

Agenda

Ordinary Meeting

Thursday, 28 May 2020

commencing at 9:00am

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1 DECLARATION OF OPENING

On establishing there is a quorum, the Chair will declare the meeting open.

2 WELCOME AND OPENING PRAYER**3 RECORD OF ATTENDANCE AND LEAVE OF ABSENCE****4 RECEIPT AND CONFIRMATION OF MINUTES**

That the Minutes of the Ordinary Meeting held on 30 April 2020 be received and confirmed.

5 INFORMING OF PERSONAL INTERESTS**5.1 MATERIAL PERSONAL INTEREST**

Pursuant to Section 175C of the *Local Government Act 2009*, a Councillor who has a material personal interest in an issue to be considered at a meeting of the local government, or any of its committees must –

- (a) inform the meeting of the Councillor's material personal interest in the matter and
- (b) leave the meeting room (including any area set aside for the public), and stay out of the meeting room while the matter is being discussed and voted on.

5.2 CONFLICT OF INTEREST / PERCEIVED CONFLICT OF INTEREST

Pursuant to Section 175E of the *Local Government Act 2009*, a Councillor who has a real or perceived conflict of interest in a matter to be considered at a meeting of the local government, or any of its committees, must inform the meeting about the councillor's personal interest the matter.

The other Councillors must then decide

- (a) whether the Councillor has a real conflict of interest or perceived conflict of interest in the matter and
- (b) if they decide the Councillor has a real conflict of interest or perceived conflict of interest in the matter
 - (i) whether the Councillor must leave the meeting room (including any area set aside for the public), and stay out of the meeting room while the matter is being discussed and voted on, or
 - (ii) that the Councillor may participate in the meeting in relation to the matter, including by voting on the matter.

6 MAYORAL MINUTE**7 PRESENTATIONS / COUNCILLOR REPORTS**

8 REPORTS DIRECT TO COUNCIL**8.1 QUARTERLY PROGRESS REPORT - QUARTER 3, 2019-20**

File No:	Council meetings	
Author:	Coordinator Organisational Performance Office of the CEO	
Appendices:	App A - Chief Executive Officer's Quarterly Highlights Report - Quarter 3, 2019-20	11
	App B - Operational Plan Activities Report - Quarter 3, 2019-20	35

PURPOSE

This report presents the Quarterly Progress Report for Quarter 3, 2019-20. The report covers the period 1 January to 31 March 2020 and has been prepared to inform Council and the community on the implementation of operational activities, significant projects and service highlights from Council's Operational Plan 2019-20.

EXECUTIVE SUMMARY

Each quarter, Council receives a progress report on the delivery of the Operational Plan. The report once adopted, is published and made available to the community.

The Report is comprised of:

- Appendix A – CEO's Quarterly Highlight Report Quarter 3, 2019-20
- Appendix B – Operational Plan Activities Report Quarter 3, 2019-20

Below is a summary of key Highlights by Corporate Plan Goal for Quarter 3, 2019-20:

A strong community

- \$1.2 million in bushfire assistance funds was received from the Federal Government, funding will be used to take direct action through projects that identify risks to aid community resilience.
- #CovidKindness was launched in March. The #CovidKindness hashtag has gained substantial traction since it was launched, with over 28,000 mentions of the hashtag, and more than 201 million impressions, including international reach.
- Sir Elton John performed two concerts at the Sunshine Coast Stadium in March 2020, attracting record crowds of 31,000 people.

A healthy environment

- The Sunshine Coast Design book was launched in January 2020 following extensive community engagement, featuring 150 photographs that show case a selection of special places and examples of well-designed buildings, streets and places across the region.
- The Landsborough Placemaking Master Plan was endorsed in January, a 15 year visionary document that will provide guidance for good public space design and placemaking outcomes for Landsborough.
- 948kg of waste and debris was collected from our beaches and coastal areas during the Clean Up for the Hatchlings and Clean up Australia Day events.

A smart economy

- The Sunshine Coast has been announced as a Top7 Global Intelligent Community for the second successive year.
- An economic stimulus package was released to support our local businesses with a number of support measures and mechanisms through COVID-19.
- 19 sponsored events were held during the quarter, attracting 47,600 visitors to the region and generating an estimated \$18.5 million in economic activity.

Service excellence

- 87% of development applications assessed within statutory timeframes.
- 86,097 customers assisted through the development and customer contact centres.
- 3378 building approvals issued with a construction value of \$367 million.

An outstanding organisation

- \$56 million (72.9%) of Council's total available purchasing spend, was spent with local businesses.
- 2 awards were received for the quarter including the Champions of Change award for the Get Ready Schools Program and the Rotary Pride of Workmanship Award at the Nambour Showgrounds.

OFFICER RECOMMENDATION**That Council:**

- receive and note the report titled "Quarterly Progress Report - Quarter 3, 2019-20"**
- note the Chief Executive Officer's Quarterly Highlights Report - Quarter 3, 2019-20 (Appendix A) on service delivery highlights and**
- note the Operational Plan Activities Report - Quarter 3, 2019-20 (Appendix B) reporting on implementation of the Corporate and Operational Plans.**

FINANCE AND RESOURCING

Financial reporting information is not included in the report. A Financial Performance Report is provided to Council each month covering operating revenue and expenses and capital programs.

CORPORATE PLAN

Corporate Plan Goal: *An outstanding organisation*

Outcome: We serve our community by providing this great service

Operational Activity: S29 - Governance - providing internal leadership, legal opinion, governance and audit functions ensuring legislative accountability, transparency and ethical obligations are supported.

CONSULTATION**Councillor Consultation**

Councillor J Natoli and Councillor T Hungerford as Portfolio Councillors for Outstanding Organisation have been briefed on this report.

Internal Consultation

Consultation has occurred with each Group of Council to provide information on service delivery and status of operational activities.

External Consultation

There has been no external consultation in relation to this report, however the report, when adopted, is intended to be made available to the community.

PROPOSAL

Under the requirements of the *Local Government Act 2009* and associated Regulation, Council is required to consider a regular report from the Chief Executive Officer outlining the achievements in delivering on the outcomes in its corporate and operational plans.

This report provides information on the following for consideration by Council.

Progress report

The Chief Executive Officer's Quarterly Highlights Report - Quarter 3, 2019-20 (Appendix A) consists of a summary of achievements; and supporting information by Corporate Plan Goal covering delivery of Council's services.

Operational plan activities

Operational Plan Activities Report - Quarter 3, 2019-20 (Appendix B) provides details on the implementation of the 65 activities outlined in Council's Operational Plan. It includes the status of each activity covering percentage complete, completion date and progress commentary.

Legal

There is a legislative requirement to provide a report on performance against the corporate and operational plans. This report meets the requirements of the *Local Government Act 2009* and *Local Government Regulation 2012*.

Policy

There is no policy associated with the presentation of a quarterly progress report however it is a component of the Strategic Corporate Planning and Reporting Framework.

Risk

In accordance with Council's Risk Management Framework, the risks and opportunities identified in relation to the quarterly progress report include:

- reputation/public image: the report provides complete information on Council's operations and builds a positive reputation for Council with the community
- legislative: the report meets the legislative requirements of the Local Government Act and Regulation and
- business activity: the report keeps Council informed about the progression of the operational plan activities and provides a timely account of Council's progress to the community.

Previous Council Resolution**Ordinary Meeting 20 February 2020 (OM20/27)**

That Council:

- (a) *receive and note the report titled “**Quarterly Progress Report - Quarter 2, 2019-20**”*
- (b) *note the Chief Executive Officer’s Quarterly Highlights Report – Quarter 2, 2019-20 (Appendix A) on service delivery*
- (c) *note the Operational Plan Activities Report – Quarter 2, 2019-20 (Appendix B) reporting on implementation of the Corporate and Operational Plans and*
- (d) *note the Chief Executive Officer’s Snapshot Report – October to December 2019 (Appendix C) reporting service statistics and significant highlights.*

Related Documentation

- Corporate Plan 2020-2024
- Operational Plan 2019-2020
- Financial information provided to Council in the Financial and Capital management report.

Critical Dates

Quarterly Progress reports are usually presented to Council within eight weeks of the end of the calendar quarter, subject to the scheduled meeting cycle. Legislation requires the report to be presented to Council at intervals of not more than 3 months.

Implementation

The report will be published and available for community access via Council’s website and a copy will be provided to the State Library.

8.2 2019/2020 COMMUNITY GRANTS ROUND 2 RECOMMENDATIONS

File No: Council meetings

Author: Team Leader Community Connections
Economic & Community Development Group

Appendices: App A - Major Grant Recommendations March 202065

Attachments: Att 1 - Internal Consultation81
Att 2 - Major Grants Recommendations March 2020 - Additional Information - *Confidential*
Att 3 - Funding Round Comparisons85

PURPOSE

This report seeks Council consideration and endorsement of funding recommendations for the second round of the Community Grants Program Major Grants for 2019/20. This is in accordance with the adopted *Community Grants Policy*

EXECUTIVE SUMMARY

Community Grants Program

Council’s Community Grants Program provides a transparent governance framework that complies with statutory requirements for the distribution of grant funding to community organisations across the region.

The program reflects Council’s priorities as described in current corporate strategies, plans and policy positions. It ensures equitable opportunity for community organisations to access Council funding for projects and programs, which meet identified community need and result in community benefit.

