobility issues, the elderly or frail, parents with prams?
- Are there venues located close to ward boundaries that are able to issue ballot papers for both the ward in which they are located as well as votes for adjoining ward/s? Or in the case of an undivided council, venues located close to the boundary of another council or councils?
- Is appropriate public liability insurance in place?

It is likely that the more electors a council has, the more polling places it will need.

What are the appropriate staffing levels for a council election?

Determining the appropriate number of staff required for any particular council area depends on the estimated number of votes likely to be taken and the volume for each particular voting option (pre-poll, declared institution, postal and election day) as this will have an impact on the categories of staff recruited. For example, if it is anticipated

10

that there will be a high demand for pre-poll voting it may be necessary to have more office assistants available in the returning officer's office than in an area where it is likely that more votes will be taken on election day at polling places.

Under the legislation all polling places must have a minimum of two staff, one of whom is the polling place manager.

The NSWEC's polling place staffing formula is based on 600 votes per issuing table (at one election official per table) and the overall projected number of votes for the polling place determines the number of issuing tables. The number of issuing tables determines whether a particular polling place requires a deputy polling place manager, a ballot box guard and/or an enquiry officer.

Is it possible to conduct the count and distribution of preferences manually?

No. Under proposed amendments to the Regulation a new method of preference allocation will be used for council elections. The new method, the weighted inclusive Gregory method, uses a fractional transfer system. All ballot papers of the elected candidate are used to distribute the surplus (instead of a sample). The ballot papers are distributed at a reduced rate with each transfer of votes by applying a transfer value, making manual counts impossible.

Councils should ensure that any commercial electoral services provider they engage to conduct their elections is able to undertake a count utilising counting software that allocates preferences using the soon to be prescribed weighted inclusive Gregory method.

What arrangements should be made for countback elections?

Under amendments proposed to the Regulation, councils will have the option of filling vacancies that occur in the 18 months following the September 2020 council elections using a countback of the votes cast at the ordinary election instead of a by-election. Countback elections are not available for elections using the optional preferential voting system (including elections for popularly elected mayors).

In order to fill vacancies using a countback election, councils must resolve at their first meeting following the ordinary election that any casual vacancy is to be filled by a countback election.

If councils are proposing to fill vacancies using a countback election, they should factor this into their contractual arrangements with commercial electoral services providers. Among other things, the contractual arrangements should ensure the following:

- the retention of all electoral material, information and data for the 18 month period following the ordinary election during which countback elections may be used
- the safe storage and security of electoral material, information and data (including from cyber attack)
- the council has ongoing access to the electoral material, information and data from the ordinary election.

What other considerations should councils factor into their contractual arrangements with commercial electoral services providers?

In its inquiry into preference counting in local government elections, the JSCEM made a number of recommendations to improve the transparency of council elections. The key recommendations are recommendations 3 – 7. These are as follows:

- That the NSWEC works with relevant stakeholders to develop a policy that makes it easier for scrutineers to examine paper ballots, electronic records and data entry records (Recommendation 3).
- That the Office of Local Government ensures that councils which administer their own elections be required to adhere to any scrutineering policy developed by the NSWEC (Recommendation 4).
- That an audit process be introduced to ensure that data entry of ballots is accurate in every local government election count that uses electronic counting. The JSCEM also recommended that scrutineers be allowed to observe this audit process and the results (Recommendation 5).
- That the Government outlines minimum levels of data, including full preference data, which is to be released following a local government election regardless of whether the election is run by the NSWEC, a commercial provider, or a council themselves (Recommendation 6).
- That the source code of counting software used in local government elections, whether those elections are conducted by the NSWEC or a commercial provider, be subject to an external audit at least once every five years, subject to reasonable restrictions which protect the Intellectual Property of the organisations involved (Recommendation 7).

The Government has accepted these recommendations. The JSCEM's report and the Government Response can be accessed [here](#).

The Office of Local Government will provide more detailed guidance to councils administering their own elections on compliance with these requirements closer to the election. However, councils should factor compliance with these requirements into their contractual arrangements with commercial electoral services providers. In particular, councils should ensure the following:

- that the commercial electoral services provider has a formal policy that ensures that scrutineers are given as much opportunity as possible to be involved in the counting process by allowing the examination and comparison of ballot papers, the data entry of votes recorded on ballot papers (whether by manual data entry or digital scanning) and electronic or data entry records
- that the commercial electoral services provider has an audit system in place for checking ballot papers against the information entered into the electronic counting system used by the provider and that scrutineers are permitted to observe the audit process and its results
- that the commercial electoral services provider will make full preference data available for publication
- that the source code of counting software used by the commercial electoral services provider has been independently audited by an accredited source code auditor. The audit should be undertaken after the counting software has

12

been updated to undertake counts using the new weighted inclusive Gregory method.

What services will the NSWEC provide to councils that administer their own elections?

The NSWEC provides enrolment services to councils conducting their own elections such as the provision of authorised rolls, candidates' rolls, an online look-up facility for non-residential electors, a list of general postal voters and enrolment declaration envelopes. These products and services will be provided at cost to the relevant councils.

What information are councils that administer their own elections required to provide to the NSWEC?

Councils conducting their own elections are required to provide certain information to the NSWEC to support it in the exercise of its statutory functions in connection with the administration of candidate registration and other electoral funding and disclosure requirements and the enforcement of the failure to vote provisions of the Act and Regulation.

How should election costs be managed?

General managers should prepare a budget for all facets of council elections, and record and monitor expenditure to ensure a shortfall does not occur. Activity based costing will need to be applied to ensure that all costs and expenses are identified.

Areas to be covered include:

- wages of all electoral officials and any council staff engaged in election-related work
- recruitment and training
- advertising including the placement of statutory advertisements
- candidate and elector information
- hire of venues, furniture and equipment
- production of all election-related material, including forms, envelopes and cardboard material
- printing of ballot papers including in Braille, if requested
- transportation of election-related materials
- IT software and hardware
- administration expenses such as telephone, postage, courier services, photocopiers and printers
- insurance

A number of key variables will not be known until the close of nominations, namely whether an election will be uncontested, whether there will need to be a by-election due to insufficient nominations, whether candidates will form groups and request group voting squares, and whether as a result, ballot papers will need to be printed to allow 'above the line' and 'below the line' voting.

These factors will have an impact on costs. However given the lead time required to ensure voting can go ahead at the prescribed times, provision for all likely costs has to be made.

What are the reporting requirements on election costs?

Within six months of the election, the general manager must prepare a report for the Minister for Local Government on the conduct of each election. Full and transparent costings for each election must be disclosed in this report.

What is meant by ‘full and transparent costings’?

It needs to be acknowledged that although council staff may be used to undertake administrative tasks related to the conduct of elections, this comes at a cost. Notably any time spent on election-related work is time not spent on other council duties. Similarly use of council office space or office equipment or resources for election-related work is at the expense of other day to day council activities.

The following list is not exhaustive but contains a number of items that should be reported on:

- the proportion of the general manager’s time spent on election-related activities (such as training the returning officer, ensuring all aspects of the election have been identified, scoped and are on track, preparing and managing the budget) as a proportion of salary
- proportion of other council staff time spent on election-related activities (such as processing payroll and payables, sourcing suppliers of election material, providing IT support, and legal advice) as a proportion of salary
- wages of council staff hired specifically to assist with election-related activities
- wages of the returning officer, substitute returning officer, and all electoral officials (polling place managers, officers issuing votes, others who may be required in larger polling places, such as queue controller and ballot box guard, as well as office assistants in the returning officer’s office)
- cost of recruiting all electoral officials
- cost of training all electoral officials including the production of any manuals or guides
- cost of conducting candidate information seminars.
- cost of the returning officer’s office
- cost of hiring venues or using council venues for any additional pre-poll locations and election day voting
- cost of hiring furniture or equipment or using council furniture and equipment
- cost of electoral material including forms, envelopes, production of candidate information sheets, stationery and cardboard material required for polling places
- cost of developing and managing the tender process for the delivery and collection of election-related material and furniture
- cost of courier services and postage, particularly in relation to dispatch of postal votes
- cost of advertising and any elector information produced including cost of translations
- cost of printing ballot papers including any Braille ballot papers
- IT-related costs particularly the development of counting software
- cost involved in producing the report to the Minister on the conduct of the election

14

Such identification of activity based costs and expenses will also enable a comparison with the fees charged by the NSWEC, to see whether one option is better value than the other for ratepayers.

Even in the case of an uncontested election or where there are insufficient nominations to enable the election to proceed on election day, there will be costs associated with having reached that stage, which also need to be reported.



Monthly Report

Shoalhaven City Council

January 2019

CL19.40 - Attachment 1



Market

International Markets

Global stocks recovered strongly in January as the US Federal Reserve backed down and repeatedly eased its language in response to December's market panic – going from committed to tightening, to guiding +50bp (vs +75bp) for 2019, to “data dependent,” to “nearly at neutral.” Pres Trump focused attention and blame on Chairman Powell, and he appears to have cracked under the pressure.

The Dow, S&P, NASDAQ finished +7.29%, +8.01% and +9.79% respectively. MSCI World ex-AUS finished +7.33% in local terms. Emerging Markets returned +8.77% in \$US, with +5.5% from Frontier. Despite this optimism, US 10-year bonds rallied to 2.63% (-6bp). High yield credit was 100bp tighter.

The US government shut down ended, for at least 3 weeks. With neither side compromising on extensions and upgrades to the 700mi border wall, it likely ends in a state of emergency.

The Chinese economy grew at 6.4% YoY in Q4, its slowest growth since the GFC. Japanese exports dropped at the fastest pace in 2½ years, while production fell for the first time since July 2016.

US new home sales soared to an 8-month high in November (+16.9%). US inflation fell to 1.9% in December following lower gas prices and an increase in the US Federal Reserve rate target to 2.5%. Non-farm payrolls increased +312k, however unemployment rose to 3.9% (+0.2%) in December on higher participation (63.1%).

EU Unemployment was 7.9% and inflation eased to 1.6% in December (-0.3%). EU GDP grew +1.2% YoY Q4 (from 1.6% Q3), with Italy in mild recession, and Brexit a shambles.

Domestic

The ASX200 gained +3.87%, while Smallcaps increased +5.56%. 10-year bonds rallied on offshore leads, with yields -11bp to 2.21%. The market sees the RBA cutting rates mid-2020. CPI was +0.5% (just +0.4% core), giving the RBA flexibility to cut, despite officially being on tightening bias.

Labour force participation fell -0.1%, with headline unemployment (5.0%) and underemployment (8.4%) each -0.1%. A solid +21,600 jobs were added, with hours worked +1.4%.

Manufacturing PMI fell to 49.5 in December, the first contraction in 26 months. The Performance Services Index also declined to 52.1 in December due to weakened services activity. Westpac's Consumer Sentiment declined -4.7% MoM amid political uncertainty, trade wars and continual housing price declines.

Personal finance fell to a year's low and owner-occupied housing finance declined -1.4% in November. Building work was still elevated despite pulling back -2.7% in the quarter. But building approvals slumped -9.1% in November, with apartment approvals less than half of Nov 2017. Retail sales were +0.4% in November. New home sales decreased -6.7% in December, the worst decline since late 2012.

The trade surplus narrowed to \$1.93bn (-4%) in November after both higher exports and imports.

