

## Ordinary Meeting

**Meeting Date:** Tuesday, 31 January, 2017  
**Location:** Council Chambers, City Administrative Building, Bridge Road, Nowra  
**Time:** 5:00pm

**Membership** (Quorum - 7)  
All Councillors

**Please note:** Council's Code of Meeting Practice permits the electronic recording and broadcast of the proceedings of meetings of the Council which are open to the public. Your attendance at this meeting is taken as consent to the possibility that your image and/or voice may be recorded and broadcast to the public.

## Agenda

1. **Acknowledgement of Traditional Custodians**
2. **Opening Prayer**
3. **Australian National Anthem**
4. **Apologies / Leave of Absence**
5. **Confirmation of Minutes**
  - Ordinary Meeting - 20 December 2016
6. **Declarations of Interest**
7. **Presentation of Petitions**
8. **Mayoral Minute**
9. **Deputations and Presentations**
10. **Notices of Motion / Questions on Notice**

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### Committee Reports

<u>CCL17.1</u>	<u>Report of the Strategy &amp; Assets Committee - 24 January 2017</u>	
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CSA17.1 Tenders – Ison Park Football Complex Amenities Building

*Local Government Act - Section 10A(2)(d)(i) - Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.*

*There is a public interest consideration against disclosure of information as disclosure of the information could reasonably expected to reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests.*

CSA17.2 Request to waive interest charges

*Local Government Act - Section 10A(2)(b) - Discussion in relation to the personal hardship of a resident or ratepayer.*

*There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal an individual's personal information or contravene an information protection principle under the Privacy and Personal Information Protection Act 1998 or a Health Privacy Principle under the Health Records and Information Privacy Act 2002.*

Reports

CCL17.2 Tenders – Burrier, Wattamolla, Foremans, Green Valley and Kangaroo Valley Roads Landslip Repairs

*Local Government Act - Section 10A(2)(d)(i) - Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.*

*There is a public interest consideration against disclosure of information as disclosure of the information could reasonably expected to reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests.*

CCL17.3 Tenders – TM27 Lake Tabourie Watermain Replacement

*Local Government Act - Section 10A(2)(d)(i) - Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.*

*There is a public interest consideration against disclosure of information as disclosure of the information could reasonably expected to reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests.*

## **CL17.1      Rescission Motion - CL16.126 - Bomaderry Nowra Regional Sports & Community Precinct Master Plan**

**HPERM Ref:**      D16/401464

**Submitted by:**    Clr Mitchell Pakes  
                          Clr Bob Proudfoot  
                          Clr Mark Kitchener

### **Purpose / Summary**

The following Rescission Motion, of which due notice has been given, is submitted for Council's consideration.

### **Recommendation**

That Council rescind the Motion relating to Item CL16.126 of the Council Meeting held on 20 December 2016.

### **Background**

The following resolution was adopted at the Ordinary Meeting held Tuesday 20 December 2016 (MIN16.987).

*That:*

1. *Council finalise and adopt the draft Bomaderry Nowra Regional Sports & Community Precinct Master Plan with the following amendment and minor amendments in the submissions table:
  - a. *Allocate funds as outlined below to redesign the Master Plan to:
    - i. *Allow for the addition of small amenities buildings at the cricket/AFL field, athletics track and rugby league field to include, equipment storage, kiosk and meeting space*
    - ii. *Include a new 25m pool designed to meet FINA requirements for competitions for Regional and State events***
2. *Council consider allocation of \$100,000 in the 2017/18 budget to undertake further studies to progress towards detailed design including traffic studies.*
3. *Council allocate funds in the 2017/18 and 2018/19 budgets for the construction of a four (4) court croquet facility in the Bomaderry Nowra Regional Sports & Community Precinct in the location indicated in the report.*
4. *The relocation of the Nowra Croquet Club align with the overall construction program for the Shoalhaven Indoor Sports Centre.*
5. *Council continue to liaise with Shoalhaven Canoe & Kayak Club on aquatic facility locations for play / storage requirements.*
6. *Council receive a report in the first quarter of 2018 outlining more details on staging, costings and possible funding sources.*

7. *Council seek grant funding to develop Bomaderry Nowra Regional Sports & Community Precinct after detailed design has been undertaken.*
8. *Council continue to work with the various sport and user groups to seek possible partnership funding for relevant aspects of the precinct.*
9. *Council continue to liaise with affected property owners being 109, 111, 111A and 113 Cambewarra Road, Bomaderry, and report back to council on the owners current position.*
10. *Advise submitters, CCBs, community and sports groups of the resolution of this meeting.*

## **CL17.2 Notice of Motion - Bishop Drive - Mollymook**

**HPERM Ref:** D17/7475

**Submitted by:** Cllr Mark Kitchener

### **Purpose / Summary**

The following Notice of Motion, of which due notice has been given, is submitted for Council's consideration.

### **Recommendation**

That Council include in the 2017/2018 budget an allocation of money to seal 150 metres of Bishop Drive Mollymook.

### **Background**

Several Mollymook residents have made representations to councillors concerning what they consider to be the appalling condition of Bishop Drive Mollymook. The increased number of motorists and truck movements using Bishop Drive has raised community concerns regarding pedestrian safety.