The Community Grants Program for 2019/20 Major Grants Round Two closed on 16 March 2020. Council received 121* applications (*excludes 2 withdrawals due to COVID-19 impacts) requesting a total of \$1,057,047 across seven categories:

- Community Development
- Community Events
- Community Facilities
- Cultural Development
- Cultural Heritage
- Economic Development
- Sport, Recreation and Healthy Living.

Funding totaling \$515,824 for 80 projects is recommended for Council’s consideration and endorsement (Appendix A). The total project budgets for the successful applications total more than \$1.87 million (based on figures supplied by applicants). This is 3.6 times greater than the Council contribution recommended.

Organisations recommended for funding in this round reported the engagement of 1,532 volunteers to deliver their funded projects and estimated 100,045 people would be direct beneficiaries of their projects (includes event patrons and/or participants).

OFFICER RECOMMENDATION

That Council:

- (a) receive and note the report titled “2019/2020 Community Grants Round 2 Recommendations” and
- (b) endorse the Major Grant Recommendations March 2020 (Appendix A).

FINANCE AND RESOURCING**Community Grants Program**

The 2019/20 Community Grants Program includes:

- two Major Grant funding rounds
- four Minor Grant funding rounds
- Individual Development Grants (year-round) and
- Emergency Grants (year-round).

This report to Council is in relation to the second Major Grant round for the 2019/20 Community Grants Program. Applications requesting a total of \$1,057,047 were received and the assessment panels recommend 80 applicants be funded a total of \$515,824.

Budget Implications

Projects recommended in this report are supported by three separate budgets as detailed in Table 1 below.

BUDGETS – Major Grants	Community Grants Program Budget	Domestic Animal Management Budget*	Recreation Trails Budget**	TOTAL
March 2020 Community Grants Program Recommendations	\$501,661	\$10,000	\$4,163	\$515,824

Table 1. Budgets for Community Grants Program Recommended Projects

* One of the recommended applications under the Community Development category addresses the key objectives of Council’s Domestic Animal (Cats and Dogs) Management Strategy (2014-2020) and will be funded through the Domestic Animal Management Strategy Budget (application MJCD192001 – RSPCA QLD, Operation Wanted 2020 – Domestic animal desexing marketing campaign).

** One of the recommended applications under the Community Development category addresses Council’s priority to encourage the community to lead and guide nature-based recreation projects and will be funded by Council’s endorsed Recreation Trails Activation Budget. (application MJCD192016 – Naradell Walking Rally for Mental Health).

The total project budgets for the successful major grant applications total more than \$1.87 million (based on figures supplied by applicants). This is 3.6 times greater than the Council contribution recommended in this report.

CORPORATE PLAN

Corporate Plan Goal: A strong community

Outcome: 2.2 - Resilient and engaged communities

Operational Activity: 2.2.4 - Continue to ensure the manner in which Council distributes grant monies to community and not-for-profit organisations supports Council’s social vision for the region

CONSULTATION

Portfolio Councillor Consultation

Due to the timing of this round of grants, consultation with the then Portfolio Councillor was not able to be conducted.

Internal Consultation

Community Development Officers (Grants) attended assessment panels, reviewed outcomes and provided moderation across all grant categories for consistency.

Assessment panel membership for each category of the Community Grants Program was made up of a number of key staff from the relevant area of Council. In addition, Council officers with expertise relevant to specific applications were consulted and provided information and/or advice to inform assessment processes. Council officers involved in each panel and additional staff consulted is outlined in Internal Consultation (Attachment 1).

External Consultation

Community Grants Development Officers and internal category experts liaised with community organisations across the Sunshine Coast Council Local Government Area via a range of community meetings and conversations to ensure a high level of awareness of the Major Grants Program and the application dates.

Assistance was provided for project development, preparation of application content and advice on application processes.

A wide range of traditional and social media tools were used to promote the Community Grants Program generally, and to invite applications.

PROPOSAL

Council recognises the vital contribution community organisations make to the economic, environmental, social and cultural wellbeing of Sunshine Coast communities.

Through the provision of community grants, Council is committed to supporting the implementation of community initiatives and partnerships that align with Council's strategic corporate priorities and demonstrate a purpose that is in the interests of the Sunshine Coast community.

The following principles provide a consistent approach to the administration of Council's Community Grants Policy and the delivery of Council's Grants Programs:

- Community organisations are provided with funding support to provide benefit to the Sunshine Coast community, in line with Council's strategic corporate priorities
- Vibrant, engaged and more resilient communities are developed through capacity building and partnerships
- Community organisations and volunteers are acknowledged for the positive contribution they make to the local community and Council's vision for the future
- Funds are distributed in an equitable and transparent manner that ensures good governance and adherence to the *Local Government Act 2009* and the *Local Government Regulation 2012*.

The Community Grants Program Guidelines ensure an equitable, open and transparent process for applicants to seek financial assistance, and detail the specific aims and priorities of each category.

Promotion and Support

A wide range of media tools were used to promote the Community Grants Program and invite applications. This promotion included:

- Council's website
- Council's social media channels
- two media releases
- spotlight print columns in local community newspapers
- Council's various e-newsletters
- grant writing workshops held at five locations, and
- flyers distributed in libraries and customer service centres.

Community Grants Development Officers and internal category specialists liaised widely with the community by:

- responding to enquiries
- providing assistance with project development
- providing advice on the preparation of application content and the application process
- linking applicants with other Council specialists, as appropriate, and
- assisting applicants with identifying other grant and funding opportunities.

Applications

A total of 121* applications were received across the seven grant categories of the 2019/20 Community Grants Program Major Grants Round Two, requesting \$1,057,047 in funding.

*This does not include 2 applications that were withdrawn due to the impacts of COVID-19 restrictions.

Assessment

Council officers pre-assessed each application to determine eligibility. Assessment panels for each category were then established (as detailed in Attachment 1 and in the Internal Consultation section of this report). Panel members reviewed all eligible applications prior to the panel meeting and then met to assess the applications.

In accordance with Council's Community Grants Policy, any declaration of a panel member's conflict of interest must be recorded. That panel member must not be involved in the related deliberations. There were no conflicts of interest declared in the assessment of this Major Grants round.

Panel discussion focused on alignment to category aims and priorities, alignment to Council's strategic corporate priorities, community need and benefit, and the capacity of the organisation to achieve the project outcome.

As applications closed on 16 March 2020, the proposed projects and events were developed before the novel coronavirus (COVID-19) declaration of a Disaster Situation was published in the Queensland Government Gazette on 22 March 2020. Panels considered the effect COVID-19 would have on applicant organisations' capacity to deliver their planned projects and as well as changing community need at this time. Where appropriate, panels considered conditioning funding on the provision of revised project plans to facilitate delivery of projects in the context of COVID-19 restrictions.

The panels also took into consideration the number of applications received and the amount of funding available.

Panel members determined funding recommendations for Council's consideration.

Due to the large number of applications in each grant category, part funding was recommended in some instances.

In each case where part funding was recommended, the panel considered whether:

- the project could be successfully completed with the part funding allocated, and
- funding for stand-alone components of the project could be provided.

Recommendation

Funding totaling \$515,824 for 80 projects is recommended for Council's consideration and endorsement as provided in Major Grant Recommendations March 2020 (Appendix A).

Major Grant Recommendations March 2020 - Additional Information (Attachment 2) provides further detail relating to the assessment of applications and is provided in confidence under Section 275 (h) of the *Local Government Act 2009*. The attachment contains information that the applicants would expect to remain private and confidential.

Table 3 is a summary of the applications and the recommended funding for each category.

Category	Applications received	Funding requested	Applicants recommended	Funding recommended (GST excl)
Community Development	27	\$234,521	19	\$119,572
Community Events	16	\$145,936	12	\$68,425
Community Facilities	39	\$415,430	29	\$231,222
Cultural Development	7	\$54,896	3	\$25,500
Cultural Heritage	4	\$29,987	1	\$3,741
Economic Development	5	\$49,527	4	\$11,000
Sport, Recreation and Healthy Living	23	\$126,750	12	\$56,364
Total *excludes 2 withdrawals due to COVID-19 impacts	121*	\$1,057,047	80	\$515,824

Table 3. Major Grant Applications Summary and Recommended Funding

Funding Round Comparisons (Attachment 3) details the funding comparison of the current round to previous Major Grant rounds.

Program Evaluation

Ongoing evaluation of the Community Grants Program draws information from a variety of sources including:

- analysis of data provided by community organisations in application and acquittal reports
- engagement with community organisations, and
- consultation with internal stakeholders including category representatives.

Benefits

Organisations recommended for funding in this round:

- reported the engagement of 1,532 volunteers to deliver their funded projects, and
- estimated 100,045 people would be direct beneficiaries of their projects (includes event patrons and/or participants).

Legal

The recommendations contained within this report are in accordance with the Local Government Act 2009, Local Government Regulation 2012.

Policy

The recommendations contained within this report are in accordance with the adopted *Community Grants Policy*. Any requested changes to funding recommendations made by the panel need to be supported by evidence and that evidence recorded.

Risk

There may be some community concern in relation to the number of community groups that were unsuccessful in their application for funding under this program or were only part funded. The panels' considerations were thorough and in line with the *Community Grants Policy* and Community Grants Guidelines, as well as budget availability. In each case where part funding was recommended, the panel considered whether:

- the project could be successfully completed with the part funding allocated, and
- funding for stand-alone components of the project could be provided.