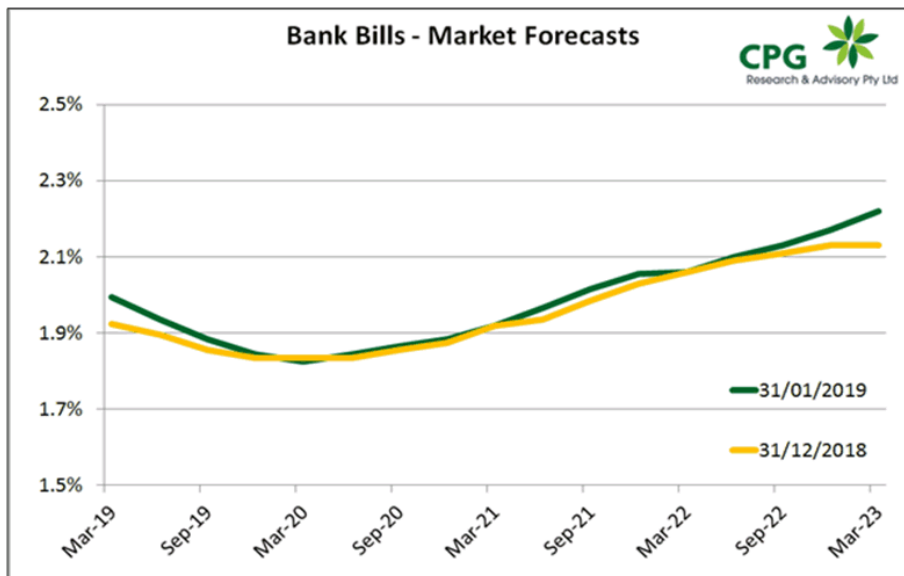
Other Markets

WTI oil rebounded to \$54/bbl (+18%). Gold closed \$1,320 (+3.29%) with base metals all gaining: Zinc (+10.5%), Copper (+3.1%), Aluminium (+0.6%), Tin (+7.3%) and Nickel (+16.9%).

Iron ore soared to \$84.45 (+18.4%) after another Brazilian disaster impacted future supplies. The \$A finished at US72.68c (+2.98%), back to August levels.



Bank bill futures tracked bond yields lower, and in fact show a lengthy inversion period:

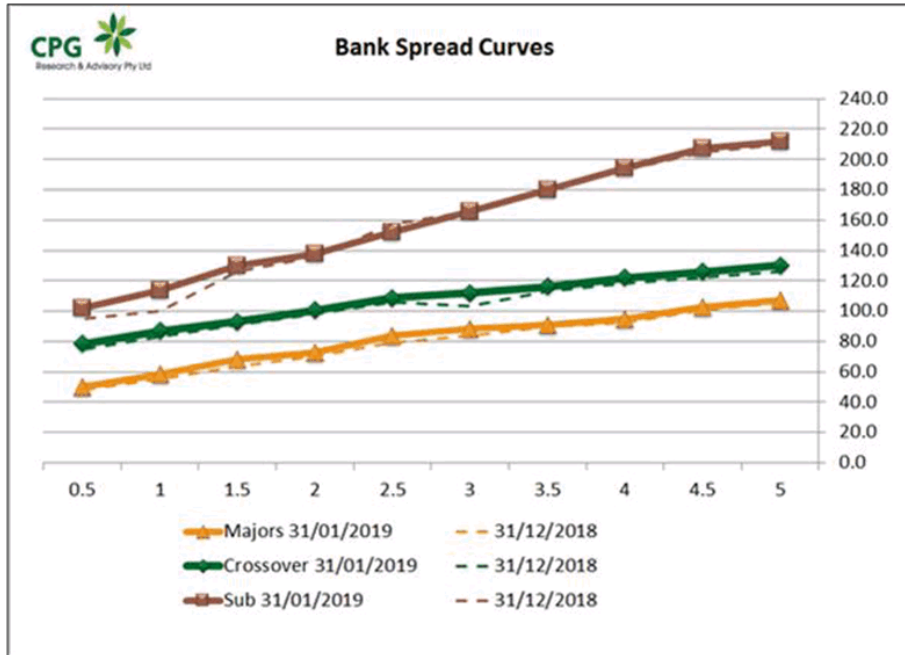


Credit Market

After heavy selloffs late in 2018, risk assets were cheered by the possibility of a March end to trade tensions, and the Federal Reserve apparently succumbing to pressure to pause its tightening cycle. Credit rallied dramatically, along with other risk assets such as shares. High yield was particularly strong:

Credit Indices	31 Jan 19	31 Dec 18	31 Jan 18
iTraxx Australia 5 Yr CDS	77bp	95bp	57bp
iTraxx European 5 Yr CDS	71bp	90bp	44bp
CDX IG North American 5 Yr CDS	66bp	88bp	47bp
CDX HY North American 5 Yr CDS	353bp	450bp	301bp

Bank FRNs lagged, not participating in the rally due to new issuance although anecdotally they are likely to trade tighter than marked. Wide spreads have been supportive for deposit margins, which are currently relatively high:



In more liquid global markets, high yield bond spreads also rallied dramatically **tighter from +538bp to +437bp** (BoA Merrill Lynch HY Index, option-adjusted), tracking CDS credit spreads. **At this level, we consider high yield bonds mid-cycle value through the cycle.**

The move by the market to price an easing bias for the RBA (which they have almost endorsed at their February meeting) was reflected in record low deposit interest rates, with rates dropping below 3% out to 3 years.



ESG and Divestment

Council has introduced a “soft divestment” instruction which looks to identify, and preferentially direct investment away from, lenders to fossil fuels.

The highlighted list is as follows:

Fossil Fuel Counterparties	Exposure \$M	FCS	Net	Rating	Policy Limit	Gross	Invested in Fossils
ANZ	\$7.00M	\$0.00M	\$7.00M	AA-	30%	4%	Yes
CBA	\$35.16M	\$0.25M	\$34.91M	AA-	30%	18%	Yes
NAB	\$14.67M	\$0.25M	\$14.42M	AA-	30%	7%	Yes
Westpac	\$17.00M	\$0.25M	\$16.75M	AA-	30%	9%	Yes
AMP	\$9.42M	\$0.25M	\$9.17M	A	15%	5%	Yes*
Macquarie	\$0.00M	\$0.00M	\$0.00M	A	15%	0.0%	Yes
ING	\$4.00M	\$0.25M	\$3.75M	Split A	15%	2%	Yes
TCorpIM Cash Fund	\$24.53M	\$0.00M	\$24.53M	AAA	40%	12%	Yes
	\$111.78M		\$110.53M			56%	
Total	\$199.75M		\$199.75M				

* Note also AMP Life, AMP Capital have investments in coal and gas companies

As at January 2019, the institutions totalled 56% of Council’s investment portfolio (unchanged from last month), with short term swings in the TCorpIM Cash Fund (12%+) largely driving the ratio.

Fossil Fuels Exposure Trend	
May 2017	50%
June 2017	48%
July 2017	48%
August 2017	44%
September 2017	43%
October 2017	42%
November 2017	44%
December 2017	43%
January 2018	41%
February 2018	45%
March 2018	59%
April 2018	59%
May 2018	62%
June 2018	61%
July 2018	58%
August 2018	61%
September 2018	57%
October 2018	56%
November 2018	59%
December 2018	56%
January 2019	56%

TCorpIM flows reversed what had previously been a significant reduction from 50% to 41%.



Spending the TCorpIM cash entirely would see the allocation fall towards the lows, although of course it would be difficult to entirely avoid the larger banks if the money is invested for the longer-term.

Increases in cumulative lending disclosures since 2008 indicates that activism is having only limited impact. (ING Bank's cumulative numbers have actually fallen, indicating either restatements or disposal of business units).

Name	*\$m Loaned (May 17)	*\$m Loaned (Sep 18)	Cumulative Change
AMP	\$752	\$955	27%
ANZ	\$23,414	\$31,235	33%
Citi	\$3,271	\$4,373	34%
CBA	\$20,590	\$26,553	29%
HSBC	\$3,612	\$3,859	7%
ING	\$857	\$783	-9%
Macquarie	\$2,622	\$3,597	37%
NAB	\$14,867	\$17,614	18%
Westpac	\$11,613	\$13,162	13%

It is proving difficult in practice to avoid this cohort entirely, particularly given minimisation of the use of BBB banks. **This is a soft condition of TCorp loans, and is likely permanent – Council cannot meet or even make progress on its divestment objective.**

The current choices are:

- **Drop the divestment objective**, investing up to 75% in the larger banks who (but for SunCorp) are named as fossil fuel lenders.
- **Drop the rating constraint** and risk losing access to TCorp funding (or even risking further scrutiny from the Department), following some green Councils into a diverse portfolio almost entirely in the BBB and unrated space.
- Position the portfolio very narrowly into a handful of highly rated ADIs plus hypothecated green bonds of the majors, **sacrificing diversity and probably returns**, as well as making FRNs and other liquid investments almost impossible to access in any significant volume.

In a recent development, Westpac have extended the “green bond” certification programme to deposits.

A limited release of Green Deposits is available with certification under global standards. The money raised will be fully directed to renewable energy, energy efficiency infrastructure, green buildings of a minimum NABERS energy rating etc.

Deposits will be issued at standard bank rates, as have the Green Bonds.

Given that certifiable purposes represent a small fraction of bank lending, **there will only be a limited tranche of these deposits available**, although the bank (and possibly other banks) are likely to have recurring offerings.



Council's Portfolio

The portfolio has high liquidity, reflecting the TCorpIM cash. 20% of investments are available at-call and a further 11% of assets maturing within 3 months. Another 26% of assets mature within 3-12 months, with relatively little in the short-medium term duration allocation at 12%.

Typically, securities have been sold ahead of entering this cohort – they have recycled to the longer durations.

Council has a further allocation to securities and the Macquarie fund, for additional liquidity requirements and seeking trading gains. At this point, significantly wider bank spreads see us recommend a switch from Macquarie to direct credit at this point.



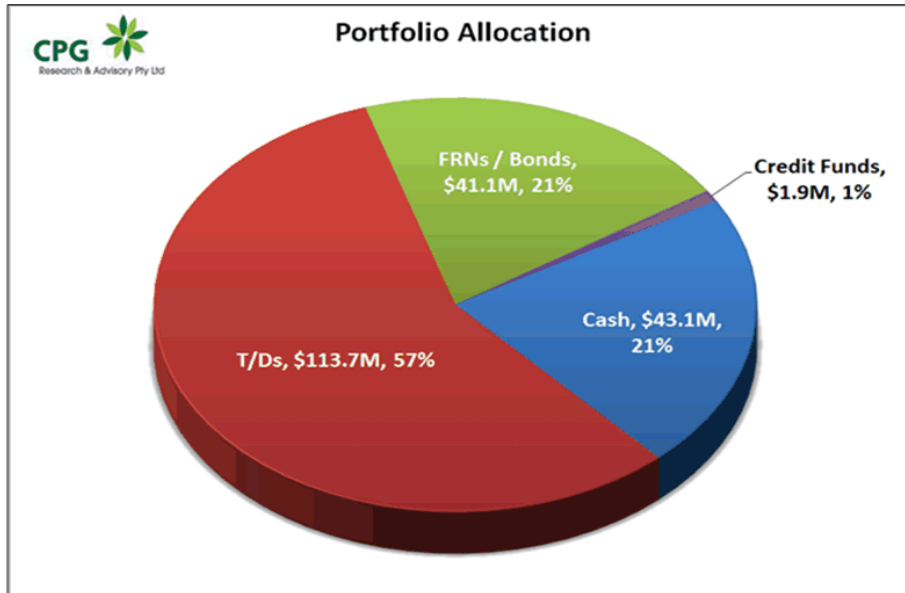
Investments are diversified by fixed interest sector and well spread across maturities. Available capacity exists in all categories.

Council is well placed to utilise capacity available towards the short term. Cash can be deployed opportunistically utilising capacity available in BBB rated. Working capital is at slightly elevated levels (TCorpIM Cash is identified for specific project related payments).

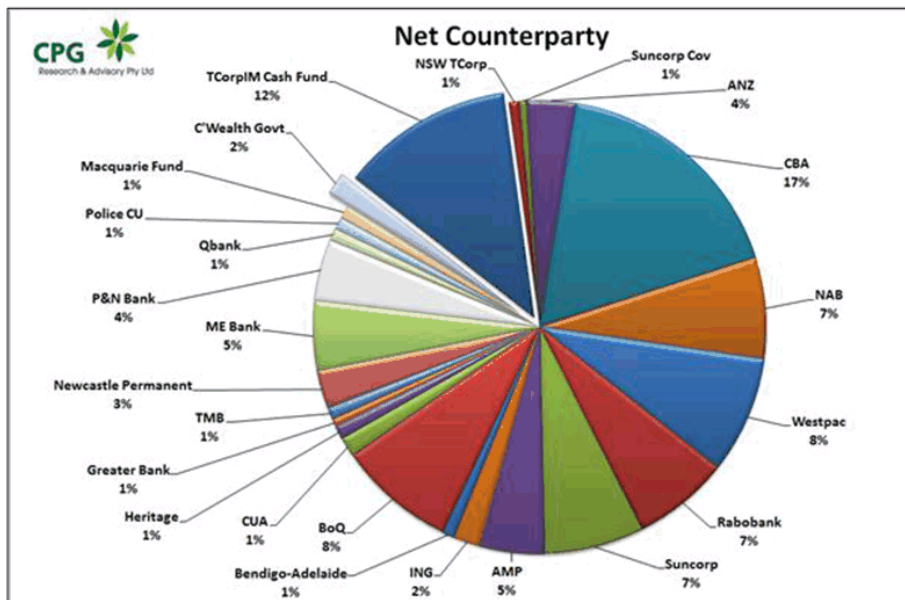
In the near term, we look to add to maximise credit allocations as capacity allows; looking to sell maturing FRNs to take up new FRNs – indicatively, majors will be issuing around the +110bp level. A and BBB rated floating rate assets are favoured for new money, as capacity is available in both categories.



