

**ITEM 1 ILLAWARRA PERFORMING ARTS CENTRE LTD FUNDING AND SERVICES AGREEMENT RENEWAL**

Council currently has a Funding and Service Level Agreement with the Illawarra Performing Arts Centre Ltd (IPAC), for the period 1 January 2022 to 31 December 2025 (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 licence 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 Existing Agreement also includes performance levels and reporting requirements.

Council has reviewed the Existing Agreement and proposes renewal for the period 1 January 2026 to 31 December 2031. Minor amendments are proposed to the program performance measures 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 the period 1 January 2026 to 31 December 2031 (New Agreement).

### RECOMMENDATION

Council endorse the Illawarra Performing Arts Centre Ltd Funding and Services Agreement 1 January 2026 – 31 December 2031 under the following provisions:

- 1 In accordance with section 55(3) of the *Local Government Act 1993*, Council resolves that, due to the following extenuating circumstances:
  - (i) the achievement of economies of scale through centralised administrative functions and greater operational flexibility between the venues
  - (ii) the ongoing annual funding and in-kind support provided by Council to Illawarra Performing Arts Centre Ltd (IPAC) to provide the Centre and Town Hall programs; and
  - (iii) 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 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 2026 to 31 December 2031 including the licences for the Centre and Town Hall.
- 3 Council delegate the finalisation and execution of the New Agreement with IPAC for the period of 1 January 2026 to 31 December 2031 to the General Manager.

### REPORT AUTHORISATIONS

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

### ATTACHMENTS

There are no attachments for this report.

### BACKGROUND

Council's Community Strategic Plan makes provision for activity that enables creative industries to foster and thrive through Goal 3 'Wollongong is a creative, vibrant city'.

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's 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 Town Hall, to 31 December 2017. Both agreements were renewed for the period 1 January 2018 to 31 December 2021. A single Funding and Service Level Agreement with IPAC for both the Centre and Town Hall was entered into for the period 1 January 2022 to 31 December 2025. The New Agreement proposes a six year term from 1 January 2026 to 31 December 2031 capturing operation of both the Centre and Town Hall.

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

## PROPOSAL

This report proposes to progress the renewal of the Funding and Service Level Agreement between Council and IPAC for the period 1 January 2026 to 31 December 2031 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 minor amendments to key performance indicators, Council's in-kind support and Consumer Price Index (CPI) increases in base funding. The new agreement will continue to align with IPAC's Constitution and Strategic Plan and Council's Community Strategic Plan Wollongong 2032.

As the proposed Funding and Service Level Agreement between Council and IPAC constitutes a 'contract', it is necessary to consider section 55 (Tendering) of the *Local Government Act 1993*. Generally, section 55 of the *Local Government Act 1993* requires Council to invite tenders for any contract involving an estimated expenditure or receipt of an amount of more than \$250,000. However, section 55(3)(i) of the *Local Government Act 1993* 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 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 \$250,000 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 of the *Local Government Act 1993*, IPAC be allowed to enter into agreements for expenditure over \$250,000 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 six years (1 January 2026 to 31 December 2031).

The financial and in-kind support components will essentially remain the same, other than to bring dollar amounts in line with the CPI. This will result in financial support (Base Grant Amount) of \$858,244.66 for the Centre and \$566,005.66 for the Town Hall (both GST exclusive) per annum plus the July 2025 annual CPI increases included in the contract. The Base Grant Amount amounts will be further adjusted

each July in accordance with the 12-month movement of the preceding March CPI for Sydney (All Groups). Payments will be made in two instalments in January and July of each year for the duration of the New 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. Council's in-kind support 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 Artistic Director/ CEO as per Council's Vehicle Management - Management Policy will remain.

## CONSULTATION AND COMMUNICATION

Council's Legal Team has reviewed the existing agreement and the provisions under which it is proposed the report goes to Council for endorsement. Property and Recreation Division, Finance Division, Facilities Controller CBD Assets and Community, Culture + Engagement Division have been involved in the renewal process and IPAC representatives have been consulted throughout the process.

## PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2032 Goal 3 - 'Wollongong is a creative, vibrant city'. It specifically delivers on core business activities as detailed in the Cultural Services Business Plan.

## SUSTAINABILITY IMPLICATIONS

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

## RISK MANAGEMENT

The New 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.

Any future infrastructure works and their possible financial impacts, such as the Town Hall HVAC works and facility shutdown proposed for 2026/ 2027, will be considered under a separate agreement.

## FINANCIAL IMPLICATIONS

The financial impact of the New Agreement will not exceed the current adopted budget.

## CONCLUSION

The New 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 six years for both the Centre and Town Hall venues. In addition, the New 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.