Previous Council Resolutions**Ordinary Meeting 17 October 2019 (OM19/160)**

That Council:

- receive and note the report titled "2019/20 Community Grants Program Major Grants Round 1 and Heritage Levy Grants Program Recommendations" and*
- endorse the Major Grant Recommendations August 2019 (Appendix A) and endorse the Heritage Levy Grant Recommendations 2019 (Appendix B).*

Ordinary Meeting 29 January 2015 (OM15/5)

That Council:

- receive and note the report titled "Community Grants and Partnership Funding Review 2014"*
- endorse Option 1 for Council support to community organisations for 2015/16 and beyond*
- endorse multi-year funding under the Community Partnership Funding Program to provide funding for periods of up to 3 years*
- note "Community Grants Program and Community Partnership Funding Program Review Report" (Appendix A)*

Ordinary Meeting 20 June 2013 (OM13/109)

That Council:

- (a) receive and note the report titled "**Community Grants Policy**"*
- (b) adopt the Community Grants Policy (Appendix A)*
- (c) note the Community Grants Guidelines (Appendix B) as amended by (f) below to implement the Community Grants Policy*
- (d) adopt the Mayoral and Councillor Discretionary Funding Policy as amended (Appendix C)*
- (e) note the Mayoral and Councillor Discretionary Funding Program Guidelines (Appendix D) and*
- (f) amend the grants guidelines to include a clause that stipulates that each program is subject to annual budget allocations.*

Related Documentation

Related documentation includes funding agreements with successful community organisations.

Relevant policy and strategy documents include the following:

- Community Grants Guidelines (2020)
- Community Grants Policy (2013)
- Community Groups Occupying Council Owned and Council Controlled Land or Infrastructure Policy
- Environment and Liveability Strategy 2017
- Heritage Levy Policy (2016)
- *Local Government Act 2009*
- *Local Government Regulation 2012*
- Sunshine Coast Aquatic Plan 2011-2026
- Sunshine Coast Arts Plan 2018 -2038
- Sunshine Coast Domestic Animal (Cats and Dogs) Management Strategy 2014-2020
- Sunshine Coast Reconciliation Action Plan 2017-2019
- Sunshine Coast Regional Economic Development Strategy 2013-2033
- Sunshine Coast Community Strategy 2019-2041
- Sunshine Coast Sport and Active Recreation Plan 2011-2026

Critical Dates

The next Major Grants round under the Community Grants Program will open in July 2020 and close in August 2020.

Implementation

Following endorsement of this report, notification of outcomes will take place. Funding will be distributed during June and July 2020, following online acceptance of conditions of agreement and compliance with any specific conditions of funding.

8.3 APRIL 2020 FINANCIAL PERFORMANCE REPORT**File No:** Financial Reports**Author:** Coordinator Financial Services
Business Performance Group**Attachments:** Att 1 - April 2020 Financial Performance Report95**PURPOSE**

To meet Council's legislative obligations, a monthly report is to be presented to Council on its financial performance and investments.

EXECUTIVE SUMMARY

This monthly financial performance report provides Council with a summary of performance against budget as at 30 April 2020 in terms of the operating result and delivery of the capital program.

Operating Performance**Table 1: Operating Result as at 30 April 2020**

	Current Budget \$000	YTD Budget \$000	YTD Actuals \$000	YTD Variance \$000	YTD Variance %
Total Operating Revenue	470,449	428,546	424,007	(4,539)	-1.1%
Total Operating Expenses	450,320	362,138	360,297	(1,840)	-0.5%
Operating Result	20,130	66,408	63,710	(2,698)	-4.1%

Achievement of the full year budgeted operating result will allow Council to meet its debt repayments and capital expenditure commitments.

As at 30 April 2020, \$278.1 million (78.2%) of Council's \$355.6 million 2019/20 total Capital Works Program was financially expended.

The core Council Capital Program has progressed 76.3% of budget, an actual spend of \$132.6 million.

Council's closing cash balance at 30 April 2020 of \$210.3 million.

Council's investment portfolio remains within the guidelines established under the Investment Policy.

OFFICER RECOMMENDATION

That Council receive and note the report titled "April 2020 Financial Performance Report".

FINANCE AND RESOURCING

This report sets out the details of Council's financial performance and investments for the month ending 30 April 2020 and meets Council's legislative reporting requirements.

CORPORATE PLAN

Corporate Plan Goal: *An outstanding organisation*
Outcome: 5.7 - A financially sustainable organisation
Operational Activity: 5.7.1 - Develop and monitor Council's budget, including legislated requirements.

CONSULTATION

Portfolio Councillor Consultation

Consultation has been undertaken with the Portfolio Councillor, Councillor E Hungerford.

Internal Consultation

This report has been written in conjunction with advice from:

- Acting Group Executive Business Performance
- Coordinator Financial Services

PROPOSAL

This monthly financial performance report provides Council with a summary of performance against budget as at 30 April 2020 in terms of the operating result and delivery of the capital program.

The operating result at 30 April 2020 shows an unfavorable variance of \$2.7 million compared to the budgeted position.

Operating Revenue

Year to date revenue as at 30 April 2020 of \$428.5 million is in below the expected budget profile.

Table 2: Substantial Revenue variances as at 30 April 2020

	YTD Budget \$000	YTD Actuals \$000	YTD Variance \$000	YTD Variance %
Fees and Charges	49,159	47,486	(1,673)	-3.4%
Interest Received from Investments	7,365	4,233	(2,760)	-42.5%
Operating Grants and Subsidies	6,174	7,588	1,415	22.9%
Other Revenue	10,974	12,966	1,992	18.2%
Internal Sales/Recoveries	7,563	4,770	(2,793)	-36.9%

Fees and Charges

Council has currently forgone \$1 million of expected revenue up to 30 April 2020 due to the partial and full closure of holiday parks in March 2020. Council's community venues, including Sunshine Coast Stadium have also forgone revenue up to \$426,000.

Interest Received from Investments

Interest rates available for term deposits continue to decline with the Reserve Bank Australia (RBA) reducing the cash rate by a further 0.5 basis points in March. This has resulted in a decline in interest received from investments. Council's year end forecast for investment revenue will be approximately \$4 million below the current budget.

Operating Grants and Subsidies

Council has received a grant from the Federal Government of \$1.2 million relating to recent bushfire disaster recovery. A multi-year program of works has been developed and endorsed by Council and will form part of the 2020/21 budget process.

Other Revenue

Council has received additional revenue for recoverable works within the Parks and Gardens and Environmental Operations areas. These works were predominantly generated from the Department of Transport and Main Roads and the expenditure has occurred in the previous financial year.

Council has also received a third quarterly payment for the State Government's container deposit scheme which has generated revenue in excess of the expected budget.

Unbudgeted sponsorship payments have also been received for various events undertaken by Council.

Operating Expenses

Year to date expenditure as at 30 April 2020 of \$360.3 million shows a variance under budget of \$1.8 million.

Materials and services account for the majority of the expenditure variance as at 30 April 2020, having underspent budget by \$4.5 million.

Council's operating projects have progressed 49% of full year budget as at 30 April 2020.

The underspend in materials and services can be partially attributed to the deferral of major events sponsorship due to the current social distancing restrictions. Several projects relating to the heritage levy will also be deferred into next financial year.

Council's expenses remain within 1% of budget as at 30 April 2020 while delivering on the 2019/20 operational plan.

Capital Expenditure

As at 30 April 2020, \$278.1 million (78.2%) of Council's \$355.6 million 2019/20 Capital Works Program was financially expended.

The Core Council Capital Program has progressed 76.3% of budget, an actual spend of \$132.6 million. The Actual Year to Date (YTD) includes all works that have been goods receipted and accrued as at 30 April 2020.

The following program updates are provided in relation to programs reporting lower expenditure to date:

- Building and Facilities – Council has brought forward renewal works various facilities to take advantage of the current forced closures. Work will be procured and begin in the following months on several aquatic centres, Kings Beach pool, Millwell Road community centre and Caloundra Indoor Stadium.
- Fleet – Council's fleet replacement program requires a significant portion of the financial year for procurement of heavy plant. This procurement works is underway and the majority of replacements are scheduled to occur in May 2020.
- Information Technology – Council will defer a selection of non-critical IT capital works as it focuses on current working from home requirements.
- Transportation – Construction continues for Council's significant road upgrade project at Parklands Boulevard, Little Mountain. Council's \$20 million road reseal program has progressed 84% completion in April. Alongside the reseal program, the bus stop replacement and installation program has progressed to 81% completion of the \$2.4 million program.