Council's portfolio remains tilted to deposits, at 57% of the total assets, with Cash held at a high 21% (including AMP 31-day Notice Account) and the balance is in liquid credit, including a small residual investment in a credit fund with Macquarie intended for redemption.



The investment portfolio is well diversified in complying assets across the entire credit spectrum; with CBA dominant followed by NAB & TCorpIM Cash.





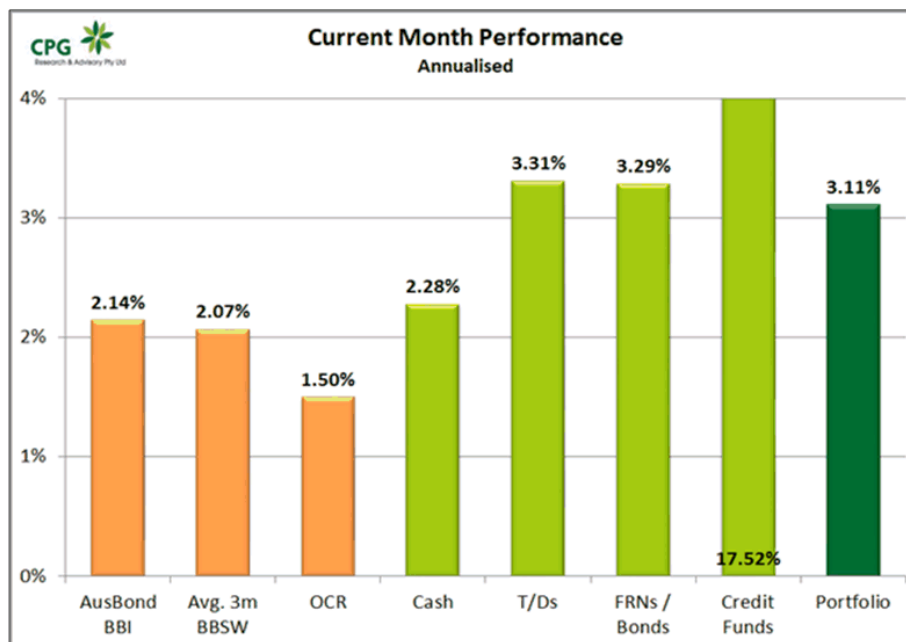
Returns - Accrual

Actual	1 month	3 months	6 months	FYTD	1 year	2 years	3 years	4 years	5 years
Official Cash Rate	0.13%	0.38%	0.75%	0.88%	1.50%	1.50%	1.56%	1.69%	1.85%
Avg. 3m BBSW	0.17%	0.50%	0.99%	1.16%	1.97%	1.86%	1.89%	1.97%	2.11%
AusBond Bank Bill Index	0.18%	0.43%	0.98%	1.18%	1.95%	1.85%	1.91%	2.00%	2.14%
Council Cash	0.19%	0.49%	1.02%	1.22%	2.02%	2.09%	2.16%	2.29%	2.45%
Council T/Ds	0.28%	0.80%	1.60%	1.87%	3.20%	3.28%	3.39%	3.50%	3.59%
Council FRNs / Bonds	0.28%	0.82%	1.61%	1.92%	3.25%	3.21%	3.23%	3.31%	-
Council Credit Funds	1.38%	1.22%	1.33%	1.83%	1.37%	2.99%	3.64%	2.88%	2.93%
Council Total Portfolio	0.26%	0.73%	1.46%	1.71%	2.87%	2.91%	3.06%	3.19%	3.12%

Annualised	1 month	3 months	6 months	FYTD	1 year	2 years	3 years	4 years	5 years
Official Cash Rate	1.50%	1.50%	1.50%	1.50%	1.50%	1.50%	1.56%	1.69%	1.85%
Avg. 3m BBSW	2.07%	2.01%	1.98%	1.99%	1.97%	1.86%	1.89%	1.97%	2.11%
AusBond Bank Bill Index	2.14%	1.95%	1.96%	2.01%	1.95%	1.85%	1.91%	2.00%	2.14%
Council Cash	2.28%	1.96%	2.04%	2.09%	2.02%	2.09%	2.16%	2.29%	2.45%
Council T/Ds	3.31%	3.22%	3.20%	3.19%	3.20%	3.28%	3.39%	3.50%	3.59%
Council FRNs / Bonds	3.29%	3.28%	3.26%	3.28%	3.25%	3.21%	3.23%	3.31%	-
Council Credit Funds	17.52%	4.93%	2.66%	3.12%	1.37%	2.99%	3.64%	2.88%	2.93%
Council Total Portfolio	3.11%	2.92%	2.91%	2.92%	2.87%	2.91%	3.06%	3.19%	3.12%

The Investment portfolio returned a strong **3.11% p.a.** for the month of January 2019, exceeding the benchmark AusBond Bank Bill Index (2.14% p.a.) by **+97bp**. This included contribution from a rally in **non-bank credit**. The credit fund outperformed its benchmark, an exceptional result recouping some losses from a weak 2018 credit market.

TCorpM Cash had an above-trend month with 0.22% net returns, beating benchmark by +4bp in the month. It is an extremely dilute exposure to FRNs, and participated in improving credit conditions.



The longer dated investments continued their strong performance. Deposits and FRNs continue to yield well over 3%, with periodic contributions from realised capital gain on sales of existing FRNs.



Credit Quality

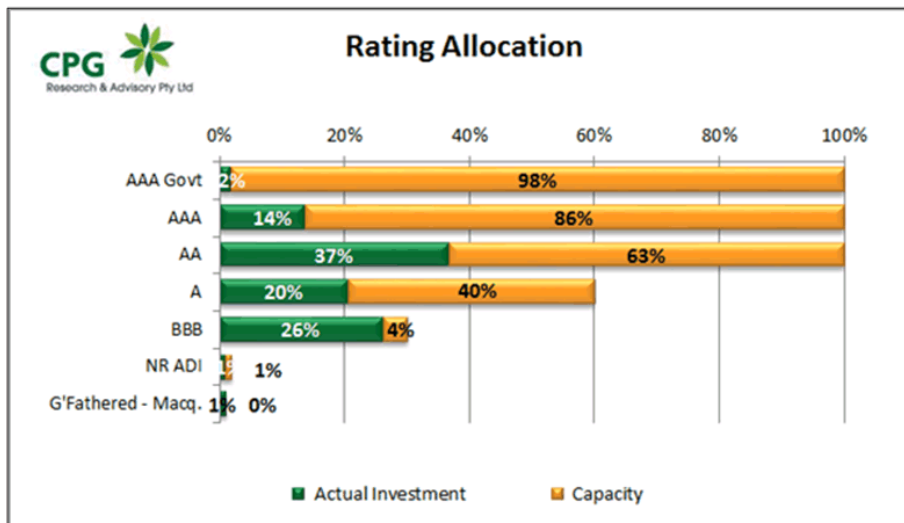
The previously adopted Policy took effect July 1st. The aggregate limits in BBB is 30% and in NR is now 2% (over-riding single-name limits). Allocations were very conservative in any case, and this had no effect on compliance.

We have tested the portfolio provided against Council’s current Investment Policy and report the following:

Aggregate credit limits are in compliance:

Rating Category	Actual	Per C/Party	Aggregate	Rating Category	Actual Investment	Capacity
AAA Govt	2%	100%	100%	AAA Govt	2%	98%
AAA	14%	40%	100%	AAA	14%	86%
AA	37%	30%	100%	AA	37%	63%
A	20%	15%	60%	A	20%	40%
BBB	26%	10%	30%	BBB	26%	4%
NR ADI	1%	5%	2%	NR ADI	1%	1%
G'Fathered - Macq.	1%	1%	1%	G'Fathered - Macq.	1%	0%

Credit quality is mostly directed towards the higher rated ADIs, with capacity levels in investment grade BBB rated in accordance with Council, allowing flexibility for future investment opportunities.





Other Compliance

We have tested the portfolio provided against Council's current investment policy and report the following:

All counterparties comply.

Counterparties	Exposure \$M	FCS	Net	Rating	Policy Limit	Actual	Capacity
TCorpIM Cash Fund	\$24.53M	\$0.00M	\$24.53M	AAA	40%	12%	\$55.38M
NSW TCorp	\$1.50M	\$0.00M	\$1.50M	AAA	40%	1%	\$78.40M
Suncorp Cov	\$1.00M	\$0.00M	\$1.00M	AAA	33%	1%	\$64.65M
ANZ	\$7.00M	\$0.00M	\$7.00M	AA-	30%	4%	\$52.93M
CBA	\$35.16M	\$0.25M	\$34.91M	AA-	30%	17%	\$25.02M
NAB	\$14.67M	\$0.25M	\$14.42M	AA-	30%	7%	\$45.50M
Westpac	\$17.00M	\$0.25M	\$16.75M	AA-	30%	8%	\$43.18M
Rabobank	\$14.00M	\$0.25M	\$13.75M	A+	15%	7%	\$16.21M
Suncorp	\$14.50M	\$0.25M	\$14.25M	A+	15%	7%	\$15.71M
AMP	\$9.42M	\$0.25M	\$9.17M	A	15%	5%	\$20.80M
Macquarie	\$0.00M	\$0.00M	\$0.00M	A	15%	0%	\$29.96M
ING	\$4.00M	\$0.25M	\$3.75M	A	15%	2%	\$26.21M
Bendigo-Adelaide	\$2.00M	\$0.25M	\$1.75M	BBB+	10%	1%	\$18.23M
BoQ	\$17.00M	\$0.25M	\$16.75M	BBB+	10%	8%	\$3.23M
CUA	\$2.85M	\$0.00M	\$2.85M	BBB+	10%	1%	\$17.13M
Heritage	\$1.95M	\$0.00M	\$1.95M	BBB+	10%	1%	\$18.03M
Police Bank	\$0.00M	\$0.00M	\$0.00M	BBB+	10%	0%	\$19.98M
Greater Bank	\$1.00M	\$0.00M	\$1.00M	BBB+	10%	1%	\$18.98M
TMB	\$1.70M	\$0.00M	\$1.70M	BBB+	10%	1%	\$18.28M
Newcastle Permanent	\$5.50M	\$0.00M	\$5.50M	BBB	10%	3%	\$14.48M
ME Bank	\$10.10M	\$0.25M	\$9.85M	BBB	10%	5%	\$10.13M
Defence Bank	\$0.00M	\$0.00M	\$0.00M	BBB	10%	0%	\$19.98M
Beyond Bank	\$0.00M	\$0.00M	\$0.00M	BBB	10%	0%	\$19.98M
P&N Bank	\$9.00M	\$0.25M	\$8.75M	BBB	10%	4%	\$11.23M
Big Sky CU	\$0.00M	\$0.00M	\$0.00M	BBB	10%	0%	\$19.98M
Auswide	\$0.00M	\$0.00M	\$0.00M	BBB-	10%	0%	\$19.98M
Qbank	\$2.00M	\$0.25M	\$1.75M	BBB-	10%	1%	\$18.23M
Bank of Sydney	\$0.00M	\$0.00M	\$0.00M	NR	5%	0%	\$9.99M
Police CU	\$2.00M	\$0.25M	\$1.75M	NR	5%	1%	\$8.24M
Macquarie Fund	\$1.88M	\$0.00M	\$1.88M	NR	1%	1%	\$0.00M
	\$199.75M		\$196.50M			98%	
C'wealth Govt		\$3.3M	\$3.25M	AAA	100%	2%	
Total	\$199.75M		\$199.75M			100%	

Spending the working capital in TCorp would tend to increase exposures proportionately by around 25%. This has resulted in conservative allocations through FY18, but is now unlikely to materially impact any compliance data.