An inspection of the unsealed section of Bishop Drive reveals this road takes a significant amount of road traffic on a daily basis. This traffic is composed of both cars and heavy-duty commercial vehicles accessing the Garden Centre. There is a continuous flow of traffic including heavy B double commercial vehicles with 8.8m long or higher axle loads.

This section of Bishop Drive is manifestly unsuited to take this volume of traffic because of being extremely narrow with a poorly maintained unsealed surface. It is approximately 150 metres long, single width lane with a gradient of 15-20% and no storm water drainage. There is high storm water runoff leading to ongoing significant and hazardous pothole damage.

The upshot of this steady flow of traffic and poor surface condition is to jeopardize in particular the lives of children who need to walk along this road to access school buses as well as the general public accessing both private dwellings and businesses.

This section of Bishop Drive presents motoring and pedestrian hazards and poses a risk to the public and significant risk exposure for council.

Therefore to address the evident failings of Bishop Drive an additional capital funding allocation is required. Residents therefore request support for the sealing of this small but heavily used 150 metre section of road as a matter of priority.

### **Note by the Acting General Manager**

The January 2016 traffic count on the unsealed section of Bishops Drive recorded up to 145 vehicles per day using this section of road. Due to the increased traffic volumes the 150 metre unsealed section of Bishops Drive is to be reviewed and considered against other City priorities for reconstruction and bitumen sealing, in the Capital Works program for 2017/18. Council staff will also determine if signage is required to address the road safety concerns.

## **CL17.3 Notice of Motion - Canine Parvovirus - Pop Up Vaccination Clinic**

**HPERM Ref:** D17/14128

**Submitted by:** Cllr Joanna Gash

### **Purpose / Summary**

The following Notice of Motion, of which due notice has been given, is submitted for Council's consideration.

### **Recommendation**

That Council:

1. Write a letter of thanks to the Bomaderry Veterinary Hospital and other organisers of the recent Canine Parvovirus Vaccination Clinic.
2. Thank Council staff that were involved in organising the clinic.

### **Background**

On Wednesday 11 January 2017 the Veterinary hospitals in the Nowra area conducted a Canine Parvovirus Pop-up Vaccination Clinic at Lyrebird Park. I have received a number of phone calls from members of the public and participating vets thanking Council for helping organise the event. Some of the calls made special mention of how helpful Council staff were. There were 640 dogs who received their injections.

## **CL17.4 Notice of Motion - Confidential Meeting**

**HPERM Ref:** D17/14746

**Submitted by:** Cllr Joanna Gash

### **Purpose / Summary**

The following Notice of Motion, of which due notice has been given, is submitted for Council's consideration.

### **Recommendation**

That the General Manager be requested to provide ALL councillors with the information that was provided at that meeting, including the slide presentation.

### **Background**

There was a Special confidential meeting held at council on Tuesday 10 January 2017 between Mr. Mark Crowther, the Acting General Manager Tim Fletcher and certain councillors.

This meeting was held whilst there was no council business during January and many councillors were not present. This meeting was said to be confidential, yet details were provided on media outlets the next day. In order for those not present at the meeting, myself included, I ask that all the facts are now presented, as I understand there are only certain councillors who have been receiving emails in relation to this issue.

## **CL17.5 Notice of Motion - Mollymook Beach Reserve - Footpath - Dogs on Leads - Access on Pathway**

**HPERM Ref:** D17/15435

**Submitted by:** Cllr Patricia White

### **Purpose / Summary**

The following Notice of Motion, of which due notice has been given, is submitted for Council's consideration.

### **Recommendation**

That Council

1. Alter the existing dog's policy to allow access on the pathway within Mollymook Beach Reserve area from Blackwattle Creek till the Mollymook Beach Golf Club for dogs on leads only.
2. Remove the existing signs and replace the signs with Dogs must be on lead on pathway.
3. Review the dog access in this area as part of the dog policy review.

### **Background**

Council has received a 15 page electronic petition containing 479 signatures supporting dogs on leads to have access to walk on the footpath area in Mollymook Beach Reserve from Blackwattle Creek to Mollymook Beach Golf Club. This is the only public concrete footpath in this area and used by hundreds of residents and tourists with their dogs.

Council's current dog policy identifies this area as "No dogs" however, prior to Christmas 2016 there were no signs to indicate this. During the years many dogs have walked in this area with their owners.

Just prior to Christmas signs were placed in the carpark area of Mollymook Beach Reserve stating "no dog area". There was no public consultation or notification regarding the placement of signs I am aware of.

Council Rangers monitored the situation during this Christmas break and made people aware of the signs and "no dog policy". Residents and Tourists became angry and annoyed at Council with the changes, especially with no notification, and started the petition.

Residents and visitors are most annoyed, as per comments on petition, with the fact that Council expects young families with dogs, elderly people with dogs and tourists with dogs to walk on busy Mitchell Parade where there is no concrete paths when there is a perfectly constructed footpath through the reserve area.

As the signs have now been placed in the reserve area, there needs to be a small alteration to the dog's policy to clarify that dogs on leads are able to be walked in this footpath area, as they have been allowed to do for many years.

The Council dog's Policy was due for review in December 2016 and as previously advised to Council staff are determining the structure of the review.