Table 3: Capital Expenditure by Program at 30 April 2020

	Annual		YTD		Forecast	
	Original Budget \$000s	Current Budget \$000s	YTD Actual \$000s	% of FY Budget Spent	Forecast Year End Actual	Forecast Year End Variance to Budget
Capital Works Program						
Aerodromes	450	275	26	9.4%	226	(49)
Buildings and Facilities	19,103	17,568	10,778	61.4%	16,725	(843)
Coast and Canals	2,080	2,080	1,575	75.7%	1,854	(226)
Environmental Assets	1,300	1,450	1,108	76.4%	1,389	(61)
Fleet	2,900	2,772	448	16.2%	804	(1,968)
Holiday Parks	4,302	4,718	4,732	100.3%	5,057	339
Information Technology	5,830	8,906	5,302	59.5%	7,370	(1,536)
Parks and Gardens	15,966	20,981	18,201	86.7%	21,335	354
Quarries	1,311	1,234	531	43.1%	823	(411)
Stormwater	7,014	5,174	3,271	63.2%	4,540	(634)
Strategic Land and Commercial Properties	14,563	21,958	16,652	75.8%	22,350	392
Transportation	69,115	66,736	52,209	78.2%	63,966	(2,770)
Waste	20,622	19,956	17,766	89.0%	21,601	1,645
Total SCC Core Capital Program	164,556	173,808	132,599	76.3%	168,039	(5,768)
Corporate Major Projects	14,968	9,918	7,280	73.4%	10,186	268
Divisional Allocations	5,336	5,547	2,762	49.8%	3,834	(1,713)
Maroochydore City Centre	16,579	20,657	13,126	63.5%	20,065	(592)
Submarine Cable IBN	14,390	15,774	15,650	99.2%	15,160	(613)
Sunshine Coast Airport Runway	104,836	129,884	106,715	82.2%	129,146	(739)
Total Other Capital Program	156,109	181,780	145,533	80.1%	178,391	(3,389)
TOTAL	320,666	355,588	278,132	78.2%	346,431	(9,157)

Investment Performance

- All investment parameters remain within the guidelines established by the Investment Policy.
- For the month ending 30 April 2020 Council had \$210.3 million cash (excluding Trust Fund) with an average interest rate of 1.68%, being 1.11% above benchmark. This is compared to the same period last year with \$244.2 million cash (excluding Trust Fund) with an average interest rate of 2.76%, being 0.73% above benchmark.
- The benchmark used to measure performance of cash funds is Bloomberg AusBond Bank Bill Index (BAUBIL) and the Bank Bill Swap Rate (BBSW) for term deposits.

Legal

This report ensures that Council complies with its legislative obligations with respect to financial reporting in accordance with Section 204 of the *Local Government Regulation 2012*.

Investment of funds is in accordance with the provisions of the *Statutory Bodies Financial Arrangements Act 1982* and the associated Regulations and the *Local Government Act 2009*.

Policy

Sunshine Coast Council's 2019/20 Investment Policy and

Sunshine Coast Council's 2019/20 Debt Policy.

Risk

Failure to achieve the budgeted operating result will negatively impact Council's capacity to complete its capital expenditure program.

Previous Council Resolution

Ordinary Meeting 19 March 2020, Application of Fees and Charges in Response to National Declared Emergency for COVID-19 (OM20/40)

That Council:

- (a) *receive and note the report titled "Application of Fees and Charges in Response to National Declared Emergency for COVID-19"*
- (b) *authorise the Chief Executive Officer to exercise discretion where considered reasonable and appropriate with regards to the application of all commercial and cost recovery fees including any fees associated with an approval issued under Council's Local Laws during the National declared emergency related to the COVID-19 pandemic.*

Ordinary Meeting 12 December 2019, Budget Review 2 2019/20 (OM19/194)

That Council:

- (a) *receive and note the report titled "Budget Review 2 2019/20"*
- (b) *adopt Appendix A as tabled, pursuant to section 169 and 170 of the Local Government Regulation 2012, Council's amended budget for 2019/20 financial year incorporating:*
 - (i) *the statement of income and expenditure*
 - (ii) *the statement of financial position*
 - (iii) *the statements of changes in equity*
 - (iv) *the statement of cash flow*
 - (v) *the relevant measures of financial sustainability*
 - (vi) *the long term financial forecast*
 - (vii) *the Debt Policy and*
- (c) *note the following documentation applies as adopted 20 June 2019*
 - (i) *the Revenue Policy*
 - (ii) *the total value of the change, expressed as a percentage, in the rates and utility charges levied for the financial year compared with the rates and utility charges levied in the previous budget*
 - (iii) *the Revenue Statement and the rates and charges to be levied for the 2019/20 financial year and other matters as adopted 20 June 2019.*

Ordinary Meeting 19 September 2019, Budget Review 1 2019/20 (OM19/148)

That Council:

- (a) *receive and note the report titled “**Budget Review 1 2019/20**”*
- (b) *adopt Appendix A as tabled, pursuant to section 107A of the Local Government Act 2009 and sections 169 and 170 of the Local Government Regulation 2012, Council’s amended budget for 2019/20 financial year incorporating:*
 - (i) *the statement of income and expenditure*
 - (ii) *the statement of financial position*
 - (iii) *the statements of changes in equity*
 - (iv) *the statement of cash flow*
 - (v) *the relevant measures of financial sustainability*
 - (vi) *the long term financial forecast*
 - (vii) *the Debt Policy and*
- (c) *note the following documentation applies as adopted 20 June 2019*
 - (i) *the Revenue Policy*
 - (ii) *the total value of the change, expressed as a percentage, in the rates and utility charges levied for the financial year compared with the rates and utility charges levied in the previous budget*
 - (iii) *the Revenue Statement and*
 - (iv) *the rates and charges to be levied for the 2019/20 financial year and other matters as adopted 20 June 2019.*

Special Meeting Budget 20 June 2019 (SM19/13)

That Council adopt Appendix A as tabled, pursuant to section 107A of the Local Government Act 2009 and sections 169 and 170 of the Local Government Regulation 2012, Council’s budget for 2019/20 financial year incorporating:

- i. the statement of income and expenditure*
- ii. the statement of financial position*
- iii. the statements of changes in equity*
- iv. the statement of cash flow*
- v. the relevant measures of financial sustainability*
- vi. the long term financial forecast*
- vii. the Debt Policy*
- viii. the Revenue Policy (adopted by Council resolution on 23 May 2019)*
- ix. the total value of the change, expressed as a percentage, in the rates and utility charges levied for the financial year compared with the rates and utility charges levied in the previous budget*
- x. the Revenue Statement*
- xi. Council’s 2019/20 Capital Works Program, endorse the indicative four-year program for the period 2021 to 2024, and note the five-year program for the period 2025 to 2029*
- xii. the rates and charges to be levied for the 2019/20 financial year and other matters as detailed below in clauses 3 to 11 and*
- xiii. endorse the full time equivalent establishment as per the Sunshine Coast Council Establishment 2019/2020 report.*

Related Documentation

2019/20 Adopted Budget

Critical Dates

There are no critical dates for this report.

Implementation

There are no implementation details to include in this report.

**8.4 DEVELOPMENT APPLICATION - SUNSHINE HOSPICE RESIDENTIAL
CARE FACILITY - 7-15 ILLUKA STREET, BUDERIM**

This item was withdrawn from the Agenda by the Chief Executive Officer.

8.5 EXCEPTION UNDER LOCAL GOVERNMENT REGULATION 2012 FOR ACCESS AND SEWERAGE EASEMENT WITHIN LOT 33 SP300553

File No: F2019/69011

Author: Senior Property Officer
Business Performance Group

Attachments: Att 1 - Site Plan for Proposed Easement over Lot 33 SP300553211
Att 2 - Easement A on SP310098213

PURPOSE

The purpose of this report is to seek an exception from Council, in accordance with the *Local Government Regulation 2012*, from the tender or auction process to facilitate the registration of an easement in favour of Unitywater for access and sewerage purposes over Council freehold land. The land is held in trust for environmental and local government purposes and is located at 1 Reo Place, Yandina legally described as Lot 33 on SP300553.

EXECUTIVE SUMMARY

There is a requirement for the registration of an access and sewerage easement in favour of Unitywater over Council freehold land legally described as Lot 33 on SP300553 and held in trust for environmental and local government purposes. The purpose of the easement is to accommodate existing sewerage infrastructure and a new sewer connection to the adjoining property, legally described as Lot 2 on SP292259. The location of the proposed point of connection to the neighbouring land is shown on **Attachment 1 – Site Plan for Proposed Easement** and Figure 1. Site Plan for Proposed Easement. The easements are consistent with the trust purpose.



Figure 1. Site Plan for Proposed Easement

The *Local Government Regulation 2012* provides that a disposal, other than by tender or auction, may occur if an exception applies. Section 236(1)(b)(i) provides for an exception if the disposal is to a government agency, in this instance, Unitywater. Section 236(2) provides that a Local Government must decide by resolution than an exception may apply.

This report seeks an exception for the purpose of granting an easement for access and sewerage, being approximately 451m², over Council freehold land, and if required by Unitywater, an overlapping easement for sewerage purposes of approximately 12m² covering the connection point for the neighbouring development.

OFFICER RECOMMENDATION

That Council:

- (a) receive and note the report titled “Exception under Local Government Regulation 2012 for access and sewerage easement within Lot 33 SP300553”
- (b) resolve, pursuant to section 236(2) of the *Local Government Regulation 2012*, that an exception to dispose of an interest in land at Lot 33 SP300553, other than by tender or auction applies, as the disposal is pursuant to section 236(1)(b)(i) to a government agency and
- (c) note that Unitywater is a government agency.

FINANCE AND RESOURCING

Property Management Branch commissioned a compensation assessment for the diminished value of the encumbered land.

Costs associated with facilitating the easement in favour of Unitywater are expected to be approximately \$6,600 including GST. The preparation of an easement plan and documentation, valuation report and compensation for the diminished value of the land, and registration fees payable to the Titles Office to register the dealing are all expenses expected to be incurred as a result of facilitating the registration of this easement. These costs will be shared between the applicant, G & S Creations and Council.