We have also tested Council's current investment exposure against the lower rated counterparties' net assets as Council's Policy prescribes maximum concentration. We report the following:

Three counterparties - P&N Bank, QBank and Police CU - are slightly above the allowed net assets % threshold for individual counterparty.

Counterparties	Exposure \$M	Rating	Max port %	Actual	Net Assets \$M	Max allowed % of net assets	Net Exposure	
Bendigo-Adelaide	\$2.00M	BBB+	10%	1%	\$5,620	2%	0.036%	1.96%
BoQ	\$17.00M	BBB+	10%	9%	\$3,791	2%	0.448%	1.55%
CUA	\$2.85M	BBB+	10%	1%	\$980	2%	0.291%	1.71%
Heritage	\$1.95M	BBB+	10%	1%	\$487	2%	0.400%	1.60%
Greater Bank	\$1.00M	BBB+	10%	1%	\$481	2%	0.208%	1.79%
TMB	\$1.70M	BBB+	10%	1%	\$493	2%	0.345%	1.66%
Newcastle Permanent	\$5.50M	BBB	10%	3%	\$879	2%	0.626%	1.37%
ME Bank	\$10.10M	BBB	10%	5%	\$1,369	2%	0.738%	1.26%
P&N Bank	\$9.00M	BBB	10%	5%	\$273	2%	3.291%	-1.29%
Qbank	\$2.00M	BBB-	10%	1%	\$74	2%	2.701%	-0.70%
Police CU	\$2.00M	NR	5%	1%	\$73	2%	2.734%	-0.73%

We note that these are before application of the government insurance scheme (FCS).

The banks in question will be gradually run down over time.



Term Deposits

At month-end, deposits accounted for approximately 57% of the total investment portfolio. The weighted average duration of the deposit portfolio is approximately **1.3 years, unchanged from previous month and longer than the peer group average.**

Maintaining a longer duration has produced a measurable uplift in yield at a time when deposit rates have plunged, and cushioned the RBA's rate cutting cycle, this will continue to provide protection to Council's income. The current average yield of **3.18% remains above any deposit up to 4 years in today's market**, around +125bp over benchmark.

At the short-end, deposit margins little changed but for movements in AMP specials.

At the longer end, swap margins spiked as yields were marginally up despite lower bond yields. The increase in margins has occurred primarily at the long end.

We note (typically short-dated) broker specials for deposits around short-term investment requirements are advised in the TD daily rate sheet regularly.

Relevant portfolio data follows:

Term Deposit Statistics

Percentage of total portfolio	57%
Weighted Average Yield	3.18%
Weighted Average Duration	1.3 yrs

Credit Quality of Deposits

AAA^	1%
AA	37%
A	29%
BBB	31%
Unrated ADI	2%
Total	100%

^ Calculation excludes the Financial Claims Scheme (FCS)

We refer to the detailed analysis in our January **Fixed Interest Analytics**.



Credit: FRNs & Fixed Bonds

Major bank spreads were mixed, with wider issuance at +110bp. We continue to recommend purchases, and regard credit as very well priced.

Sentiment was buoyant in most risk markets, but large issuance saw some lag in major bank pricing relative to the broader credit market. **Anecdotally, trading levels were tighter at month end, and a massive 25bp tighter for the same Australian majors trading in \$US.** This should be positive for February marks.

During Q4, we moved to a **more negative view on fixed rates** as the Australia's 10-year bonds traded to levels never seen except at the depth of the Brexit panic. They finished stronger, closing at 2.21% (-11bp). **On a medium-term rates outlook bonds look very expensive**, although there look to be few near-term catalysts to disrupt them. We would likely need to see stabilisation of residential property for the market to stop factoring in RBA rate cuts.

APRA's consultation paper on bail-in instruments appears to be positive for senior debt: Senior is not going to be issued in bail-inable form, and APRA appears to require more junior debt to be raised below senior. **This is positive for their senior credit, as additional credit support.** Moreover, non-bailin debt is globally quite rare and scarce. In addition, the additional Tier 2 and lack of bail-in feature will **likely prompt S&P to remove the Negative Outlook, and affirm major bank ratings to AA- Stable.** *This should see spreads under tightening pressure in coming weeks.*

Bendigo-Adelaide pricing **seems insufficient pickup for rating.** BBB bank quotes **appear to have lagged**, rather than fully repriced and we expect them to be marked wider.

We believe AA rated FRNs are generally the best fit for Council's current circumstances as asset sales or switches permit, barring the question of these banks' status as fossil fuel lenders.

Over the medium term, Macquarie ranks near peer-group median, but the trailing year is below cash (reverting to trend over the longer term).

The Macquarie fund rebounded strongly in January, where bank FRNs lagged somewhat during the weakness that often accompanies new issue periods.

Switching into a fully invested FRN portfolio as new issues emerge and are allocated is the preferred strategy to take advantage of this discontinuity. Council purchased \$2m of CBA new issue at +113bp in January.

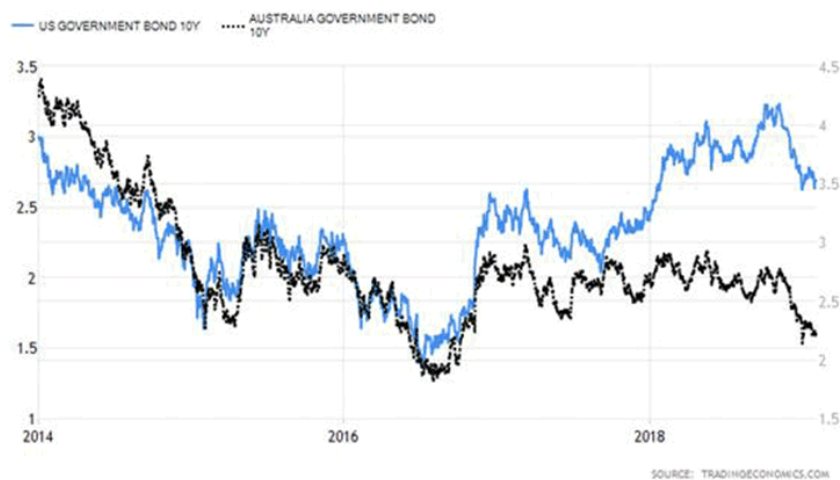


Fixed Interest Outlook

US 10-year bonds gained further as yields hit 2.63% in January, from 2.69% (-6bp). Bond yields are more than 50bp inside their wides, following **more dovish commentary from Federal Reserve** officials in response to a market panic. While the Fed was never going to declare the cycle over, “*data dependence*” is a reasonable second prize – on reflection.

Australia’s 10-year bonds also finished stronger, closing at 2.21% (-11bp). The \$A rallied from December low, **finishing at US72.68c, up 3.0%.**

Australian bonds continue to trade inside US yields, -42bp being short of the wides after recent outperformance by US Treasuries:



Local markets remain fixated on residential property – particularly in Sydney. The current outlook is for a rate cut in 2H2020. This view strikes us as puzzling – ***if the RBA was to panic and take responsibility for ending the slump, why wait 18 months?***

If APRA started the slump with overly tight money, ***should APRA not respond by reversing its measures*** now that they have achieved the objective or halting the boom – and more?

Of course, if APRA loosened constraints and enabled banks to again offer foreign investor loans, **that creates the supply but not necessarily the demand** – they cannot force investors to return. (Especially given the punitive state stamp duties.) ***We certainly cannot rule out the need for a monetary policy response*** – especially given apartment building approvals down an alarming -53% YoY. But the RBA is still calling for +3% GDP this year! Grudgingly, they have removed the “*probably up*” guidance, to “*evenly balanced.*” Instead of stability for “*an extended period*” the rates decisions are described as appropriate “*to this meeting.*” ***They look to be moving slowly towards an easing bias.***



Portfolio Listing

Shoalhaven City Council as at 31/01/2019						
Authorised Deposit-Taking Institution (ADI)	ST Rating	Security Type	Principal/ Current MF Value	Term	Interest Rate	Maturity Date
Commonwealth Bank Australia	A-1+	TD	\$2,000,000.00	363	2.63%	27-Feb-19
Suncorp Metway Ltd Bank	A-1	TD	\$2,000,000.00	243	2.85%	27-Feb-19
National Australia Bank	A-1+	TD	\$2,000,000.00	112	2.68%	11-Mar-19
Members Equity Bank	A-2	TD	\$1,000,000.00	264	2.87%	27-Mar-19
Suncorp Metway Ltd Bank	A-1	TD	\$3,000,000.00	271	2.85%	27-Mar-19
National Australia Bank	A-1+	TD	\$2,000,000.00	140	2.69%	8-Apr-19
Members Equity Bank	A-2	TD	\$3,000,000.00	292	2.87%	24-Apr-19
Commonwealth Bank Australia	A-1+	TD	\$2,000,000.00	730	2.76%	26-Apr-19
Bank of Qld	A-2	TD	\$2,000,000.00	1827	4.75%	1-May-19
Bendigo Bank	A-2	TD	\$2,000,000.00	560	2.70%	13-May-19
Newcastle Permanent Building Society	A-2	TD	\$2,000,000.00	1091	3.20%	22-May-19
Members Equity Bank	A-2	TD	\$2,000,000.00	1827	4.66%	28-May-19
Police Credit Union Ltd (SA)	NR	TD	\$2,000,000.00	1827	4.75%	30-May-19
Commonwealth Bank Australia	A-1+	TD	\$25,000.00	182	2.56%	3-Jun-19
National Australia Bank	A-1+	TD	\$4,000,000.00	194	2.74%	11-Jun-19
Commonwealth Bank Australia	A-1+	TD	\$3,000,000.00	365	2.80%	12-Jun-19
Rabobank	A-1	TD	\$2,000,000.00	1826	4.52%	19-Jun-19
Commonwealth Bank Australia	A-1+	TD	\$3,000,000.00	301	2.72%	26-Jun-19
Suncorp Metway Ltd Bank	A-1	TD	\$4,000,000.00	202	2.81%	27-Jun-19
National Australia Bank	A-1+	TD	\$71,843.11	364	2.78%	28-Jun-19
Commonwealth Bank Australia	A-1+	TD	\$3,000,000.00	320	2.72%	17-Jul-19
AMP Bank	A-1	TD	\$5,000,000.00	90	3.05%	24-Jul-19
Qbank	A-2	TD	\$1,000,000.00	377	2.90%	28-Aug-19
National Australia Bank	A-1+	TD	\$2,000,000.00	1822	4.11%	29-Aug-19
Rabobank	A-1	TD	\$2,000,000.00	1826	4.10%	2-Sep-19
Rabobank	A-1	TD	\$2,000,000.00	1462	3.30%	2-Sep-19
Suncorp Metway Ltd Bank	A-1	TD	\$3,000,000.00	365	2.70%	4-Sep-19
Commonwealth Bank Australia	A-1+	TD	\$101,269.00	388	2.72%	20-Sep-19
Bank of Qld	A-2	TD	\$2,000,000.00	386	2.75%	25-Sep-19
State Insurance Regulatory Authority	A-1+	TD	\$1,501,000.00	365	2.50%	4-Oct-19
National Australia Bank	A-1+	TD	\$2,000,000.00	406	2.75%	23-Oct-19
Westpac Bank	A-2	TD	\$3,000,000.00	414	2.70%	23-Oct-19
ING Bank (Australia) Ltd	A-1	TD	\$2,000,000.00	728	2.87%	12-Feb-20
ING Bank (Australia) Ltd	A-1	TD	\$2,000,000.00	728	2.85%	26-Feb-20
Westpac Bank	A-1+	TD	\$2,000,000.00	734	2.86%	9-Jun-20
Commonwealth Bank Australia	A-1+	TD	\$2,000,000.00	1094	2.77%	11-Jun-20
Bank of Qld	A-2	TD	\$2,000,000.00	751	2.90%	23-Sep-20
Police and Nurses Bank	A-2	TD	\$2,000,000.00	1459	3.50%	18-Dec-20
Rabobank	A-1	TD	\$2,000,000.00	1464	3.00%	16-Jun-21
Bank of Qld	A-2	TD	\$2,000,000.00	1821	3.85%	15-Dec-21
Bank of Qld	A-2	TD	\$5,000,000.00	1827	3.80%	21-Feb-22
Police and Nurses Bank	A-2	TD	\$5,000,000.00	1825	3.74%	22-Feb-22
Westpac Bank	A-2	TD	\$6,000,000.00	1826	3.00%	2-Mar-22
Bank of Qld	A-2	TD	\$2,000,000.00	1826	3.80%	22-Mar-22
Westpac Bank	A-1+	TD	\$2,000,000.00	1826	2.83%	24-Aug-22
Westpac Bank	A-1+	TD	\$2,000,000.00	1826	3.00%	24-Aug-22
Rabobank	A-1	TD	\$2,000,000.00	1826	3.39%	13-Sep-22
Police and Nurses Bank	A-2	TD	\$2,000,000.00	1836	3.51%	28-Sep-22
Rabobank	A-1	TD	\$2,000,000.00	1828	3.40%	23-Aug-23
Total Term Deposits			\$113,699,112.11			