## **CL17.6 Notice of Motion - Donation Request - Nowra Family Support Service - Swimming Lessons**

**HPERM Ref:** D17/22098

**Submitted by:** Cllr Nina Cheyne  
Cllr John Wells

### **Purpose / Summary**

The following Notice of Motion, of which due notice has been given, is submitted for Council's consideration.

### **Recommendation**

That Council

1. Express its support for the Australian Water Safety Strategy goal of reducing drownings by 50per cent by 2020
2. Supports the right of every Australian child to access a learn to swim program, irrespective of their family's economic status
3. Considers supporting the Nowra Family Support Services fundraising campaign to assist local families in providing learn to swim classes for their children.

### **Background**

The Nowra Family Support Service has written to Council seeking support for their fundraising campaign to raise funds for children of disadvantaged families who are accessing our service. As you are no doubt aware, Nowra Family Support Service Inc. is both an incorporated association and a charity which operates solely in the Shoalhaven Local Government area. Their main office is located in East Nowra, while their Outreach Service is located in Ulladulla.

Over quite a long period of time, the Service has become aware that for families who are unemployed, living on a single parent pension, or just on a low income, the cost of swimming lessons is prohibitive. In recent months the Service has become aware of the high number of deaths and near deaths from drowning. In the period from the 1st July 2015 to 30 June 2016, 280 people drowned in Australian waterways. As has been evidenced by recent drownings, this number is likely to increase in the next year.

Nowra Family Support has a strong belief that all Australian children, regardless of their parent's economic status, have a right to learn to swim. It is vital that the Shoalhaven, with its abundant waterways, rivers and beaches, recognises the need for the community to be committed to preventative action to ensure that children are being taught to swim to survive.

Unfortunately, in the past, where most schools offered their students an opportunity to learn to swim, this no longer happens with some schools opting out of this program, due to other commitments.

Therefore, Nowra Family Support Service is launching a fundraising campaign to assist its families in paying for learn to swim classes. On average, the cost per term is around \$140. For one year, the Service needs to raise \$560 per child.

Nowra Family Support is canvassing sponsors – individuals, business and retail establishments to offer 1 term or 1 year scholarships. It is absolutely essential that the local community take ownership of this issue which can have a major devastating effect on families who lose loved ones as a result of drowning or non-fatal drownings (in this latter situation many do not recover fully). As a charity, any donations of \$2 and over are tax deductible.

A major goal of the Water Safety Strategy 2016-2020 is to reduce drowning deaths by 50% at the end of 2020. The City of Shoalhaven should embrace this goal with a passion, to prove that we are truly committed to making the Shoalhaven a better place to live and play for all the families who reside within its boundaries.

Google Link to National Water Safety Strategy for further information

<http://www.watersafety.com.au/AustralianWaterSafetyStrategy/2016-2020Strategy.aspx>

**Note by the General Manager**

An amount of \$9,530 is available in the 2016/17 Unallocated Donations vote.

## **CL17.7 Notice of Motion - Subdivision Application - Meroo Meadow - C130 Princes Highway**

**HPERM Ref:** D17/16891

**Submitted by:** Cllr Bob Proudfoot

### **Purpose / Summary**

The following Notice of Motion, of which due notice has been given, is submitted for Council's consideration.

### **Recommendation**

That the proposed 37 lot subdivision-C130 Princes Highway Meroo Meadow (SF10541) for Emerald Drive, Meroo Meadow be " called-in " for determination by Council, due to the immense public interest shown.

### **Note by the General Manager**

Council resolved at the Development Committee meeting of 23 January 2017 that:

- 1. All delegations for SF10541 be withdrawn and this matter be reported to council for consideration.*
- 2. A residents briefing meeting be held on the abovementioned application.*
- 3. The time for submissions be extended until the residents briefing meeting can be held.*

Staff are currently acting in accordance with this resolution.

## **CL17.8 Notice of Motion - Social Media Policy**

**HPERM Ref:** D17/14021

**Submitted by:** Cllr Bob Proudfoot

### **Purpose / Summary**

The following Notice of Motion, of which due notice has been given, is submitted for Council's consideration.

### **Recommendation**

That Council undertake a review of its Social Media Policy with a particular focus on identifying how the Mayor and Councillors can responsibly make comments on social media as both a public and a private individual. Possible ramifications leading to Code Of Conduct issues needs to be carefully considered as part of the review.

### **Note by the General Manager**

Staff are undertaking a review of the current Social Media and Online Participation Policy as part of the Policy Review Program.

CL17.8

## **CL17.9 Notice of Motion - Marriage Equality**

**HPERM Ref:** D17/22170

**Submitted by:** Cllr Bob Proudfoot

### **Purpose / Summary**

The following Notice of Motion, of which due notice has been given, is submitted for Council's consideration.

### **Recommendation**

That Shoalhaven City Council joins the growing number of local governments who publicly support marriage equality.

CL17.9

## **CL17.10 Notice of Motion - Collingwood Beach - Vegetation Maintenance**

**HPERM Ref:** D17/22328

**Submitted by:** Cllr Bob Proudfoot

### **Purpose / Summary**

The following Notice of Motion, of which due notice has been given, is submitted for Council's consideration.

