

**ITEM 7 ILLAWARRA PERFORMING ARTS CENTRE LIMITED FUNDING AGREEMENT**

Council currently has a Funding and Service Level Agreement with the Illawarra Performing Arts Centre Limited (IPAC), for the period 1 January 2018 to 31 December 2021 (existing Agreement).

The existing Agreement includes provision for the management and operation of the Illawarra Performing Arts Centre (Centre), Wollongong Town Hall (Town Hall) and includes a license to enable the operation of Outdoor Dining. It sets out the level of funding and other support provided by Council to IPAC and the services to be provided by IPAC. The Agreement also includes performance levels and reporting requirements.

Council has reviewed the existing Agreement and proposes renewal for the period 1 January 2022 to 31 December 2025. Amendments are proposed to the level of Town Hall funding, Key Performance Indicators and Council's in-kind support.

This report seeks endorsement of the next steps toward finalisation and implementation of the new Funding and Service Level Agreement for 1 January 2022 to 31 December 2025 (New Agreement).

### RECOMMENDATION

- 1 In accordance with section 55(3) of the *Local Government Act 1993*, Council resolves that due to the following extenuating circumstances:
  - (i) the ability to maximise Council's investment in the Arts Precinct through the continued integration of the management of the Town Hall facilities/program with that of the Centre
  - (ii) the achievement of economies of scale through centralised administrative functions and greater operational flexibility between the venues
  - (iii) the ongoing annual funding and in-kind support provided by Council to IPAC to provide the Centre and Town Hall programs; and
  - (iv) the impracticality for scheduling purposes and securing/programming performances,A satisfactory result would not be achieved by:
  - (a) inviting tenders for the services provided by the Illawarra Performing Arts Centre Limited (IPAC); and
  - (b) IPAC or Council inviting tenders (as may be required by Section 55 of the *Local Government Act 1993* as outlined in this report) for contracts for the purpose of programming productions and performances at the Centre or the Town Hall during the term of the New Agreement.
- 2 Council enter into the New Agreement with IPAC for the period from 1 January 2022 to 31 December 2025 including the licences for the Centre and Town Hall contained in Schedules 4 and 5.
- 3 Council delegate the finalisation of the New Agreement with IPAC for the period of 1 January 2022 to 31 December 2025 to the General Manager, subject to the funding arrangements not exceeding the current adopted budget.

### REPORT AUTHORISATIONS

Report of: Sue Savage, Manager Community Cultural + Economic Development  
Authorised by: Kerry Hunt, Director Community Services - Creative and Innovative City

### ATTACHMENTS

There are no attachments for this report.

## BACKGROUND

Council continues to focus on establishing and developing the Arts Precinct (Precinct) as an identifiable destination for arts, culture and community events in the city. The integration of the Art Gallery, Town Hall, IPAC, Library and public space (including laneways) is an important element in the activation of the Precinct and maximisation of Council's investment.

Since IPAC's inception in 1987, Council has provided funding and support for the provision of services that contribute to the development of the cultural economy and cultural life of the City. As part of a review of the arrangements between IPAC and Council, the IPAC Constitution was amended in 2012 to reflect the strong relationship Council has with IPAC and to enhance IPAC's governance arrangements. At that time, the Funding and Service Level Agreement with IPAC for the Centre operation was renewed for a five year period to 31 December 2017. This was followed in June 2014, with Council entering into a concurrent Venue Management and Licence Agreement with IPAC for the Wollongong Town Hall, to 31 December 2017.

The centralising of the management functions for both the Town Hall and the Centre allowed for an integrated approach to the development of the strategic direction for these two cultural venues. Economies of scale were achieved through centralised administrative functions such as ticketing, financial administration and staffing, as well as greater operational flexibility between venues.

On this basis the existing Agreement and licences were reviewed and replaced with a new Funding and Service Level Agreement with IPAC, for both the Centre and Town Hall for the period 1 January 2018 to 31 December 2021, with an outdoor dining licence for the Café included as a schedule to the Agreement.

## PROPOSAL

This report proposes to progress the renewal of the Funding and Service Level Agreement between Council and IPAC for the period 1 January 2022 to 31 December 2025 and for Council to endorse the recommendations.

The current Funding and Service Level Agreement (existing Agreement) between Council and IPAC has been reviewed. The new Agreement will contain substantially the same terms as the existing Agreement with amendments to Key Performance Indicators, in-kind support and increases in base funding. Accordingly, the New Agreement will continue to align with IPAC's Constitution and Strategic Plan and Council's Community Strategic Plan Wollongong 2028.

IPAC is a key contributor toward delivering and supporting a number of our Community Goals in Wollongong 2028, which include:

- Community Goal 2 – We have an innovative and sustainable economy
- Community Goal 3 – Wollongong is a creative, vibrant city
- Community Goal 4 – We are a connected and engaged community
- Community Goal 5 – We have a healthy community in a liveable city.