CL19.40 - Attachment 1



Shoalhaven City Council as at 31/01/2019						
Authorised Deposit-Taking Institution (ADI)	ST Rating	Security Type	Principal/ Current MF Value	Term	Interest Rate	Maturity Date
Newcastle Permanent Building Society	A-2	FRN	\$1,000,000.00	1095	3.54%	22-Mar-19
Greater Bank Limited	A-2	FRN	\$1,000,000.00	1095	3.53%	7-Jun-19
Teachers Mutual Bank Limited	A-2	FRN	\$1,000,000.00	1095	3.36%	28-Oct-19
Credit Union Australia	A-2	FRN	\$2,250,000.00	1096	3.17%	20-Mar-20
Members Equity Bank	A-2	FRN	\$1,000,000.00	1096	3.31%	6-Apr-20
Newcastle Permanent Building Society	A-2	FRN	\$2,000,000.00	1827	3.32%	7-Apr-20
Newcastle Permanent Building Society	A-2	FRN	\$500,000.00	1064	3.32%	7-Apr-20
Heritage Bank	A-2	FRN	\$1,250,000.00	1096	3.27%	4-May-20
Suncorp Metway Ltd Bank	A-1	FRN	\$2,000,000.00	1827	3.24%	20-Oct-20
Bank of Qld	A-2	FRN	\$1,000,000.00	1461	3.14%	26-Oct-20
Members Equity Bank	A-2	FRN	\$1,500,000.00	1096	3.22%	9-Nov-20
Qbank	A-2	FRN	\$1,000,000.00	1096	3.45%	6-Dec-20
Rabobank	A-1	FRN	\$2,000,000.00	1826	3.45%	4-Mar-21
Heritage Bank	A-2	FRN	\$700,000.00	1096	3.17%	29-Mar-21
Members Equity Bank	A-2	FRN	\$1,600,000.00	1095	3.28%	16-Apr-21
National Australia Bank	A-1+	FRN	\$1,000,000.00	1826	3.13%	12-May-21
Bank of Qld	A-2	FRN	\$1,000,000.00	1826	3.44%	18-May-21
Suncorp Metway Ltd Bank	A-1	FRN	\$1,000,000.00	1826	3.04%	22-Jun-21
Teachers Mutual Bank Limited	A-2	FRN	\$700,000.00	1096	3.47%	2-Jul-21
Commonwealth Bank Australia	A-1+	FRN	\$1,000,000.00	1826	3.23%	12-Jul-21
ANZ	A-1+	FRN	\$1,000,000.00	1826	3.09%	16-Aug-21
Credit Union Australia	A-2	FRN	\$600,000.00	1096	3.20%	6-Sep-21
AMP Bank	A-1	FRN	\$1,500,000.00	1096	3.01%	10-Sep-21
ANZ	A-1+	FRN	\$1,000,000.00	1826	2.93%	7-Mar-22
Suncorp Metway Ltd Bank	A-1	FRN	\$500,000.00	1826	2.93%	16-Aug-22
Westpac Bank	A-1+	FRN	\$2,000,000.00	1826	2.78%	6-Mar-23
Commonwealth Bank Australia	A-1+	FRN	\$1,000,000.00	1916	2.77%	25-Apr-23
ANZ	A-1+	FRN	\$1,000,000.00	1826	2.87%	9-May-23
Commonwealth Bank Australia	A-1+	FRN	\$500,000.00	1826	2.89%	16-Aug-23
National Australia Bank	A-1+	FRN	\$1,500,000.00	1826	2.87%	26-Sep-23
ANZ	A-1+	FRN	\$4,000,000.00	1826	3.01%	16-Dec-23
Commonwealth Bank Australia	A-1+	FRN	\$2,000,000.00	1826	3.19%	11-Jan-24
Total Senior Securities			\$41,100,000.00			
Shoalhaven City Council as at 31/01/2019						
Grandfathered	ST Rating	Security Type	Current Valuation			Maturity Date
Macquarie Global Income Opportunities	NR	MF	\$1,876,095.03			T+3
TCorpIM Cash Fund	AAAm	MF	\$24,525,658.51			T+0
			\$26,401,753.54			
Product	ST Rating	Security Type	Current Valuation			Maturity Date
AMP At Call	A-1	Cash	\$742.77			At-Call
AMP Notice Account	A-1	Cash	\$2,915,646.62			31 Days
NAB Transaction Account	A-1+	Cash	\$100,656.03			At-Call
CBA Operating Account	A-1+	Cash	\$8,511,537.85			At-Call
CBA Business Online Saver	A-1+	Cash	\$7,022,739.76			At-Call
			\$18,551,323.03			
Total Investment Portfolio			\$199,752,188.68			

CL19.40 - Attachment 1



Disclaimer

The information provided in this document is intended for clients of CPG Research & Advisory only and does not constitute a recommendation or an offer to invest. Market sections of this document are descriptive and do not take into account the investment objectives, financial situation or particular needs of any particular investor. Before making an investment decision or acting on any of the information or recommendations contained in this report, the investor should consider whether such recommendation is appropriate given the investor's particular investment needs, objectives and financial circumstances. We recommend you consult your CPG adviser for updated advice that addresses your specific needs and situation before making investment decisions.

All information and recommendations expressed herein constitute judgements as of the date of this report and may change without notice. Staff and associates may hold positions in the investments discussed, and these could change without notice.



Loan Agreement – NSW Local Councils

New South Wales Treasury Corporation

and

Shoalhaven City Council

CL19.41 - Attachment 1

Contents

1.	Interpretation	1
1.1	Definitions	1
1.2	Interpretation	6
2.	Advances	7
2.1	Advances	7
2.2	Approved Purpose	7
2.3	Availability	7
2.4	Security	7
3.	Drawdown	7
3.1	Notice	7
3.2	Requirements of Drawdown Request	8
4.	Conditions Precedent	8
4.1	Conditions Precedent to the First Advance	8
4.2	Conditions precedent to each Advance	8
5.	Interest Provisions	9
5.1	Application of Part 5	9
5.2	Interest	9
5.3	Calculation of interest	9
5.4	Payment of interest	9
5.5	Switching Interest Rates	9
6.	Repayment	10
6.1	Application of Part 6	10
6.2	Repayment	10
6.3	Prepayment	10
7.	Indexed Annuity Loans	11
7.1	Application of Part 7	11
7.2	Annuity Payments	11
7.3	Calculation of Annuity Payments	11
7.4	Notification of Annuity Payments	11
7.5	Prepayment	11
8.	Interest on Overdue Amounts	12
8.1	Payment of Interest	12
8.2	Accrual of Interest	12
9.	Payments	12
9.1	Time and place	12
9.2	No deduction for Taxes and no set-off or counterclaim	12
9.3	Merger	12
9.4	GST gross-up	13
10.	Representations and Warranties	13
10.1	Representations and Warranties	13
10.2	Representations and Warranties Repeated	14
11.	Undertakings	14
11.1	General Undertakings	14
11.2	Financial Covenant Undertakings	15
11.3	Annual Review	15

12.	Default and Termination	16
12.1	Events of Default	16
12.2	Lender's Rights on Event of Default	16
12.3	Appointment of consultants and disclosures:	17
13.	Indemnities, change in law or circumstance.....	17
13.1	Borrower to indemnify Lender.....	17
13.2	Unlawfulness	17
13.3	Increased costs	18
14.	Expenses and Taxes	18
14.1	Expenses	18
14.2	Taxes	19
15.	Assignment.....	19
15.1	Assignment by Lender	19
15.2	Assignments by the Borrower	19
16.	Miscellaneous.....	19
16.1	Governing law and jurisdiction.....	19
16.2	Certificate of Lender	19
16.3	Counterparts	19
16.4	Amendment.....	19
16.5	Notices	20
16.6	Severance.....	20
16.7	Waiver.....	20
	Schedule 1 - Variables	22
	Schedule 2 - Condition precedent certificate	24

Loan Agreement

Date: The date specified in Schedule 1

Parties

1. **NEW SOUTH WALES TREASURY CORPORATION ABN 99 095 235 825**, constituted pursuant to the *Treasury Corporation Act 1983* (NSW) (**Lender**)
2. The party described in Schedule 1 (**Borrower**)

Background

- A. The New South Wales Government has approved the Lender establishing the Loan Scheme.
- B. The Lender's application for a loan under the Loan Scheme has been approved.
- C. The Lender has agreed to make a loan facility available to the Borrower on the terms and conditions set out in this agreement.

The Parties Agree

1. Interpretation

1.1 Definitions

In this agreement, unless expressed or implied otherwise:

Accounting Standards means the accounting standards, principles and practices applying by law or otherwise generally accepted and consistently applied in Australia.

Advance means an advance made by the Lender to the Borrower under this agreement or, where the context requires, the balance of the loan which is outstanding. The maximum number of Advances permitted under this agreement is specified at Item 1 of Schedule 1.

Amortising Loan means a loan whereby the principal outstanding is repaid progressively over the term of the loan.

Amortising Loan Amount means, in respect of an Amortising Loan, the payment required to be made by the Borrower to the Lender on each Interest Payment Date, as notified by the Lender to the Borrower.

Annuity Payment means the payment calculated by the Lender in accordance with clause 7.3.

Annuity Payment Date has the meaning specified in Item 11 of Schedule 1.

Approved Purpose has the meaning specified Item 2 of Schedule 1.

Authorised Officer means:

- (a) in respect of the Borrower, any person from time to time nominated as an Authorised Officer by the Borrower by a notice to the Lender signed by the General Manager of the Borrower, accompanied by certified copies of signatures of all persons so appointed (and in respect of which the Lender has not received notice of revocation of the appointment); and
- (b) in respect of the Lender, any person appointed by the Lender pursuant to its delegation authorities as authorised to sign documents, provide notices or take actions under this Agreement.

Availability Period means the period starting on the date of this agreement and ending on the date as set out in Item 3 of Schedule 1 (and which such date must not be later than 30 June of the financial year in which this agreement was entered into).

Borrower's Bank Account means the account specified in Item 4 of Schedule 1.

Break Costs means any losses and costs incurred or suffered by the Lender and reasonably determined in the sole discretion of the Lender by reason of:

- (a) the liquidation, prepayment, repayment or re-employment of deposits, borrowings or other funds acquired or contracted for by or on account of the Lender to fund or maintain the Advance;
- (b) terminating, cancelling or varying any arrangements to fund or maintain the Advance or any interest rate or currency hedge or any related trading position entered into to hedge, fix or limit its effective cost of funding or maintaining the Advance and whether such arrangement is with a third party or established pursuant to any internal accounting policy,

and the amount of loss or cost may be determined by the Lender in such manner as it reasonably thinks fit including without limitation by reference to its estimation of current market interest rates for relevant bonds issued by the Lender or other similar market instruments or by reference to a pool of funds, notional borrowings, averaging techniques or such other reasonable methods adopted by the Lender rather than by reference to a specific borrowing or a specific contract made to fund or maintain the Loan.