### **Recommendation**

That vegetation maintenance on the dunes at Collingwood Beach be attended to as soon as is possible. This includes at the very least, the following:

1. Make completely clear each of the access ways to the beach.
2. Trim vegetation at the junction of each access way and the cycleway so as to allow safety vision.
3. Remove dead vegetation and mulch on site.
4. Remove the majority of the tree destruction signs.

### **Note by the General Manager**

The motion potentially pre-empts some aspects of the proposed Collingwood Beach Dune Vegetation Management Plan. In this regard, following the last resolution of Council on 15 November 2016 staff have arranged two technical workshops with consultants NGH, state agencies and Councillors, scheduled for 16<sup>th</sup> February 2017.

The workshops will focus on the major issues raised by the community during the exhibition of the draft management plan and how best to move forward including gaining the endorsement of the key government agencies.

There are currently 14 beach access tracks along Collingwood Beach. Vegetation maintenance occurs each spring after a risk assessment has identified priority works. The priority has been to focus maintenance on the beach access tracks that align with street access and parking. Additional targeted maintenance can be arranged where public risks are identified. There is a limited budget for these works.

The management of dead vegetation, the issue of vegetation vandalism signs as well as funding options for on-going maintenance are items to be discussed at the upcoming workshop.

CL17.10

## **CL17.11 Notice of Motion - Indian Myna Birds**

**HPERM Ref:** D17/23594

**Submitted by:** Cllr John Levett

### **Purpose / Summary**

The following Notice of Motion, of which due notice has been given, is submitted for Council's consideration.

### **Recommendation**

That the General Manager invite Mr Bill Handke, President of Canberra Indian Myna Action Group, to address Council on the growing problem of Indian Myna birds and to explain the success of CIMAG's trapping program, endorsed by the RSPCA and the ACT Govt, which has reduced this pest from being the 3<sup>rd</sup> most abundant bird in the ACT to the 20<sup>th</sup>.

CL17.11

## **CL17.12 Question on Notice - Signage on Shared Pathways**

**HPERM Ref:** D16/400087

**Submitted by:** Cllr Kaye Gartner

### **Question**

1. What is the council policy on signage for shared pathways?
2. How does this policy protect cyclists using the pathways in commercial areas of the City?

### **Response**

Council does not have a policy on signage of paths per se', signage of paths is addressed in AUSTRROADS Part 6 (a) Pedestrian and Cyclist paths as well as AS1742.9 Bicycle facilities.

For pedestrian safety reasons there are no authorised cycle ways in busy commercial centre areas, these are generally lower speed environments and in the absence of any road reserve for dedicated cycle ways cyclists share the road space in accordance with NSW Road Rules. Cyclists over the age of 12 are prohibited to ride on footpaths unless accompanied by a child under 12. A child under 12 is allowed under NSW Road Rules to ride on footpaths.

## **CL17.13 Question on Notice - Recycling policies**

**HPERM Ref:** D17/23622

**Submitted by:** Clr John Levett

### **Question**

What recycling policy is in place for Council administration buildings and other council buildings and, what recycling policy is in place for commercial premises?

### **Response**

#### Internal Policy

Council facilitates the opportunity for recycling and encourages recycling in the following ways.

- There are general rubbish bins and paper recycling bins that are colour coded and placed in office space. These bins are emptied daily. Waste paper and cardboard is compacted and placed in the paper recycling dumpster for collection.
- At various locations, such as photocopier machines, there are paper recycling bins for collecting waste paper. All paper recycling bins are collected daily.
- There are collection points for the recycling of other materials such as cans, glass etc and they are collected for recycling.
- Specific initiatives operate for the collection and recycling of specific items, such as the replacement of telephone books and toner cartridges.

While no formal recycling policy exists for the Council administration buildings or other Council buildings, Council applies appropriate resources (including staff resources) and opportunities for extensive recycling of recyclable materials.

#### Commercial Premises

There is no formal Council recycling policy as such, but following response outlines the 'rules' and is based on how the information is presented in the DPOP:

Properties of a commercial nature or properties categorised as business for rating purposes, which are located within the collection area, may elect to use the domestic waste management service. The service conditions are the same as the domestic service, although commercial and business use of only the recycling part of the domestic waste management service is also offered. The service conditions allow for additional recycling services. Commercial or business services are offered on an annual basis and charges are levied pursuant to Section 501 of the Local Government Act 1993. Schools are included as commercial or business properties and the services are available to schools on the same basis.

## CL17.14 Report of the Strategy & Assets Committee - 24 January 2017

HPERM Ref: D17/24996

### SA17.1 Appointment of new Risk and Audit Committee Member

HPERM Ref:  
D17/10358

#### Recommendation

That Mr Peter McLean be appointed as the new independent external member of the SCC Risk and Audit Committee.

### SA17.2 Successful Grant Funding - Community Building Partnership Grants 2016

HPERM Ref:  
D16/398675

#### Recommendation

That Council:

1. Accept the NSW Government Community Building Partnership Grants 2016 - \$30,000 'Optimise Space to Maximise Usage – Nowra Library' and vote the funds.
2. Write to the Hon. Shelley Hancock, Member for South Coast accepting and thanking her for the grant funding.