CORPORATE PLAN

Corporate Plan Goal: *Service excellence*
Outcome: We serve our community by providing this great service
Operational Activity: S22 - Property management - comprehensive management of Council's land and building assets to ensure that Council's property dealings are optimised, centrally managed, and support Council's objectives.

CONSULTATION

Councillor Consultation

- Councillor G Rogerson – 2019 Divisional Councillor
- Councillor D Law – 2020 Divisional Councillor
- Councillor C Dickson – Planning and Development Portfolio Councillor

Internal Consultation

- Project Officer, Environmental and Sustainability Policy
- Coordinator, Land Management
- Coordinator, Recreation Project
- Acting Manager, Transport & Infrastructure Policy
- Coordinator, Technical Services
- Coordinator, Stormwater Management

- Senior Capital Works Program Officer, Asset Management and Capital Plan
- Coordinator, Asset Strategy
- Road Corridor Technical Officer, Asset Strategy
- Coordinator, Strategic Property
- Strategic Planner, Strategic Planning
- Team Leader, Sports Planning & Development
- Coordinator, Waste Resource Manager
- Solicitor, Legal Services
- Technical Officer, Parks & Gardens
- Senior Property Officer, Land Management

External Consultation

Council's Property Management Branch has liaised with the following external stakeholders on this matter:

- Walsh Consulting Engineers;
- Savills Australia; and
- Murray & Associates.

Community Engagement

Due to the administrative nature of this report, no community engagement has been undertaken or is required.

PROPOSAL

There is a requirement for the registration of an access and sewerage easement, in favour of Unitywater, over Council freehold land legally described as Lot 33 on SP300553 and held in trust for environmental and local government purposes. The purpose of the easement is to accommodate existing sewerage infrastructure and a new sewer connection to the adjoining property, legally described as Lot 2 on SP292259. The location of the proposed sewer main connection is shown on **Attachment 1 – Site Plan for Proposed Easement** and Figure 1. Site Plan for Proposed Easement.

The *Local Government Regulation 2012* provides that a disposal, other than by tender or auction, may occur if an exception applies. Section 236(1)(b)(i) provides for an exception if the disposal is to a government agency, in this instance, Unitywater. Section 236(2) provides that a Local Government must decide by resolution that an exception may apply.

Unitywater has requested that an easement over the existing infrastructure, currently located in Council's land, is registered as it services multiple properties adjacent to Council's land. The location of the proposed easement over the existing infrastructure, and access to the infrastructure, is shown on **Attachment 2- Easement A on SP 310098** and in Figure 3. Easement A on SP310098.



Figure 2. Proposed Sewerage and Access Easement in Lot 33 SP300553 location

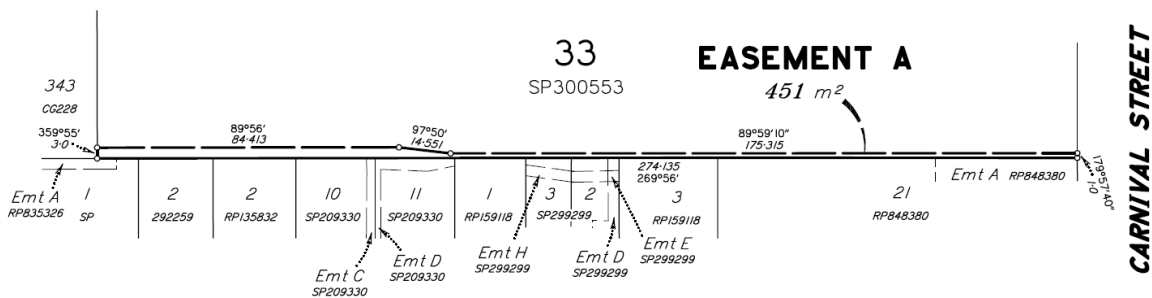


Figure 3. Easement A on SP310098.

Due to the age of the infrastructure, it is Property Management’s proposal that Council registers an easement over the existing infrastructure, for sewerage and access purposes, with the costs to be shared between the applicant, G & S Creations and Council.

This report seeks an exception for the purpose of granting of an easement, for access and sewerage purposes, over Council freehold land, being approximately 451m², and for the purpose of granting an easement over Council freehold land, being approximately 12m² for the connection to the adjoining land, if required by Unitywater.

Costs associated with facilitating the easement in favour of Unitywater are expected to be approximately \$6,600 including GST.

Legal

Legal Services have been consulted in relation to this report.

Policy

This report has been prepared in accordance with Council’s Procurement Policy relating to the disposal of Council assets.

Risk

The risks associated with this matter is that Council would not have a registered record of infrastructure within Lot 33 SP300553. Further to this Unitywater would not have legal rights

to enter Council's land. Further, Council risks causing delay to development of the adjoining land if arrangements satisfactory to Unitywater cannot be put in place.

Previous Council Resolution

There are no previous Council Resolutions relevant to this report.

Related Documentation

Council's standard terms document dealing number 714904857 for easements in favour of Unitywater on Council freehold land, under nomination of trust, will be registered on Title.

Critical Dates

There are no critical dates relevant to this report, however, Unitywater have requested that the matter be finalised as soon as possible.

Implementation

If Council resolves that an exception to Division 4 Section 236 of the *Local Government Regulation 2012* applies, the Easement document and survey plan will be executed by Council's Delegated Officer and registered at the Titles Office by the applicant.

8.6 INDEPENDENT AUDIT COMMITTEE MEMBER TRANSITION STRATEGY

File No:	Council meetings
Author:	Manager Audit and Assurance Office of the CEO
Attachments:	Att 1 - Audit Committee Charter219

PURPOSE

The purpose of this report is to seek Council's approval for a revised implementation timetable associated with the previously endorsed Independent Audit Committee Transition Strategy.

EXECUTIVE SUMMARY

Council endorsed recommendations associated with "Independent Audit Committee Member Transition Strategy" report (Ordinary Meeting 22 August 2019) which outlined the strategy for the replacement of the two existing Independent Audit Committee Members as follows:

- Publicly advertise two Independent Audit Committee positions prior to the March 2020 Council Elections
- Recruitment selection panel makes recommendation in April 2020 to the newly elected Council for the appointment of two new Independent Audit Committee Members
- Following Council resolution and appointment, the two new Independent Audit Committee Members would attend the May 2020 Audit Committee Meeting
- The contracts of Mr Peter Dowling AM and Mr Len Scanlan be extended 9 months from April 2020 to December 2020, to allow effective transitioning of the new Independent Audit Committee Members and effective Audit Committee oversight of the Queensland Audit Office's certification of the 2019 – 2020 Financial Statements
- The Audit Committee composition will temporarily be comprised of six members for the period April to December 2020 i.e. two Councillors and four Independent Members

In accordance with the endorsed transition strategy, Independent Audit Committee Member positions were advertised and closed on 9 March 2020. Applications for the positions were being assessed when the Novel Coronavirus (COVID-19) pandemic struck. As a result of the disruptions to normal Council operations, it was decided to defer the transition strategy implementation for six months i.e. from April - December 2020 to January - June 2021.

Accordingly, the revised implementation timetable will require the contracts of Mr Peter Dowling AM and Mr Len Scanlan to be extended six months to 30 June 2021.

OFFICER RECOMMENDATION

That Council:

- receive and note the report titled "Independent Audit Committee Member Transition Strategy"**
- endorse the revised implementation timetable associated with the Independent Audit Committee Member Transition Strategy and**
- appoint Mr Peter Dowling AM as Audit Committee Chair and Mr Len Scanlan as an Independent Audit Committee Member by extending their existing individual contracts to 30 June 2021.**

FINANCE AND RESOURCING

Current total annual independent member costs are \$17,000 GST exclusive.

For the period January to June 2021 when there will be four Independent Audit Committee Members, the associated additional costs are estimated at \$8,000 GST exclusive.

These costs will be contained within the Audit and Assurance budget.

CORPORATE PLAN

Corporate Plan Goal: *An outstanding organisation*

Outcome: 5.1 - A collaborative workplace culture, with engaged, energised and skilled people professionally ready for the future

Operational Activity: 5.1.1 - Lead the implementation of the Outstanding Organisation framework to build organisational capability and capacity.

CONSULTATION

Internal Consultation

The Chief Executive Officer and Group Executives support the proposed transition strategy.

External Consultation

Mr Peter Dowling and Mr Len Scanlan have confirmed their acceptance of the proposed contract extensions and support the proposed transition strategy.

PROPOSAL

The Audit Committee is an advisory Committee of Council with an overall objective to assist the Council and the Chief Executive to discharge their duties. It is established in accordance with the *Local Government Regulation 2012* and these requirements are reflected in the Audit Committee Charter which was last reviewed at the 28 January 2020 Audit Committee meeting and subsequently endorsed at Council's Ordinary Meeting, 20 February 2020 (refer Attachment 1).