Break Gains means any gains derived by the Lender and reasonably determined in the sole discretion of the Lender by reason of:

- (c) the liquidation, prepayment, repayment or re-employment of deposits, borrowings or other funds acquired or contracted for by or on account of the Lender to fund or maintain the Advance;
- (d) terminating, cancelling or varying any arrangements to fund or maintain the Advance or any interest rate or currency hedge or any related trading position entered into to hedge, fix or limit its effective cost of funding or maintaining the Advance and whether such arrangement is with a third party or established pursuant to any internal accounting policy,

and the amount of any gain may be determined by the Lender in such manner as it reasonably thinks fit including without limitation by reference to its estimation of current market interest rates for relevant bonds issued by the Lender or other similar market instruments or by reference to a pool of funds, notional borrowings, averaging techniques or such other reasonable methods adopted by the Lender rather than by reference to a specific borrowing or a specific contract made to fund or maintain the Loan.

Business Day means a day that banks are open for business in Sydney, but excludes a Saturday, Sunday or public holiday.

Cash Expense Ratio means on any Relevant Date, $(A/B) \times 12$, where

- (a) A is the cash and cash equivalents (including term deposits) for the financial year ending on that date; and
- (b) B is total expenses less depreciation and Interest Expense for the financial year ending on that date.

Consumer Price Index or CPI means the "Weighted Average of Eight Capital Cities: All-Groups Index" as maintained and published quarterly by the Australian Bureau of Statistics ("ABS"), subject to:

- (a) if the ABS ceases to publish the CPI and publishes another index which it states to be in replacement of the CPI, then that index will be used as CPI for the purposes of this agreement; and
- (b) If a relevant CPI number is revised after the Annuity Payment Date, a subsequent adjustment will be made to the Annuity Payment to take account of any discrepancy.

Debt Service Cover Ratio means on any Relevant Date, the ratio of A:B where:

- (a) A is EBITDA of the Borrower for the financial year ending on that date; and
- (b) B is the sum of principal repayments made in that financial year and Interest Expense for the financial year ending on that date.

Default Rate means the aggregate of the Interest Rate and 3% per annum.

Drawdown Notice means a notice given under clause 3.1.

EBITDA means the net operating result before Interest Expense, depreciation and amortisation.

Event of Default has the meaning given in clause 12.1.

Facility means the loan facility made available under this agreement for the purposes set out in clause 2.2.

Facility Limit means an aggregate amount equal the amount set out in Item 5 of Schedule 1 or such other amount as requested by the Borrower and agreed by the Lender (in its absolute discretion).

Final Payment Date means the date specified in Item 11 of Schedule 1.

Finance Document means:

- (a) this Agreement;
- (b) any Related Loan Agreement; and
- (c) a document that the Lender and the Borrower agree is a Finance Document.

Financial Liability means any present or future, actual or contingent indebtedness in respect of any financial accommodation, bill of exchange, credit or hedging arrangement,

finance lease or hire purchase arrangement or any guarantee or other assurance given in respect of any such indebtedness.

Fixed Rate means the interest rate as determined by the Lender using the current TCorp benchmark midpoint yield curve and notified to the Borrower, in respect of the Advance, with such interest rate including the Margin.

Floating Rate means the interest rate as determined by the Lender using the then current TCorp benchmark midpoint yield curve (which is priced at a spread to the 3 month BBSW rate published by the Australian Financial Markets Association) and notified to the Borrower, in respect of the Advance, with such interest rate including the Margin.

Government Authority means any government or any governmental or semi-governmental entity, authority, agency, commission, corporation or body, local government authority, administrative or judicial body or tribunal.

GST means the goods and services tax levied under the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Indexed Annuity Loan means an inflation indexed annuity loan, where the Annuity Payments consist of components of principal and interest and is otherwise adjusted in accordance with clause 7.

Interest Cover Ratio means, on any Relevant Date, the ratio of A:B where:

- (a) A is EBITDA of the Borrower for the financial year ending on that date; and
- (b) B is Interest Expense for the financial year ending on that date.

Interest Expense means, in respect of a financial year, interest and amounts in the nature of interest, or having a similar purpose or effect to interest, whether paid, payable or capitalised by the Borrower in respect of that financial year.

Interest Payment Date means the last day of each Interest Period.

Interest Period means each period of the number of months specified in Item 9 of Schedule 1, commencing on the date of the first Advance, with the final period ending on the Final Repayment Date.

Interest Rate means:

- (a) where the Interest Rate Type is "Fixed Rate", the Fixed Rate; and
- (b) where the Interest Rate Type is "Floating Rate", the Floating Rate.

Interest Rate Type means the type of interest rate nominated in Item 7 of Schedule 1.

LG Act means the *Local Government Act 1993* (NSW).

LG Regulation means the *Local Government (General) Regulation 2005* (NSW).

Loan Scheme means the loan scheme established by TCorp for the provision of loans to Councils in connection with the NSW Government's "Fit For The Future" reform program.

Loan Type means the form of the loan nominated in Item 6 of Schedule 1, being a Principal at Maturity Loan, an Amortising Loan or an Indexed Annuity Loan.

Long Term Financial Plan means the Borrower's 10 year financial plan prepared in accordance with the integrated planning and reporting guidelines determined by the OLG.

Margin means the amount as set out in Item 10 of Schedule 1.

Obligations means all the liabilities and obligations of the Borrower to the Lender under or by reason of any Finance Document, and includes any liabilities or obligations which:

- (a) are liquidated or unliquidated;
- (b) are present, prospective or contingent;
- (c) are in existence before or come into existence after the date of this document;
- (d) relate to the payment of money or the performance or omission of any act;
- (e) sound in damages only; or
- (f) accrue as a result of any Event of Default,

and irrespective of:

- (g) whether the Borrower is liable or obligated solely, or jointly, or jointly and severally with another person;
- (h) the circumstances in which the Lender comes to be owed each liability or obligation, including any assignment of any liability or obligation; or
- (i) the capacity in which the Borrower and the Lender comes to owe or to be owed that liability or obligation.

OLG means the NSW Office of Local Government, a division of the NSW Department of Planning and Environment.

Permitted Use Certificate means a certificate substantially in the form provided by the Borrower in its Application, applicable as at the date of this document, signed by the Mayor and General Manager of the Borrower.

Potential Event of Default means any event which with the giving of notice, lapse of time, satisfaction of a condition or determination could constitute an Event of Default.

Principal at Maturity Loan means a loan where the principal is only repayable on the Final Repayment Date.

Principal Outstanding means the aggregate of all Advances drawn under this agreement.

Related Loan Agreement means any other loan agreement between the Lender and the Borrower in connection with the Loan Scheme, whether entered into before or after the date of this agreement.

Relevant Date means 30 June each year.

Settlement Date means, in relation to an Advance, the date on which funds are provided to the Borrower.

Statute means any legislation of the Parliament of the Commonwealth of Australia or of any State or Territory of the Commonwealth of Australia in force at any time, and any rule,

regulation, ordinance, by-law, statutory instrument, order or notice at any time made under that legislation.

Taxes means all present and future taxes, levies, imposts, deductions, charges, fees and withholdings, in each case plus interest, related penalties, and any charges, fees or other amounts in respect of any of them.

TCorp Portal means the secure web-based TCorp Client Portal at portal.tcorp.nsw.gov.au/login (or such other platform made available as notified by TCorp).

Termination Date means the earlier of:

- (a) the Final Repayment Date; and
- (b) any date on which the Facility is terminated or cancelled by the Lender in accordance with this document.

1.2 Interpretation

In this agreement, unless the contrary intention appears:

- 1.2.1 a reference to:
 - (a) a person includes an individual, the estate of an individual, a corporation, and authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
 - (b) a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
 - (c) a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
 - (d) a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
 - (e) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
 - (f) a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this agreement including all schedules, exhibits, attachments and annexures to it;
- 1.2.2 if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- 1.2.3 **'includes'** in any form is not a word of limitation; and
- 1.2.4 a reference to **'\$'** or **'dollar'** is to Australian currency.

2. Advances

2.1 Advances

- 2.1.1 On the Borrower's request the Lender agrees that it shall make one or more Advances to the Borrower at the time and in the amount specified in a Drawdown Notice during the Availability Period, provided that the total aggregate amount of Advances made by the Lender shall not exceed the Facility Limit.
- 2.1.2 The Borrower acknowledges the:
- (a) Facility Limit represents the amount of funds available for borrowing during the current financial year;
 - (b) Facility Limit may not represent all amounts required to be borrowed by the Borrower in connection with the Approved Purpose; and
 - (c) provision of the Loan under this Agreement does not oblige the Lender to provide additional funds to the Borrower, whether in respect of the Approved Purpose or otherwise, and should the Borrower require additional funds, it must submit a new loan application to the Lender in respect of such required funds.

2.2 Approved Purpose

The Borrower may only use the amounts borrowed by it under the Facility for the Approved Purpose.

2.3 Availability

- 2.3.1 Any amount which has not been drawn at 5.00pm on the last day of the Availability Period is cancelled.
- 2.3.2 The Borrower acknowledges that the Availability Period ends on 30 June of the financial year in which this agreement is executed, irrespective of whether the Approved Purpose for which the loan has been sought requires additional funds for completion.

2.4 Security

The parties acknowledge that the Facility and each Advance provided hereunder is secured by a charge on the income of the Borrower pursuant to section 623 of the LG Act and clause 229 of the LG Regulation.

3. Drawdown

3.1 Notice

- 3.1.1 The Borrower may draw down the Facility on a Business Day by giving written notice of its intention to do so to the Lender by way of a Drawdown Request sent through the TCorp Portal.
- 3.1.2 The proceeds of each Advance will be deposited directly to the Borrower's Bank Account (or such other account notified by the Borrower to the Lender in writing not less than 5 Business Days before a drawdown date).

3.2 Requirements of Drawdown Request

3.2.1 Each Drawdown Request will be irrevocable and must:

- (a) specify the amount of the drawdown, term, repayment frequency and the proposed Settlement Date;
- (b) be received by the Lender 3 Business Days before the proposed Settlement Date (or such other time as agreed between the Lender and the Borrower);
- (c) be made by the General Manager or Authorised Officer of the Borrower; and
- (d) not be given if the making of the Advance requested would cause the Facility Limit to be exceeded or otherwise would not comply with any term of this agreement.

3.2.2 When each Drawdown Request is given, the Borrower is deemed to make the following representations and warranties:

- (a) the proceeds of the Advance will be used only for the Approved Purposes;
- (b) each representation and warranty made by the Borrower in, or in connection with, the Facility, including without limitation, those set out in clause 10, repeated with reference to the facts and circumstances subsisting at the date of the Drawdown Request, remains true and correct; and
- (c) no Event of Default or Potential Event of Default has occurred which remains remedied or which has not been waived in writing or will occur as a result of the drawdown.

4. Conditions Precedent

4.1 Conditions Precedent to the First Advance

The obligation of the Lender to make the first Advance is subject to the condition that it has first received all of the following in form and substance satisfactory to it:

- 4.1.1 **Certificate:** a certificate in the form of Schedule 2 providing the details and annexures specified in that schedule dated not more than 10 days before the first Settlement Date, in respect of the Borrower;
- 4.1.2 **Permitted Use Certificate:** the Permitted Use Certificate;
- 4.1.3 **Insurance:** certificates of currency in relation to insurance held by the Borrower; and
- 4.1.4 **Original Documents:** this document fully executed;

4.2 Conditions precedent to each Advance

The obligation of the Lender to make each Advance is subject to the condition that:

- 4.2.1 **Representations and warranties true:** the representations and warranties set out in this document are true and correct as at the date of the Drawdown Request and the Settlement Date as though made at that date;

- 4.2.2 **No Event of Default:** no Event of Default or Potential Event of Default is subsisting at the date of the Drawdown Request and the Settlement Date or will result from the provision or continuation of the Advance.
- 4.2.3 **NSW Minister for Planning Low Cost Loans Initiative:** evidence of approval for Loan 1 unless waived by the Lender.

5. Interest Provisions

5.1 Application of Part 5

This part 5 applies to all Loan Types except Indexed Annuity Loans.