### SA17.3 Grant Funding - Staying Active Program

HPERM Ref:  
D16/380579

#### Recommendation

That Council:

1. Accept the Aquatic & Recreation Institute of Australia offer of grant funding to the value of \$9,000 to enable Shoalhaven Swim & Fitness Centres to host the Institute's Staying Active Program.
2. Delegate authority to the General Manager (Corporate & Community Services) to accept the grant funding and acquittal of funds.
3. Write to the Aquatic & Recreation Institute, accepting the grant offer.

### SA17.9 Authority for Cheque and Electronic Banking Signatories

HPERM Ref:  
D17/9826

#### Recommendation

That:

1. Council authorise any two of the following persons:
 

Russell Desmond Pigg	General Manager
Craig Laurence MILBURN	Director Corporate & Community Services
John Gerard LENEHAN	Information Services Manager

CL17.14

Melissa Jayne MCCOY	HR, Governance & Customer Services Manager
Vanessa Jane PHELAN	Finance Manager
Paula Briann MCMANUS	Financial Accountant
Stephanie Jane MOORLEY	Accountant – Management Accounting
Brittany Anne MURPHY	Assistant Financial Accountant
Karen Louise HENRY	Accounting Officer
Graham David LONGFIELD	Accounting Officer
Craig Robert GILFILLAN	Fixed Term Assistant Financial Accountant
Vacant	Chief Financial Officer

- a. to operate on any account(s) now opened or to be opened by the Shoalhaven City Council with Financial Institutions so long as the account(s) shall be in credit or at the Financial Institutions' discretion notwithstanding that they shall become thereby or be already overdrawn;
  - b. to sign, draw, make, accept and negotiate cheques and electronic fund transfers on behalf of Shoalhaven City Council.
2. This authority will cancel and supersede all previous authorities except in respect of cheques and other instruments dated prior to this authority.

**SA17.13 NSW Pedestrian Infrastructure Around Schools Program 2016-17**

**HPERM Ref:  
D16/403828**

**Recommendation**

That Council:

1. Accepts the grant funding offers under the NSW Pedestrian Infrastructure Around Schools Program as follows:
  - \$50,000 per project (total \$300,000) for the following six projects to raise and upgrade existing crossings at
    - North Street, Nowra
    - Moss Street, Nowra
    - Cambewarra Road, Bomaderry
    - Emmett Street, Callala Bay
    - Green Street, Ulladulla and
    - Hawken Road, Tomerong
2. Allocates funding of \$30,000 in 2016/17 and \$270,000 in 2017/18
3. Write to the Local Members of New South Wales Parliament and the State Government thanking them for funding assistance as part of the NSW Pedestrian Infrastructure Around Schools Program.

**SA17.15 Pedestrian Access - Sanctuary Point Public School to Skate Park, Francis Ryan Reserve via Centaur Ave**

**HPERM Ref:  
D17/6037**

**Recommendation**

That funding for the footpath on Centaur Avenue adjacent to Sanctuary Point Public School be considered in the 2017/18 budget process.

CL17.14

**SA17.16 Proposed Leases - Room 2, Building 3 - 78 St Vincent St, Ulladulla and 35 Holloway Road, Nowra - Australian Unity Home Care Services**

**HPERM Ref:  
D16/390968**

**Recommendation**

That Council:

1. Enter into a lease agreement in accordance with Council's Occupation of Council Owned and Managed Land Policy (POL12/227) with Australian Unity Home Care Services for the use and occupation of Room 2, Building 3, 78 St Vincent Street, Ulladulla for a term of up to five (5) years at an annual rental of \$11,235 plus GST;
2. Enter into a lease agreement in accordance with Council's Occupation of Council Owned and Managed Land Policy (POL12/227) with Australian Unity Home Care Services for the use and occupation of 35 Holloway Road, Nowra for a term of up to five (5) years at an annual rental of \$20,865 plus GST;
3. List the subsidies applied of \$9,765 plus GST and \$18,135 plus GST, as assessed using the Rental Assessment Framework with annual CPI increases as a recognised Donation in Council's Annual Report each year for the term of the lease agreement;
4. Authorise the General Manager to finalise the lease terms that may not yet be determined; and
5. Authorised the General Manager to sign any documentation necessary to give effect to this resolution.

**SA17.20 Payment of Dividend from Shoalhaven Water 2015-16**

**HPERM Ref:  
D16/398065**

**Recommendation**

That Council determines that "substantial compliance" of the criteria in the Best Practice Management of Water Supply and Sewerage Guidelines has been achieved and a dividend will be paid from the water fund and the sewer fund to the general fund for the 2015/2016 budget year.

**SA17.21 Acquisition of Crown Land at Burrill Lake - Pump Station site**

**HPERM Ref:  
D16/403181**

**Recommendation**

That:

1. Council resolve to compulsorily acquire part of Crown land Lots 2 and 3 DP1205656, being proposed Lots 2 and 3 as shown by hatching on draft survey plan marked 'Attachment 1' of the report.
2. Council pay compensation as determined by the Valuer General and ancillary costs for the acquisition from Council's Sewer Fund, in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.
3. The necessary application be made to the Minister for Local Government and the Governor for approval to the acquisition under the Local Government Act 1993.
4. Council grant an Easement for Overhead Power Lines 9 wide in favour of Endeavour Energy over part of proposed Lot 3 and delineated (A) on the plan marked 'Attachment 1' of the report.