The Audit Committee is comprised of four members:

- Councillor E Hungerford
- Councillor J Natoli
- Mr P Dowling AM (Independent Member Chair)
- Mr L Scanlan (Independent Member)

Council endorsed recommendations associated with "Independent Audit Committee Member Transition Strategy" report (Ordinary Meeting 22 August 2019) which outlined the strategy for the replacement of the two existing Independent Audit Committee Members as follows:

- Publicly advertise two Independent Audit Committee positions prior to the March 2020 Council Elections
- Recruitment selection panel makes recommendation in April 2020 to the newly elected Council for the appointment of two new Independent Audit Committee Members
- Following Council resolution and appointment, the two new Independent Audit Committee Members would attend the May 2020 Audit Committee Meeting
- The contracts of Mr Peter Dowling AM and Mr Len Scanlan be extended 9 months from April 2020 to December 2020, to allow effective transitioning of the new Independent Audit Committee Members and effective Audit Committee oversight of the Queensland Audit Office's certification of the 2019 – 2020 Financial Statements

- The Audit Committee composition will temporarily be comprised of six members for the period April to December 2020 i.e. two Councillors and four Independent Members

In accordance with the endorsed transition strategy, Independent Audit Committee Member positions were advertised and closed on 9 March 2020. Applications for the positions were being assessed when the Novel Coronavirus (COVID-19) pandemic struck. As a result of the disruptions to normal Council operations, it was decided to defer the transition strategy implementation for six months i.e. from April - December 2020 to January - June 2021.

Accordingly, the revised implementation timetable will require the contracts of Mr Peter Dowling AM and Mr Len Scanlan to be extended six months to 30 June 2021.

Legal

Local Government Act 2009

Local Government Regulation 2012

Policy

Audit Committee Charter endorsed by Council 20 February 2020.

Risk

The proposed Independent Audit Committee Member Transition Strategy minimises potential risks associated with the Audit Committee operations.

Previous Council Resolution

The "Independent Audit Committee Member Transition Strategy" report was endorsed by Council Resolution at the Ordinary Meeting 22 August 2019 (refer below).

Ordinary Meeting 22 August 2019 (OM19/1)

That Council:

- receive and note the report titled "**Independent Audit Committee Member Transition Strategy**"*
- endorse the Independent Audit Committee Member Transition Strategy and*
- appoint Mr. Peter Dowling AM as Audit Committee Chair and Mr. Len Scanlan as an Independent Audit Committee Member by extending their existing individual contracts*

Related Documentation

The Audit Committee Charter is reviewed annually and it was last endorsed by Council Resolution at the Ordinary Meeting 20 February 2020 (refer below).

Ordinary Meeting 20 February 2020 (OM20/31)

That Council:

- receive and note the report titled "**Audit Committee Meeting 28 January 2020**" and*
- endorse the Audit Committee Minutes 28 January 2020 (Appendix A), Audit Committee Charter (Appendix B) and Internal Audit Charter (Appendix C).*

Critical Dates

Current Independent Audit Committee Member contracts expire 31 December 2020.

Implementation

Implementation as outlined in the above strategy.

**8.7 BUILDING INDUSTRY FAIRNESS (SECURITY OF PAYMENT)
LEGISLATION AND PROJECT BANK ACCOUNTS**

File No: PBA2020
Author: Head of Business and Innovation
Business Performance Group

PURPOSE

This report is to provide details of Project Bank Accounts, their implementation under the *Building Industry Fairness (Security of Payment) Act 2017* (Qld) (“BIF Act”), and their application to Council’s contracting activities.

The report seeks confirmation from Council that Project Bank Accounts be implemented by Council in-line with the proposed phased roll out under the BIF Act as amended by the Queensland Parliament.

EXECUTIVE SUMMARY

On January 2018 the *Building Industry Fairness (Security of Payment) Act 2017* (Qld) (“BIF Act”) commenced and one of the primary reforms to the security of payment legislation in Queensland was the introduction of Project Bank Accounts in Part 2 of the BIF Act.

Project Bank Accounts were introduced for building Contracts of the Queensland Government worth over \$1 million and less than \$10 million, that were let after 1 March 2018. The BIF Act had a staged approach for the implementation of Project Bank Accounts and it was proposed that sometime later, the use of Project Bank Accounts would commence for all building Contracts worth more than \$1 million.

Following the introduction of the BIF Act, the State Government trialed Project Bank Accounts on 100 of their building Contracts, before commissioning an Independent Review Panel to review the implementation. The State Government have now confirmed they will implement many of the recommendations and the *Building Industry Fairness (Security of Payment) Bill 2020* (“Amendment Bill”) is presently before Parliament.

The Review Report recommends phasing in of the amended structure for Project Bank Accounts over time. It is recommended that Queensland Government contracts commence 2 months after passing of the amendment Bill (anticipated to commence 1 July 2020). The amendment Bill will see Project Bank Accounts required for all building Contracts over \$10 million from 1 July 2021, then after 1 January 2022 it will apply to contracts worth \$3 million. Lastly, from July 2022 the contract value be reduced to \$1 million and Project Bank Accounts will apply to all building contracts over \$1 million. The Review Report details the reasoning for the phased implementation and this is expanded on in the Proposal.

Council will be required to implement Project Bank Accounts in accordance with the legislation when it comes into effect for the relevant Contracts. At this stage, it is indicated the amendments will apply to Council in July 2021. By this time, it will be clear to Council and clear for Contractors as to what the requirements are for Project Bank Accounts.

At present there is a level of uncertainty over exactly what will be required until the amendments to the legislation in the Amendment Bill have been proclaimed.

Council has considered introduction of the Project Bank Accounts, in three timings. They are:

- Immediately, being prior to forthcoming legislative amendments

- After the legislative amendments come into effect (anticipated to commence in July 2020), but prior to requirements of Council's to comply with the legislation (anticipated to be July 2021)
- From when the legislation will be applied to Councils (July 2021).

Council already has in place, within its Strategic Contracting Framework, requirements in relation to evaluation, financial assessments and external financial checks for prospective Contractors, as well as contract management of any contracts once in place to assist in mitigating insolvency risks and supporting sub-contractors.

Council has the ability to introduce additional effective measures in their Contracts and contract management procedures rather than implementing uncertain or superseded Project Bank Account framework ahead of the legislation that will require them. These measures will further assist in identifying financial stress of contractors in the interim. These additional measures are detailed in the Proposal.

OFFICER RECOMMENDATION

That Council:

- (a) receive and note the report titled "**Building Industry Fairness (Security of Payment) Legislation and Project Bank Accounts**" and
- (b) endorse that **Project Bank Accounts will be introduced in Council contracting in line with the *Building Industry Fairness (Security of Payment) Act 2017* (as amended).**

FINANCE AND RESOURCING

The implementation of Project Bank Accounts in accordance with the relevant legislation will be administered by the Business Performance Group.

Whether implemented now, following adoption of legislative amendments or at the timing required by legislation, Council will require a review of its major building and construction related contracts. Further, as contract management and administration duties brought about by the Project Bank Accounts become better understood, it may be necessary to review and consider the financing and resource requirements of administering Project Bank Accounts.

The current and additional measures to enhance the Strategic Contracting Framework can be absorbed into the 20/21 budget of the Business and Innovation Branch in its current form.

CORPORATE PLAN

Corporate Plan Goal: *An outstanding organisation*
Outcome: 5.7 - A financially sustainable organisation
Operational Activity: 5.7.1 - Develop and monitor Council's budget, including legislated requirements.

CONSULTATION

Councillor Consultation

No consultation was undertaken with the current Council on this matter.

Former Councillor Greg Rogerson brought the Notice of Motion that resulted in the resolution to bring this report to Council.

Internal Consultation

- A/Group Executive Liveability and Natural Assets

- A/Group Executive Business Performance
- Project Delivery Branch
- Finance Branch
- Business and Innovation Branch

External Consultation

External Legal Advice – Minter Ellison Lawyers.

PROPOSAL

Overview

At the Ordinary Meeting on 20 February 2020, a Notice of Motion was submitted recommending that the Chief Executive Officer bring a report to a Council meeting regarding the establishment of project bank/trust accounts for contractors engaged to work for, or on behalf of Council. Council resolved that such a report be brought to the May 2020 Ordinary Meeting.

Effect of insolvency

When a Head Contractor (Principal Contractor) becomes insolvent, there are many negative impacts for subcontractors, the community and Council. The instances of this occurring to Head Contractors of Council are approximately 3-5 contractors every 5-7 years which would represent an impact to approximately 1.7% of Council's high value contracts.

History of Project Bank Accounts

On January 2018 the *Building Industry Fairness (Security of Payment) Act 2017* (Qld) ("BIF Act") commenced, following a reform of its predecessor *the Building and Construction Industry Payments Act 2004* (Qld). One of the primary reforms to the security of payment legislation in Queensland was the introduction of Project Bank Accounts in Part 2 of the BIF Act.