5.2 Interest

- 5.2.1 The Principal Outstanding bears interest on the principal outstanding from and including the initial Settlement Date up until, but excluding, the Final Repayment Date.
- 5.2.2 The interest rate for each Interest Period is the Interest Rate.
- 5.2.3 Each Interest Period in relation to the Principal Outstanding is the period commencing on:
- (a) in the case of the initial Interest Period, the Settlement Date for the initial Advance; and
 - (b) in the case of each subsequent Interest Period, on the day after the expiry of the immediately preceding Interest Period for the Advance,
- and ending on the last day of such Interest Period.
- 5.2.4 The term of each Interest Period is subject to any marginal adjustment as the Lender in its discretion determines so that the final Interest Period ends on the Termination Date.

5.3 Calculation of interest

- 5.3.1 Interest is to be computed on a daily basis on the actual number of days in a year.
- 5.3.2 Interest accrues during an Interest Period from day to day until it is paid.

5.4 Payment of interest

The Borrower will pay to the Lender all interest accrued during the course of an Interest Period in relation to the Loan in arrears on the Interest Payment Date.

5.5 Switching Interest Rates

- 5.5.1 The Borrower may by written notice to the Lender request to switch the type of interest payable in respect of the Loan. The Lender will use all reasonable endeavours to agree to the request, but it is not required to do so.
- 5.5.2 The Interest Rate on the Loan may only be changed as from the Interest Payment Date immediately following the Lender's agreement to the change requested.
- 5.5.3 If the Borrower is changing from a Fixed Rate to a Floating Rate:

- (a) where Break Costs are incurred in connection with such switch, the Borrower will be required to pay to the Lender such Break Costs; and
 - (b) where Break Gains are realised in connection with such switch, the Lender will pay to the Borrower such Break Gains.
- 5.5.4 In the case of a switch from Floating Rate to Fixed Rate, the Lender will notify the Borrower of the Interest Rate to apply to the loan as from the next Interest Payment Date.

6. Repayment

6.1 Application of Part 6

This part 6 applies to all Loan Types except Indexed Annuity Loans.

6.2 Repayment

- 6.2.1 If the Borrower has selected a Principal at Maturity Loan, the Borrower must pay to the Lender the Principal Outstanding on the Final Repayment Date.
- 6.2.2 If the Borrower has selected an Amortising Loan, the Borrower must pay to the Lender the Amortising Loan Amount (consisting of principal and interest) on each Interest Payment Date, up to and including the Final Repayment Date. The Lender must notify the Borrower of the Amortising Loan Amount (and its components) as soon as practicable after it makes such determination.

6.3 Prepayment

- 6.3.1 The Borrower may prepay the whole or part of the Loan on an Interest Payment Date on giving not less than 3 Business Days' prior written notice to the Lender, provided that any part repayment of the Loan must be for a minimum amount of A\$1,000,000 or the balance of the Principal Outstanding (whichever is lower).
- 6.3.2 Any notice of prepayment given by the Borrower is irrevocable and the Borrower is bound to prepay in accordance with the notice.
- 6.3.3 Interest accrued on any amount prepaid under this agreement must be paid at the time of prepayment.
- 6.3.4 Any prepayment is permanent and the Facility will be cancelled to the extent of the prepayment.
- 6.3.5 On the proposed prepayment date, the Borrower must:
 - (a) pay the amount notified to be prepaid;
 - (b) pay all interest and other amounts accrued or due under this agreement on the amount prepaid; and
 - (c) if applicable, pay any Break Costs (or if any Break Gains are realised, any prepayment may be reduced by the amount of such Break Gains).

7. Indexed Annuity Loans

7.1 Application of Part 7

This part 7 applies to Indexed Annuity Loans only.

7.2 Annuity Payments

7.2.1 The Borrower must pay the Annuity Payments to the Lender in accordance with this clause 7.

7.2.2 Each Annuity Payment comprises components of principal, interest and inflation adjustment.

7.2.3 Annuity Payments are payable on each Annuity Payment Date, up to and including the Final Repayment Date.

7.3 Calculation of Annuity Payments

Each Annuity Payment is calculated in accordance with the following formula:

$$B_t = B_0 \times \frac{CPI_t}{CPI_0}$$

Where:

B_t = the amount of the relevant Annuity Payment at time t.

B_0 = Base Annuity Payment (as notified by the Lender to the Borrower).

CPI_0 = CPI for the second last full calendar quarter prior to the Initial Settlement Date.

CPI_t = the highest CPI from CPI_0 to the CPI for the full calendar quarter prior to the relevant Annuity Payment Date.

7.4 Notification of Annuity Payments

In respect of each Annuity Payment Date, the Lender must notify the Borrower of the Annuity Payment and the components of principal, interest and inflation adjustment for that Annuity Payment, as soon as practicable after it has made such determination.

7.5 Prepayment

7.5.1 The Borrower may prepay the whole or part of the Loan on an Annuity Payment Date on giving not less than 3 Business Days' prior written notice to the Lender, provided that any part repayment of the Loan must be for a minimum amount of A\$1,000,000 or the balance of the Principal Outstanding (whichever is lower).

7.5.2 Any notice of prepayment given by the Borrower is irrevocable and the Borrower is bound to prepay in accordance with the notice.

7.5.3 Interest accrued on any amount prepaid under this agreement must be paid at the time of prepayment.

7.5.4 Any prepayment is permanent and the Facility will be cancelled to the extent of the prepayment.

- 7.5.5 On the proposed prepayment date, the Borrower must:
- (a) pay the amount notified to be prepaid;
 - (b) pay all interest and other amounts accrued or due under this agreement on the amount prepaid; and
 - (c) if applicable, pay any Break Costs (or if any Break Gains are realised, any prepayment may be reduced by the amount of such Break Gains).

8. Interest on Overdue Amounts

8.1 Payment of Interest

The Borrower will pay interest on all amounts due and payable by it under or in respect of this document and unpaid, including any interest payable under this clause 8.

8.2 Accrual of Interest

Interest will accrue on all amounts due and payable from day to day from the day 2 Business Days after due date up to the date of actual payment, before and (as a separate and independent obligation) after judgment, at the Default Rate for successive 30 day periods (as if these were 30 day Interest Periods) commencing on the date of default and, if not paid when due, will itself bear interest in accordance with this clause 8.2.

9. Payments

9.1 Time and place

Unless expressly provided otherwise in writing, all payments by the Borrower under this document are to be made to the Lender in dollars in immediately available funds not later than 11.00 am Sydney time on the due date to the account that the Lender from time to time designates, or as otherwise agreed between the Borrower and the Lender.

9.2 No deduction for Taxes and no set-off or counterclaim

All payments by the Borrower under this document, whether of principal, interest or other amounts due under this document, will be:

- 9.2.1 free of any set-off or counterclaim; and
- 9.2.2 without deduction or withholding for any present or future Taxes, unless the Borrower is compelled by law to deduct or withhold the same, in which event the Borrower will pay to the Lender any additional amount necessary to enable the Lender to receive, after all deductions and withholdings for Taxes, a net amount equal to the full amount which would otherwise have been payable had no such deduction or withholding been required to be made.

9.3 Merger

If the liability of the Borrower to pay any of the Obligations to the Lender becomes merged in any judgment or order, the Borrower will, as an independent obligation, pay interest at the rate which is the higher of that payable under this document and that fixed by or payable under the judgment or order.

9.4 GST gross-up

If any party:

- 9.4.1 is liable to pay GST on a supply made in connection with this agreement; and
- 9.4.2 certifies to the recipient of the supply that it has not priced the supply to include GST,

then the recipient of the supply agrees to pay that party an additional amount equal to the consideration payable for the supply multiplied by the prevailing GST rate.

10. Representations and Warranties

10.1 Representations and Warranties

The Borrower represents and warrants to the Lender:

- 10.1.1 **Legal power:** it has full power and authority to own its assets and to enter into and perform the obligations under this agreement;
- 10.1.2 **Legally binding obligation:** this agreement constitutes a valid and legally binding obligation of the Borrower in accordance with its terms;
- 10.1.3 **Due authority:** it has taken all action required to enter into this agreement and to authorise the execution and delivery of this agreement and the satisfaction of its obligations under it; and
- 10.1.4 **Execution, delivery and performance:** the execution, delivery and performance of this agreement does not violate any Statute or law, or any document or agreement to which the Borrower is a party or which is binding on it or any of its assets;
- 10.1.5 **Filings:** it has filed all notices and document with the OLG and all of those filings are current, complete and accurate.
- 10.1.6 **No material adverse effect:** no litigation, arbitration, mediation, conciliation, criminal or administrative proceedings are current, pending or, to the knowledge of the Borrower, threatened, which, if adversely determined would or could have a material adverse effect on the financial condition of the Borrower;
- 10.1.7 **Solvency:** there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable;
- 10.1.8 **Information accurate:** Any information provided by or on behalf of the Borrower to the Lender in writing in connection with this agreement was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated, and nothing has occurred and no information has been given or withheld that results in the information provided by the Borrower being untrue or misleading in any material respect;
- 10.1.9 **Borrowings:** it is not in default in the payment of any material sum, or in the satisfaction of any material obligation in respect of any Financial Liability, and no event has occurred which with the giving of notice, lapse of time or other condition could constitute a default in respect of any Financial Liability;
- 10.1.10 **No Event of Default:** no event has occurred which constitutes an Event of Default;

- 10.1.11 **Statutes:** the Borrower has complied with all Statutes;
- 10.1.12 **Financial statements:** its most recent financial statements, together with the notes thereto complies with current accounting practice and all applicable laws, is a true and fair statement of its financial position and state of affairs as at the date to which it is prepared and discloses or reflects all its actual and contingent liabilities as at that date; and
- 10.1.13 **No adverse change:** since the date of the financial statements referred to in clause 10.1.12, there has been no change in its affairs which has had or may have a material adverse effect on it.

10.2 Representations and Warranties Repeated

Each representation and warranty in this document will be repeated on each day whilst any of the Obligations remain outstanding (whether or not then due for payment) or the Facility is available for drawdown, with reference to the facts and circumstances then subsisting, as if made on each such day.

11. Undertakings

11.1 General Undertakings

For as long as any amount is outstanding under the Facility or the Facility is available for drawdown, the Borrower undertakes to the Lender that it will:

- 11.1.1 **Satisfy Obligations:** satisfy the Obligations;
- 11.1.2 **Maintain all consents:** obtain, renew, maintain and comply with all consents, licences, approvals and authorisations necessary for the validity and enforceability of this agreement, the satisfaction of its obligations under this agreement, and it will promptly provide copies of these to the Lender when they are obtained or renewed;
- 11.1.3 **Provision of information:** supply to the Lender:
 - (a) as soon as they are available and within 180 days of the end of each financial year copies of its audited financial statements for that financial year;
 - (b) copies of any updated Long Term Financial Plan;
 - (c) promptly on request, any additional financial or other information the Lender may request (including, but not limited to, information in relation to the Borrower's management and structure);
- 11.1.4 **Comply with laws:** comply with all Statutes and all lawful requirements of every Government Authority, including any Ministerial directions issued in respect of the Borrower or councils generally;
- 11.1.5 **Insurance:** take out and keep in full force and effect insurance over all of its physical assets and premises for such amounts and against such risks as is reasonably prudent for a NSW local council;
- 11.1.6 **Notification of certain events:** immediately notify the Lender in writing if it becomes aware of the occurrence of the following:
 - (a) **Event of Default:** any Event of Default or Potential Event of Default;

- (b) **Litigation:** any litigation, arbitration, criminal or administrative proceedings or labour disputes relating to the Borrower or the Borrower's property, assets or revenues that involves a claim against the Borrower that, if decided adversely to the Borrower, could have a material adverse effect on the ability of the Borrower to perform the Obligations.