CL17.14

5. The land to be acquired be classified as Operational land in accordance with Section 31(2) of the Local Government Act 1993
6. The Common Seal of the Council of the City of Shoalhaven be affixed to any documents required to be sealed and the General Manager is authorised to sign any documentation necessary to give effect to the resolution

**SA17.22 Create and replace Right of Way on Council land at Shoalhaven Heads**

**HPERM Ref:  
D16/403713**

**Recommendation**

That Council resolve to:

1. Extinguish an easement for Right of Carriageway variable width over Council land Lots 83 and 84 DP823256, as shown by hatching on copy of plan marked 'Attachment 1' in the report.
2. Create a replacement easement for Right of Way variable width over Council land Lots 83 and 84 DP823256, as shown on copy of plan marked 'Attachment 1'.
3. Costs associated with the transactions to be met from Council's Sewer Fund. No payment of compensation is to apply to either transaction.
4. The Common Seal of the Council of the City of Shoalhaven be affixed to any documents required to be sealed.

CL17.14

## CL17.15 Ordinary Meeting Catering Options

HPERM Ref: D17/11608

**Group:** Corporate & Community Services Group  
**Section:** Human Resources, Governance & Customer Service

### Purpose / Summary

To advise Council on the costs of providing a meal at the Ordinary Meetings.

### Recommendation

That assorted sandwiches continue to be provided for Councillors and staff at all Core Committee Meetings and Ordinary Meetings.

### Options

1. As recommended that sandwiches be provided for Councillors and staff at all Core Committee Meetings and Ordinary Meetings.

Implications: At a cost of approximately \$6,300 per annum.

2. No meals be supplied only tea, coffee, water and biscuits.

Implications: The previous arrangement returns, noting however meetings start at 5pm

3. That sandwiches be provided for Councillors and staff at all Core Meetings and that at Ordinary Meetings, the meeting will be adjourned at a time resolved by the Council and a two-course seated meal be supplied for Councillors and staff.

Implications:

The Sandwiches for Core Meetings would cost approximately \$4,200 per year

It is estimated that the costs for the seated Ordinary Meeting meals would be in the range of \$800 to \$1,575 per meeting or \$9,600 to \$18,900 per year.

This is an indicative cost only and would be subject to quotation .It also does not include beverages or the paid meal break for staff in attendance.

### Background

At the Council Ordinary Meeting, Tuesday 22 November 2016, Council resolved interalia:

*“A report be provided by the General Manager on the costs involved in providing meals for Councillors and staff at Council Ordinary Meetings.”*

Prior to 26 October 2012 the Councillors and staff were provided with a meal at Council Ordinary meetings.

Following the decision to discontinue the meal, a tea trolley with coffee, tea and biscuits was then provided to each meeting independently.

Assorted sandwiches have been provided for the core and ordinary meetings for the current council at a cost of \$7.00 per sandwich from the Shoalhaven Entertainment Centre.

**Financial Implications**

The tea trolley with coffee, tea, water and biscuits will continue to be provided from current budget allocations

The following costs are indicative only and will vary depending on the number of staff/councillors in attendance at each meeting. Also the suppliers may increase their charges.

If the assorted sandwiches from the Shoalhaven Entertainment Centre continue to be provided for Ordinary Meetings the cost will be approximately \$2,100 per annum (based on \$7.00 per sandwich for 25 people – one sandwich per person).

The cost for providing sandwiches to the Core Committee meetings and Ordinary Meeting will be \$6,300 per annum.

If the Council resolves to adjourn the Ordinary Meetings for a 2 course meal and to provide Sandwiches for Core Committees the costs would be as follows:

- \$4,200 per year for Sandwiches at Core Committees ; and
- Based on costings from recent similar meals, the two-course seated dinner (depending on menu selected) would cost between \$32 and \$63 per head. The anticipated costs for Ordinary Meeting meals would therefore be in the range of \$800 to \$1,575 per meeting or \$9,600 to \$18,900 per year.

This is an indicative cost only and would be subject to formal quotation. It also does not include beverages or the paid meal break for staff in attendance.

## **CL17.16 Local Government Act 1993 - Proposed Regulations - Professional Development for Mayors & Councillors**

**HPERM Ref:** D17/14509

**Group:** Corporate & Community Services Group  
**Section:** Human Resources, Governance & Customer Service

**Attachments:** 1. Circular 16-52 [↓](#)

### **Purpose / Summary**

To inform Council of the proposed regulations relating to the induction and ongoing professional development for Mayors and Councillors.

### **Recommendation**

That the report regarding the proposed regulations for the professional development for Mayors and Councillors be received for information.

### **Options**

1. As recommended

Implications: Nil

2. Council resolve to make a submission to the Office of Local Government and determine the content of the submission.

Implications: Nil

### **Background**

The Local Government Amendment (Governance and Planning) Act 2016 includes the following responsibility in the prescribed role of councillors under section 232.