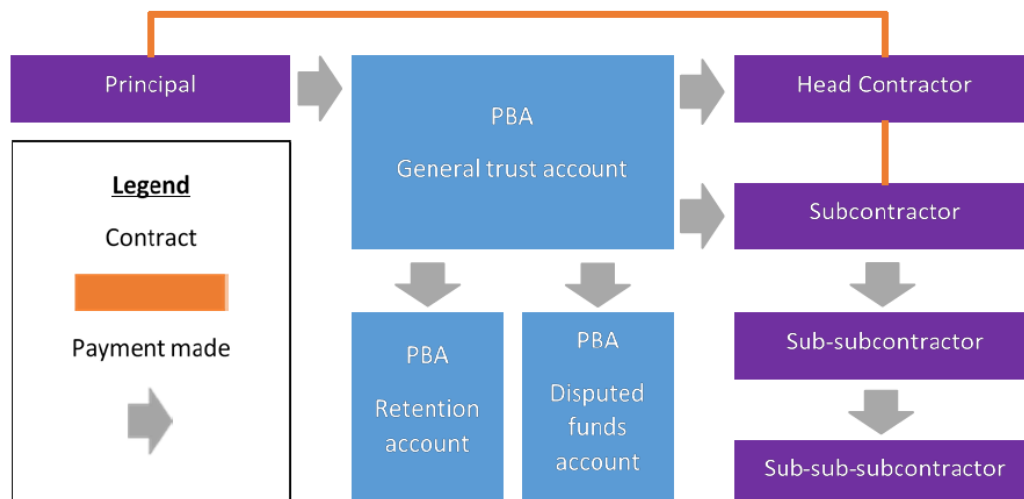
Project Bank Accounts were introduced for building Contracts of the Queensland Government worth over \$1 million and less than \$10 million, and were let after 1 March 2018. The BIF Act had a staged approach for the implementation of Project Bank Accounts and it was proposed that sometime later, the use of Project Bank Accounts would commence for all building Contracts worth more than \$1 million.

Following the introduction of the BIF Act, the State Government trialed Project Bank Accounts on 100 of their building Contracts, before commissioning an Independent Review Panel to review the implementation. The State Government have now confirmed they will implement many of the recommendations and the *Building Industry Fairness (Security of Payment) Bill 2020* ("Amendment Bill") is presently before Parliament.

What are project bank accounts?

The below is a diagrammatic representation of how Project Bank Accounts currently work under the un-amended legislation (current BIF Act).

Table 1:

Table 1: Source - https://www.hpw.qld.gov.au/_data/assets/pdf_file/0013/3910/pbalongguidelinesforhcs.pdf

The un-amended BIF Act requires that Head Contractors open three accounts that were the Project Bank Accounts. The Principal would pay monies payable under the building Contract into the general account, with the other two accounts utilised for retentions held by the Head Contractor in relation to their direct subcontractors and for disputed funds. The intention of the general account was to then secure progress payments to the subcontractors prior to any monies being taken from that account by the Head Contractor.

Trial and Review of the Project Bank Account scheme by the Queensland Government

Commencing 1 March 2018, the State Government undertook a trial of the Project Bank Accounts with 100 of its contracts that met the criteria. In 2019, the State of Queensland also undertook a review of the Project Bank Account framework by appointing an Independent Review Evaluation Panel who produced a report in March 2019 (Att 1 - Building Fairness: An Evaluation of Queensland's Building Industry Fairness Reforms: Report of the Building Industry Fairness Reforms Implementation and Evaluation Panel pursuant to section 200A of the *Building Industry Fairness (Security of Payment) Act 2017*) ("Review Report").

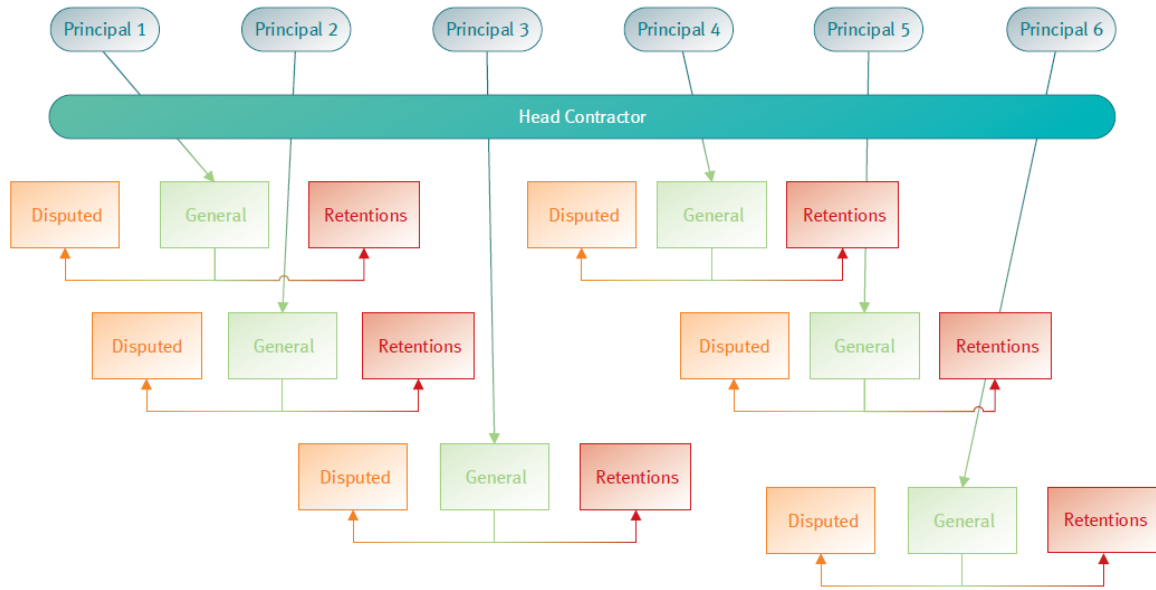
The Review Report made 20 recommended amendments to the BIF Act, all of which have been accepted by the State Government, and many are being progressed through the Amendment Bill. The Review Report states that the recommendations can be summarised into three broad themes:

1. Managing the financial transition - to provide the best chance of minimising financial stress as the sector transitions to improved financial viability
2. Simplifying the framework - and in doing so improve the balance between the administrative costs to comply and the need for transparency over the movement of project funds; and
3. Improving protections - by expanding the obligation to hold retentions on trust to all parts of the contracting chain and creating new mechanisms to secure funds in dispute to all claimants.

Pages 85 and 86 of the Review Report provide the diagrams that compare the current structure under the BIF Act and the future proposed structure of Project Bank Accounts based on their recommendations. They are extracted below:

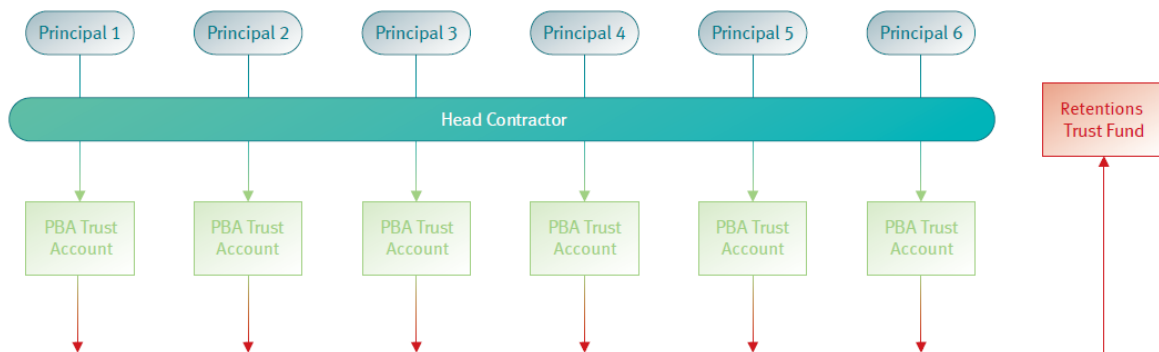
Bank accounts required under current PBA model

Outlines the number of bank accounts required by the Head Contractor under the current PBA model across six PBA projects for the same head contractor.



Bank accounts required under recommended PBA model

Outlines the number of bank accounts required by the Head Contractor under the recommended PBA model across six PBA projects for the same contractor.



The Review Report recommends phasing in of the amended structure for Project Bank Accounts over time. It is recommended that Queensland Government contracts commence 2 months after passing of the amendment Bill (anticipated to commence 1 July 2020). The amendments will see Project Bank Accounts required for all building Contracts over \$10 million in July 2021, then after 1 January 2022 it will apply to contracts worth \$3 million. Lastly, from July 2022 the contract value be reduced to \$1 million and Project Bank Accounts will apply to all building contracts over \$1 million.

Security of Payment Legislation and Council

Project Bank Accounts are only one part of the solution to help protect subcontractors from the effects of insolvency of a Head Contractor.

A Building Contract is defined in the BIF Act, but generally refers to a Contract where 50% of the contract price is for building work which includes erecting or constructing a building, or renovating, altering, extending or improving an existing building and related works. Under the legislation, Project Bank Accounts are required for Building Contracts over the value of \$1 million (once fully implemented).

Council enters into on average 35 contracts over the value of \$1 million per annum, with approximately 5 of those being contracts that would be considered building Contracts to which Project Bank Accounts would apply.

What would be required of Council?

Regardless of the timing of implementation, Council will be required to implement Project Bank Accounts in accordance with the legislation. Some preliminary assessments of what Council would be required to do are as follows:

1. Have a process put in place to ensure all Contracts that are building Contracts as defined by the BIF Act are able to be identified
2. Ensure that the Tender documentation and Contract documentation reflect that they are contracts to which a Project Bank Account is required
3. Amend the Accounts Payable Creditor processes and controls to have multiple Creditor records for the same entity, each with a separate bank account
4. Ensure that Council's procure to pay processes details how to ensure Contract payments are made to the relevant Creditor record that is attached to the Project Bank Account for that Contract, rather than that Creditor's standard bank account or for a separate Project Bank Account
5. Understand any requirements of the legislation for the Head Contractor to provide details of its subcontracts

These changes are certainly achievable for Council but require formal amendment of policy, procedures and processes, and training and education programs for Contract Administrators.

There would need to be an Implementation Plan developed to guide and inform all stakeholders through and post the adoption process.