11.2 Financial Covenant Undertakings

- 11.2.1 After the initial Settlement Date, the Borrower must ensure that on each Relevant Date up until the Final Repayment Date:
 - (a) **(Debt Service Cover Ratio)** the Debt Service Cover Ratio must be at least 1.50:1;
 - (b) **(Interest Cover Ratio)** the Interest Cover Ratio must be at least 3.00:1; and
 - (c) **(Cash Expense Ratio)** the Cash Expense Ratio must be at least 2 months.
- 11.2.2 The financial covenants referred to above shall be:
 - (a) calculated by reference to the Accounting Standards; and
 - (b) based on the then most recent audited financial statements of the Borrower.
- 11.2.3 At the time the Borrower provides the financial statements under clause 11.1.3(a), the Borrower must provide calculations demonstrating its compliance with the financial ratios in clause 11.2.1.
- 11.2.4 In addition, in connection with its financial projections in the most recently provided Long Term Financial Plan, the Borrower must include calculations demonstrating whether the financial projections of the Borrower for the following 5 years would comply with the financial covenants in clause 11.2.1.
- 11.2.5 Where the calculations made for the purposes of clauses 11.2.3 or 11.2.4 indicate that the Borrower has not, or may not in the future (as the case may be), comply with the financial ratios in clause 11.2.1:
 - (a) the Lender and the Borrower will discuss the non-compliance as part of the annual review under clause 11.3; and
 - (b) the Borrower acknowledges that the Lender may notify OLG of such non-compliance, which may lead to OLG seeking a performance improvement order in respect of the Borrower.
- 11.2.6 For the avoidance of doubt, a failure by the Borrower to comply with the financial ratios under this clause 11.2 is not to be taken as a breach of this agreement and does not entitle the Lender to take action against the Borrower under clause 12 of this Agreement or at general law.

11.3 Annual Review

- 11.3.1 The Lender will conduct an annual review of the Borrower, and the Borrower will provide the Lender with such information as reasonably required by the Lender for the purposes of the review.

12. Default and Termination

12.1 Events of Default

Each of the following events is an Event of Default, whether or not the cause is beyond the control of the Borrower, or any other person:

- 12.1.1 **Failure to pay:** the Borrower does not pay at or within 5 Business Days of the due date and in the manner specified in this agreement or otherwise in accordance with the Obligations;
- 12.1.2 **Failure to comply:** the Borrower defaults in fully performing and observing any provision of this agreement other than a provision requiring the payment of money as contemplated by clause 12.1.1, and that default is not remedied within 20 Business Days of its occurrence;
- 12.1.3 **Untrue warranty:** any representation, warranty or statement made, repeated or deemed to be made or repeated in this agreement or in connection with the Facility or any accounts, or any opinion furnished under this document is proved to be untrue in any material respect when made or repeated or deemed to be made or repeated (as the case may be);
- 12.1.4 **Breach of undertaking:** the Borrower breaches any undertaking given at any time to the Lender or fails to comply with any condition imposed by the Lender in agreeing to any matter (including any waiver);
- 12.1.5 **Cross default:** the Borrower fails to pay any indebtedness when due or within an applicable grace period;
- 12.1.6 **Void or voidable:** this agreement, becomes or is claimed by the Borrower to be void, voidable or unenforceable in whole or in part;
- 12.1.7 **Illegality:** at any time it is unlawful for the Borrower to perform any of its obligations under this agreement;
- 12.1.8 **Failure to comply with Statutes:** the Borrower fails to duly and punctually comply with all Statutes binding on it;
- 12.1.9 **Material change:** any other event or series of events whether related or not (including, any material adverse change in the material assets or financial condition of the Borrower) occurs which in the reasonable opinion of the Lender could affect the ability of the Borrower to satisfy all or any of its respective obligations under this agreement.

12.2 Lender's Rights on Event of Default

If any Event of Default occurs and if it continues, the Lender may (but is not obliged to), by written notice to the Borrower:

- (a) declare the Lender's obligations under this document to be cancelled immediately (including, but not limited to, any obligation to provide any further advance) and the same and the Facility (including any part of the Facility) will be cancelled immediately; and/or
- (b) declare the Principal Outstanding, interest on the Principal Outstanding and all other money the payment of which forms part of the Obligations immediately due and payable, and the same are immediately due and payable,

and for the avoidance of doubt, any decision by the Lender to reserve its rights or not to exercise its rights under this clause 12.2 is not to be interpreted as waiver of, or election in reaction to, such rights.

12.3 Appointment of consultants and disclosures:

- 12.3.1 The Lender may where it considers an Event of Default has or is likely to have occurred or is reasonably likely to occur within 12 months:
- (a) appoint consultants (in this clause, **Investigating Consultants**) to investigate the affairs and financial position of the Borrower; and
 - (b) notify the OLG of the occurrence (or potential occurrence) of an Event of Default or appointment of Investigating Consultants.
- 12.3.2 The Borrower:
- (a) unconditionally authorises the Investigating Consultants to take all actions which may be reasonably necessary for the investigation; and
 - (b) undertakes to give the Investigating Consultants all reasonable assistance for that purpose.
- 12.3.3 The Borrower unconditionally authorises the disclosure by:
- (a) Investigating Consultants to the Lender, OLG and its legal and other professional advisers all information and documents obtained or generated in the course of or in connection with the investigation; and
 - (b) the Lender to the OLG all information and documents relating to the occurrence (or potential occurrence) of an Event of Default.
- 12.3.4 The Borrower is liable for the costs and expenses of the investigations described in this clause 12.3 and must upon demand by the Lender pay the Investigating Consultants and reimburse the Lender for any such costs or expenses incurred or paid by it.

13. Indemnities, change in law or circumstance

13.1 Borrower to indemnify Lender

The Borrower will on demand indemnify the Lender against any loss or reasonable costs or expenses which the Lender may sustain or incur as a consequence of:

- 13.1.1 any sum payable by the Borrower under this document not being paid when due;
- 13.1.2 the occurrence of any Event of Default; or
- 13.1.3 the Lender receiving payments of principal other than on the last day of an Interest Period (or any other day permitted under the terms of this agreement)

13.2 Unlawfulness

If, at any time, the Lender reasonably determines that the introduction of or a change in a law, guideline, direction, request or requirement (whether or not having the force of law) or in the interpretation or application of any of them by a Government Authority makes it unlawful for

the Lender to make, fund or maintain the Facility or an Advance, or to otherwise give effect to a provision of this agreement, then:

- 13.2.1 the Lender may notify the Borrower of its determination;
- 13.2.2 on that notification, the Facility is cancelled and the obligation to make, fund or maintain the Facility or an Advance or give effect to the relevant provision ceases; and
- 13.2.3 the Borrower must pay the Principal Outstanding (plus all accrued interest) to the Lender within:
 - (a) 60 days; or
 - (b) another period specified in the notice and certified by the Lender as being required or permitted by the relevant law.

13.3 Increased costs

If the Lender reasonably decides that:

- 13.3.1 the cost to it of providing, funding or maintaining the Facility is increased; or
- 13.3.2 an amount payable or the effective return to it under this agreement is reduced;

because of any law or regulation or a directive by a Government Authority (including, but not limited to, those relating to taxation, other change in tax rules (in each case, not being a tax imposed on its overall net income), capital adequacy or reserve requirements or banking or monetary control or any policy with which it habitually complies) or any change in the way they are interpreted or applied, then:

- 13.3.3 the Lender must promptly notify the Borrower of that decision; and
- 13.3.4 the Borrower indemnifies the Lender against that loss and must pay the Lender on demand whatever amount the Lender certifies is reasonably necessary to indemnify it.

14. Expenses and Taxes

14.1 Expenses

The Borrower must reimburse the Lender on demand for, and indemnifies the Lender against all reasonable expenses, including legal fees, costs and disbursements (on a solicitor/own client basis) incurred in connection with:

- 14.1.1 **Consents:** any consent, agreement, approval, waiver, or amendment relating to this agreement; and
- 14.1.2 **Enforcement:** exercising, enforcing or preserving, or attempting to exercise, enforce or preserve, rights under this agreement, including any expenses incurred in the evaluation of any matter of material concern to the Lender.

14.2 Taxes

The Borrower:

- 14.2.1 must pay all stamp duty, transaction, registration and similar Taxes, including fines and penalties and debits tax which may be payable to or required to be paid by any appropriate authority or determined to be payable in connection with the execution, delivery, performance or enforcement of this agreement or any payment, receipt or other transaction contemplated by them; and
- 14.2.2 indemnifies the Lender against any loss or liability incurred or suffered by it as a result of the delay or failure by the Borrower to pay Taxes.

15. Assignment

15.1 Assignment by Lender

The Lender cannot assign any of its rights under this agreement without the Borrower's prior written consent (not to be unreasonably withheld).

15.2 Assignments by the Borrower

The Borrower cannot assign any of its rights under this agreement without the Lender's prior written consent (not to be unreasonably withheld).

16. Miscellaneous

16.1 Governing law and jurisdiction

- 16.1.1 This agreement is governed by and must be construed according to the law applying in New South Wales.
- 16.1.2 Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to this agreement.

16.2 Certificate of Lender

A certificate in writing signed by the Lender or by an officer of the Lender certifying the amount payable by the Borrower under this document to the Lender or stating any other act, matter or thing relating to this agreement is conclusive and binding on the Borrower in the absence of manifest error on the face of the certificate.

16.3 Counterparts

This agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this agreement, and all together constitute one agreement.

16.4 Amendment

No provision of this agreement may be amended, supplemented, waived, varied or charged in any way or assigned (subject to clause 9 above), novated or transferred (in whole or part) without the prior written consent of the parties hereto.

16.5 Notices

Any notice required or permitted to be given by a party hereunder will be left at, sent by registered or recorded delivery post to the address below:

16.5.1 Lender

New South Wales Treasury Corporation
Level 7, Deutsche Bank Place
126 Phillip Street
SYDNEY NSW 2000

Attention: General Counsel

Facsimile: 02 9325 9333

Email: legal@tcorp.nsw.gov.au

16.5.2 Borrower

See Schedule 1

16.6 Severance

If at any time a provision of this agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

16.6.1 the legality, validity or enforceability in that jurisdiction of any other provision of this agreement; or

16.6.2 the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this agreement.

16.7 Waiver

16.7.1 A waiver or consent given by the Lender under this agreement is only effective and binding on the Lender if it is given or confirmed in writing.

16.7.2 No waiver of a breach of a term of this agreement operates as a waiver of another breach of that term or of a breach of any other term of this agreement.

Signing Page

Executed as an agreement

NEW SOUTH WALES TREASURY CORPORATION
by its authorised signatories:

Authorised signatory

Authorised signatory

Name (please print)

Name (please print)

The Seal of **SHOALHAVEN CITY COUNCIL**
was affixed to this Loan Agreement in the presence
of the Mayor and General Manager:

Mayor

General Manager

Name (please print)

Name (please print)

Schedule 1 - Variables

Date of Agreement: 2019

Borrower: Shoalhaven City Council
ABN 59 855 182 344

Notice Details: PO Box 42
Nowra NSW 2541

Attention: Mr Russell Pigg, General Manager

Email: russ.pigg@shoalhaven.nsw.gov.au

Total Facility Limit: \$8,153,000

Item		Loan 1
1.	Advances	One
2.	Approved Purpose	Land acquisition at Moss Vale Road South for provision of open space
3.	Availability Period	Until 30 June 2019
4.	Borrower's Bank Account	BSB No.: 062585 Account No.: 10948465 Account Name: Shoalhaven City Council
5.	Facility Limit	\$6,370,000
6.	Loan Type	Amortising Loan
7.	Interest Rate Type	Fixed Rate
8.	Term	10 years
9.	Interest Period	Semi-annual
10.	Margin	0.55% p.a.
11.	Final Repayment Date	

Item		Loan 2
1.	Advances	One
2.	Approved Purpose	Huskisson road construction and memorial gardens expansion at Worrigee cemetery
3.	Availability Period	Until 30 June 2019
4.	Borrower's Bank Account	BSB No.: 062585 Account No.: 10948465 Account Name: Shoalhaven City Council
5.	Facility Limit	\$1,783,000
6.	Loan Type	Amortising Loan
7.	Interest Rate Type	Fixed Rate
8.	Term	10 years
9.	Interest Period	Semi-annual
10.	Margin	0.55% p.a.
11.	Final Repayment Date	

Schedule 2 - Condition precedent certificate

To: New South Wales Treasury Corporation (the " **Lender**")

This condition precedent certificate is given under clause 4 of the Loan Agreement between the Lender and Shoalhaven City Council ("Borrower"). Terms defined in the Loan Agreement have the same meaning in this condition precedent certificate.

I, Russell Pigg, being the General Manager of the Borrower, certify that true, complete and up to date copies of an extract of minutes (marked "Annexure A") of a duly convened meeting of the governing body of the Borrower approving execution of the Loan Agreement are attached to this Certificate, which minutes are fully effective and have not been varied or revoked.

Signed: _____
General Manager

Date:

CL19.41 - Attachment 1