*“to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor”*

The amendments to the act also allow for the making of regulations for the induction and professional development for Mayors and Councillors. The Office of Local Government has commenced work on the development of the regulations.

The Office of Local Government (OLG) has sent Council a Circular (Attachment 1) detailing the provisions of the proposed regulation. The circular states that the regulations will include the following provisions:

- Councils are to develop an induction program for newly elected and returning councillors and a specialised supplementary program for the Mayor to assist them in the performance of their functions to be delivered within six months of their election.
- Each year, councils are to develop an ongoing professional development program for the Mayor and each Councillor.

- Councils are to determine the content of the induction and ongoing professional development programs in consultation with the Mayor and each Councillor and with the governing body as a whole.
- In determining the content of induction and ongoing professional development programs, councils are to have regard to the specific needs of the Mayor, each individual Councillor and the governing body as a whole.
- Councillors and Mayors must participate in the induction and ongoing professional development training offered to them.
- Councils are to annually report details of the content of the induction and ongoing professional development training offered to the Mayor and each Councillor and whether or not they participated in it to a council meeting and publish these details in the council's annual report and on its website unless exempted by the Chief Executive of the Office of Local Government.
- The Chief Executive of the Office of Local Government may, on an application by a council, exempt the council from the requirement to publish details of training provided to an individual councillor where he or she is satisfied that there are exceptional circumstances.

The OLG has also stated that they intend to prepare Guidelines to provide assistance to councils in developing the programs and a working group will be convened for the purposes of consulting on the content of the Guidelines.

In addition to submissions on the proposed regulations the OLG is asking for comments regarding the following:

- any impediments that may impact on a Councils ability to comply with the proposed regulations and
- support required to overcome any impediments.

Submissions and comments relating to the proposed regulation close at the end of this week on Friday 3 February 2017.

### **Policy Implications**

The Council Members – Payment of Expenses and Provision of Facilities Policy may need to be reviewed to incorporate the proposed regulations following there finalisation.

### **Financial Implications**

The regulations may result in the need for increased resourcing or funding for:

- Training & development of Councillors
- Development of an induction program
- Administration of the ongoing professional development programs for the Mayor and each Councillor

<b>Circular Details</b>	Circular No 16-52 / 22 December 2016 / A523204
<b>Previous Circular</b>	16-30 Local Government Amendment (Governance and Planning) Act
<b>Who should read this</b>	Mayors / Councillors / General Managers / Council Governance staff
<b>Contact</b>	Council Governance Team / 02 4428 4100
<b>Action required</b>	Response to OLG

## Induction and Ongoing Professional Development for Mayors and Councillors

### What's new or changing

- The recent Phase 1 amendments to the *Local Government Act 1993* (the Act) have seen the inclusion in the prescribed role of councillors under section 232 a responsibility "to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor".
- In support of this, the amendments allow regulations to be made for induction and other professional development for Mayors and Councillors.
- The Office has commenced work on the development of these regulations. It is proposed that these will provide as follows:
  - Councils are to develop an induction program for newly elected and returning councillors and a specialised supplementary program for the Mayor to assist them in the performance of their functions to be delivered within six months of their election.
  - Each year, councils are to develop an ongoing professional development program for the Mayor and each Councillor.
  - Councils are to determine the content of the induction and ongoing professional development programs in consultation with the Mayor and each Councillor and with the governing body as a whole.
  - In determining the content of induction and ongoing professional development programs, councils are to have regard to the specific needs of the Mayor, each individual Councillor and the governing body as a whole.
  - Councillors and Mayors must participate in the induction and ongoing professional development training offered to them.
  - Councils are to annually report details of the content of the induction and ongoing professional development training offered to the Mayor and each Councillor and whether or not they participated in it to a council meeting and publish these details in the council's annual report and on its website unless exempted by the Chief Executive of the Office of Local Government.
  - The Chief Executive of the Office of Local Government may, on an application by a council, exempt the council from the requirement to publish details of training provided to an individual councillor where he or she is satisfied that there are exceptional circumstances.

Office of Local Government  
5 O'Keefe Avenue NOWRA NSW 2541  
Locked Bag 3015 NOWRA NSW 2541  
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E [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au) W [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au) ABN 44 913 630 046

2

- The Office will be preparing Guidelines to outline the Government's expectations and to provide assistance to councils in developing the programs. A working group comprising of a number of key sector stakeholder groups will be convened for the purposes of consulting on the content of the Guidelines.

**What this will mean for your council**

- The Office is seeking comment on the proposed regulations.
- In addition, the Office is seeking comment from individual councils on the following:
  - whether there are any impediments impacting on their capacity to comply with the proposed regulations; and
  - what support would be required for the council to overcome any such impediments.

**Key points**

- Submissions may be made by email to [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au).
- Submissions should be labelled "induction and ongoing professional development for Mayors and councillors" and marked to the attention of the Office's Council Governance Team.
- Submissions should be made before close of business **3 February 2017**.

**Where to go for further information**

- For further information, contact the Office's Council Governance Team on 02 4428 4100.