As the proposed Funding and Service Level Agreement between Council and IPAC constitutes a 'contract', it is therefore necessary to consider Section 55 (Tendering) of the *Local Government Act* 1993. Generally, Section 55 requires Council to invite tenders for any contract involving an estimated expenditure or receipt of an amount of more than \$150,000. However, Section 55(3)(i) provides that the requirement does not apply to contracts where:

*'because of extenuating circumstance, remoteness of locality or the unavailability of competitive or reliable tenderers, a Council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders'.*

Due to the extenuating circumstances relating to the current arrangements Council has in place with IPAC, including the ongoing annual funding and in-kind support provided by Council to IPAC to provide the Centre and Town Hall programs, the achievement of economies of scale due to centralised

administration, scheduling and the securing of programs/performances and the ability to maximise Council’s investment in the Arts Precinct through the integration of the management of the Town Hall and Centre facilities and program, it is considered a satisfactory result would not be achieved by inviting tenders for the services conducted by IPAC.

Section 55 (Tendering) of the *Local Government Act* 1993 also applies to Council related entities. This provision would require IPAC to refer proposed contracts for expenditure over \$150,000 to Council (or such other amount as prescribed by the regulations from time to time). It is acknowledged it would be impractical for IPAC in preparing its schedule and programming performances to refer individual productions or programs to Council. To maintain IPAC’s flexibility and independence in programming, it is recommended that due to the ‘extenuating circumstances’ exemption of Section 55, IPAC be allowed to enter into agreements for expenditure over \$150,000 for performances and productions during the period of the New Agreement without being required to conduct a tender process.

The New Agreement will be for a period of four years (1 January 2022 to 31 December 2025) to align with IPAC’s current Strategic Plan.

While the Centre’s financial and in-kind support components will remain essentially the same, other than to bring dollar amounts in line with the Consumer Price Index, the Town Hall base funding rate will be increased by \$60,000 per annum and is identified in the New Agreement. This additional funding is to be utilised for the Town Hall in light of its operational requirements as both a community and commercial venue. This will result in total financial support of \$736,594.00 for the IPAC and \$485,778.00 for the Town Hall (both GST exclusive) per annum as the baseline for 2022. Base funding amounts will be adjusted each July in accordance with the movement of the Consumer Price Index for Sydney (All Groups) during the immediately preceding year and paid in two equal instalments in January and July of each year for the duration of the Agreement.

The subsidy of \$20,000 per annum (GST exclusive) to support the community use of the Town Hall will continue under the New Agreement. This will continue to be administered by IPAC. In-kind services in the areas of graphic design, print service and signage will be provided, with Service Levels updated under the New Agreement. The current provision of a standard motor vehicle for the use of the IPAC Director as per Council’s Vehicle Management - Management Policy will remain.

### CONSULTATION AND COMMUNICATION

Over the past several months consultation has taken place with representatives of IPAC staff and Board members and Council. Council’s Legal Team, Property and Recreation Division, Facilities Controller CBD Assets and Community, Cultural & Economic Development Division have been involved in the process.

### PLANNING AND POLICY IMPACT

This report contributes to the delivery of Wollongong 2028 Goal 3 “Wollongong is a creative, vibrant city”. It specifically delivers on the following:

Community Strategic Plan	Delivery Program 2018-2022	Annual Plan 2020-21
Strategy	5 Year Action	Annual Deliverables
3.1.2 Opportunities for artists and innovators are provided and celebrated	3.1.2.2 Provide opportunities for local artists and performers to exhibit, promote and perform at Council venues and events	Manage the Merrigong funding agreement for IPAC and the Town Hall
3.2.2 The arts precinct in the heart of the city is consolidated and further enhanced	3.2.2.1 Coordinate an integrated approach to infrastructure improvement and service delivery in the Arts Precinct	Develop improvements in the Arts Precinct within the context of the Arts Precinct Concept Design

## RISK MANAGEMENT

The New Funding and Service Level Agreement will continue to mitigate against the financial and business risk posed to Council through its relationship with IPAC by stipulating funding amounts and operating and reporting requirements.

## FINANCIAL IMPLICATIONS

The financial impact of the new Funding and Service Level Agreement will not exceed the current adopted budget.

## CONCLUSION

The renewed Funding and Service Level Agreement will facilitate Council's strategic, financial and operational planning and accountability. It will maintain clear parameters for Council's ongoing support for IPAC and ensure it is fully informed of the level of support to be provided over the coming four years for both the Centre and Town Hall venues. In addition, the renewed Funding and Service Level Agreement will allow IPAC to undertake pre-planning and make a commitment as part of its operational requirements to secure and deliver an annual program of events that contribute to the development of the cultural economy and cultural life of the city.

**ITEM 8 LEAVE OF ABSENCE - COUNCILLOR DORAHY - MONDAY 31 MAY 2021**

Councillor Dorahy has requested a leave of absence on Monday 31 May 2021 due to leave commitments.

**RECOMMENDATION**

A Leave of Absence be granted to Councillor Dorahy on Monday 31 May 2021 which includes a Council meeting being held on this day.

**REPORT AUTHORISATIONS**

Report of: Todd Hopwood, Manager Governance and Customer Service  
Authorised by: Renee Campbell, Director Corporate Services - Connected + Engaged City

**ATTACHMENTS**

There are no attachments for this report.