What would be required of Contractors?

The Review Report identifies that the legislation has a fairly significant impost on Head Contractors in complying with the Project Bank Account requirements under the BIF Act. This contributes to the recommendations for a staged roll out of Project Bank Accounts across the industry to ensure the industry has sufficient time to have the cash flow and asset liquidity to sustain the changed way in which they must operate their businesses. Further it was identified that Project Bank Accounts come with a high administrative burden which Contractors would need to be able to accommodate.

Head Contractors would be required to maintain separate Project Bank Accounts for each project they are undertaking for which a Project Bank Account is required, as well as maintaining their standard operating bank accounts. This means they will have to administer multiple bank accounts at any one time. These bank accounts would need to be established and their financial systems able to cope with the new requirements. Access to these accounts will need to be provided to the authority with oversight, which under the Amended Legislation is proposed to be the QBCC.

Implementation of Project Bank Accounts at possible timings

Council has considered introduction of the Project Bank Accounts, in three timings. They are:

- Immediately, being prior to forthcoming legislative amendments ('Immediate Implementation')
- After the legislative amendments come into effect (July 2020), but prior to requirements of Council's to comply with the legislation ('Post legislative amendments')

- From when the legislation will be applied to Councils (July 2021) ('When legislation applies to Councils')

Information regarding the effect of each of those timings is below:

Immediate Implementation

The current BIF Act allows those other than the State Government to opt into Project Bank Accounts early and prior to the requirement for them to do so under the BIF Act. If Council was to elect to opt in early, it would be requiring its Head Contractors to comply with the current Project Bank Account framework under the un-amended BIF Act. This could be achieved, if Council was to opt in now.

From that point, any Head Contractors would have to immediately prepare their businesses to manage the requirements, and then at a date in the future, change those processes to comply with the amended BIF Act requirements.

The Review Report identifies a number of in-efficiencies and limitations in the current framework and substantial alteration to the structure of the Project Bank Accounts are coming with the amendments.

The Review Report also states that "Effective management of this financial transition is essential to the success of the reforms. Destabilisation of the sector through Head Contractor stress or failure will not be good for Head Contractors, subcontractors or the community as a whole. Accordingly, we have made a recommendation there be three further phases to the introduction of the PBA reforms."

Immediate implementation is the most challenging of the three timings for introduction because within a short period following that implementation, there will undoubtedly be changes brought about by the legislative amendments. At present there is a level of uncertainty over exactly what will be required until the amendments to the legislation in the Amendment Bill have been proclaimed.

Post legislative amendments

Council could seek to implement Project Bank Accounts after the Amendment of the BIF Act, (but prior to the requirement for Councils to adopt). At this point, the obligations of the legislation, will be clearer and the later timing would allow a greater deal of stakeholder engagement. This would ensure the relevant industry, including both contractors and subcontractors were aware and engaged, prior to taking on the requirements.

The amended legislation is anticipated to commence on 1 July 2020 and apply to State Government contracts over \$3 million on or about September 2020. If Council will to proceed with this option, alignment with the legislative implementation for the State of Queensland would allow some consistency of timing with the legislation.

When legislation applies to Council

It is currently anticipated the legislation will be applied to Councils from July 2021 for Contracts over \$10 million. At this point the obligations of the legislation will be perfectly clear and Councils will have the benefit of considering implications of the legislation from State Government contracts.

Implementation at this timing will also be expected and far more accepted by Head Contractors, many of whom will have had experience with the new system.

This will then see contracts over \$3 million having Project Bank Accounts from January 2022 and this expanding to contracts over \$1 million by July 2022 as required by the legislation.

Current Measures to assist Council with ensuring financial stability of its Contractors

Council's Strategic Contracting Framework comprises of the following:

- Procurement Policy

- Contract Manual
- Contracting Plan and associated Guidelines.
- Significant Contracting Plans.

The Contract Manual details the process for how Council will go about its Contracting, and has requirements in relation to evaluation and financial assessments and external financial checks for Contractors, as well as Contract Management of any contracts once in place.

These measures include:

1. Evaluation of Contractors submissions including their capability and experience to carry out and sustain contracts, as well as financial assessment of information for certain high value or high risk Contracts.
2. Procurement express checks detailing company information and publicly available information with an assessment of the contractor on a scale of 1 (Highly Vulnerable) to 10 (Very Strong).
3. Contract management including payment claim processes and requirements for statutory declarations to be provided by Head Contractors evidencing payment of their subcontractor and employees.

Additional Measures that Council could implement in the interim

Rather than implementing Project Bank Accounts ahead of the legislation that will require them, Council has moved to implement additional measures to assist in identifying financial stress or risk such as:

1. drafting contract clauses and/or amendments for inclusion in Council's contracts to:
 - a. give Council the right or power to review subcontracts to ensure compliance with the *Building Industry Fairness (Security of Payment) Act 2017* (Qld) (**BIF Act**);
 - b. impose baseline payment terms for head contractor payment of subcontractors, and allow for the review of subcontracts to ensure compliance by head contractors;
 - c. provide greater security of payment to subcontractors in light of the BIF Act; and
 - d. in limited circumstances, allow for payment directly to subcontractors in compliance with the BIF Act.
2. drafting amendments to contracts in relation to insolvency events by head contractors. This is about dealing with the difficulties that we often identify with the operation of some clauses in contracts (several of which specifically relate to contractor insolvency), including for example:
 - a. the inability under the amended AS2124 contract to terminate the contract when a contractor enters liquidation (often a Council will only have a right to take the work out of the Contractor's hands);
 - b. lack of detail and lack of consistency between the AS2124 and AS4902 contracts around Council's rights to set-off anticipated claims against the contractor; and
 - c. lack of survival clauses defining what contract clauses survive termination of the contracts
3. introduction of Subcontractor Register - requirements for the register to be incorporated into Tender and Contract documentation. This would see the completed register being created and supplied by the Head Contractor as part of package of other construction management plans. At the time of progress payment, an updated version must be included to enable Council to fully understanding the subcontractor relationships on an ongoing basis.

4. Statutory Declarations – seek improved and stronger wording and referral where there is a reasonable belief that declarations may be false. Seek greater transparency regarding Head Contractor and subcontractor relationships and payments through requiring a list of all payments to contractors / suppliers for the period to date at time of the payment claim.

Legal

External legal advice has been sought regarding Project Bank Accounts generally and the amendments to the BIF Act.

Policy

Procurement Policy and Strategic Contract Framework will be updated to:

- provide for the processes required to effect the changes required by the BIF Act due to the introduction of Project Bank Accounts; and
- incorporate the additional measures into future processes until the BIF Act takes effect and brings about implementation of the Project Bank Accounts.

Risk

No specific risks are identified in relation to the Officer Recommendation.

An immediate implementation or implementation post legislative amendment will see the following additional risks:

- High financial risks relating to Head Contractors being unable to sustain project bank accounts due to have insufficient time to prepare their business structure to cope with the additional requirements
- Medium compliance risks relating to inability of Head Contractors to properly comply with the requirements. Also in the case of an immediate implementation the inability of financial institutions to comply with the provision of relevant accounts or Council being unable to comply with oversight requirements due to the limitations identified in the Review Report
- Medium reputational risks due to the disruption or inconvenience caused to the building sector of the community.

Previous Council Resolution

Ordinary Meeting 20 February 2020 (OM20/34)

That the Chief Executive Officer bring a report to the May 2020 Ordinary Council meeting regarding the establishment of project bank/trust accounts for contractors engaged to work for, or on behalf of Council. The process will require the setting up of trust accounts where funds are held in trust for head contractors and subcontractors, until payments are due as part of a building or construction project being undertaken by the Sunshine Coast Council.

Related Documentation

Building Industry Fairness (Security of Payment) Act 2017 (Qld)

Building Industry Fairness (Security of Payment) Bill 2020

The Murray Report – Review of Security of Payment Laws; J Murray AM, December 2017

https://www.ag.gov.au/industrial-relations/industrial-relations-publications/Documents/review_of_security_of_payment_laws_-_final_report_published.pdf

Building Fairness: An Evaluation of Queensland's Building Industry Fairness Reforms: Report of the Building Industry Fairness Reforms Implementation and Evaluation Panel pursuant to section 200A of the *Building Industry Fairness (Security of Payment) Act 2017*

https://www.hpw.qld.gov.au/_data/assets/pdf_file/0011/9200/buildingindustryfairnessreforms.pdf

Critical Dates

Application of the BIF Act to contracting by Local Governments is likely to take effect from 1 July 2021.

Implementation

It is recommended that the following directions be given to the Chief Executive Officer:

- Implement Project Bank Accounts in Council's contracting activities in accordance with the *Building Industry Fairness (Security of Payment) Act 2017* (Qld) as amended.
- Implement in Council's Strategic Contracting Framework any proposed additional measures detailed in this Report regarding security of payment in Council contracting.

9 NOTIFIED MOTIONS**10 TABLING OF PETITIONS**

Petitions only eligible for submission if:

- * Legible
- * Have purpose of the petition on top of each page
- * Contain at least 10 signatures
- * Motion limited to:
 - Petition received and referred to a future meeting
 - Petition received and referred to the Chief Executive Officer for report and consideration of recommendation
 - Petition not be received

11 CONFIDENTIAL SESSION

12 NEXT MEETING

The next Ordinary Meeting will be held on 25 June 2020.

13 MEETING CLOSURE