**Tim Hurst**  
Acting Chief Executive

## **CL17.17 Investment Report - December 2016**

**HPERM Ref:** D17/16257

**Group:** Corporate & Community Services Group  
**Section:** Finance

**Attachments:** 1. Shoalhaven City Council Monthly Investment Report - December 2016 (under separate cover) [⇒](#)

### **Purpose / Summary**

Under Section 625 of the Local Government Act 1993 and Clause 212 of the Local Government (General) Regulation it is a requirement to provide a written report to Council on a monthly basis setting out details of all money that Council has invested.

### **Recommendation**

That the Report of the General Manager (Corporate and Community Services Group) on the Record of Investments for the period to 31st December 2016 be received for information.

### **Options**

1. The report on the Record of Investments for the period to 31st December 2016 be received for information  
Implications: Nil
2. Further information regarding the Record of Investments for the period to 31st December 2016 be requested  
Implications: Staff will need to prepare a further report to provide any information that is required.
3. The report on the Record of Investments for the period to 31st December 2016 be received for information with any changes requested for the Record of Investments to be reflected in the report for the period to 31st January 2017  
Implications: Nil

### **Background**

Please refer to the attached monthly report provided by Council's Investment Adviser – CPG Research and Advisory Pty Ltd.

Further comparisons and budget review is found below:

The interest earned for the month of December was \$478,676 which was \$47,458 above budget.

## RECORD OF INVESTMENTS Cash and Investment Balances

	December 2016	November 2016
<b>Cash And Investments Held</b>		
Cash at Bank - Transactional Account	\$5,767,404	\$12,580,722
Cash at Bank - Trust Fund	\$1,240	\$1,240
Cash on Hand	\$42,600	\$67,750
Other Cash and Investments	\$163,085,918	\$165,055,912
	<b>\$168,897,162</b>	<b>\$177,705,623</b>
Fair Value Adjustment	\$175	\$76,655
Bank Reconciliation	\$44,404	\$366,988
	\$44,579	\$443,643
<b>Book Value of Cash and Investments</b>	<b>\$168,941,741</b>	<b>\$178,149,267</b>
<b>Less Cash &amp; Investments Held In Relation To Restricted Assets</b>		
Leave Entitlements & Workers Compensation Liability	\$9,775,119	\$9,713,752
Land Decontamination	\$1,568,739	\$1,575,546
Critical Asset Compliance	\$2,402,355	\$2,402,355
North Nowra Link Road	\$664,294	\$666,384
Other Internal Reserves	\$2,442,491	\$2,470,736
Section 94 Matching Funds	\$539,738	\$541,096
Strategic Projects General	\$5,161,007	\$5,828,379
Industrial Land Development Reserve	\$2,064,193	\$2,724,981
Plant Replacement	\$4,740,114	\$5,310,460
S94 Recoupment	\$2,198,400	\$2,339,361
Commitment To Capital Works	\$6,898,137	\$6,989,806
Property Reserve	\$3,574,942	\$3,578,406
<b>Total Internally Restricted</b>	<b>\$42,029,527</b>	<b>\$44,141,260</b>
Loans - General Fund	\$5,766,492	\$6,234,332
Grant reserve	\$2,458,782	\$2,890,229
Section 94	\$28,296,106	\$27,476,363
Storm Water Levy	\$317,075	\$259,450
Trust - Mayors Relief Fund	\$99,808	\$99,808
Trust - General Trust	\$4,612,790	\$4,444,378
Waste Disposal	\$9,313,730	\$9,630,039
Sewer Fund	\$27,357,998	\$30,163,864
Sewer Plant Fund	\$1,160,563	\$1,249,512
Section 64 Water	\$14,955,141	\$14,557,699
Water Fund	\$21,970,161	\$19,389,933
Water Communication Towers	\$893,866	\$1,013,983
Water Plant Fund	\$730,099	\$780,544
<b>Total Externally Restricted</b>	<b>\$117,932,610</b>	<b>\$118,190,134</b>
<b>Total Restricted</b>	<b>\$159,962,137</b>	<b>\$162,331,393</b>
<b>Unrestricted Cash And Investments</b>		
General Fund	\$8,979,604	\$15,817,873

Total cash reduced by \$9.2 million in December with the majority of it in the Unrestricted General Fund due to December not being a rates installment month and loan repayments were paid for the majority of borrowings. The other significant movements include an

increase in the Section 94 reserve due to some large payments received from developers. A decrease in the Sewer Fund due to payments made to the REMS contractor and loan repayments and additional income in the Water Fund due to the internal loan repayment from the General and Sewer Funds to the Water Fund.

**Certification – Responsible Accounting Officer:**

I hereby certify that the investments listed in the attached report have been made in accordance with Section 625 of the Local Government Act 1993, clause 212 of the Local Government (General) Regulations 2005 and Council's Investments Policy number POL14/60.



Craig Milburn  
Director – Corporate and Community Services

**Financial Implications**

It is important for Council to be informed in regard to its investment on a regular basis. Revenue from interest on investments forms a vital part of Council's revenue stream.

CL17.17

## **CL17.18 Tenders - Burrier, Wattamolla, Foremans, Green Valley and Kangaroo Valley Roads Landslip Repairs**

**HPERM Ref:** D17/4650

**Group:** Assets & Works Group  
**Section:** Works & Services

### **Purpose / Summary**

To inform Council of the tender process for Landslip Repairs on Burrier Road, Wattamolla Road, Foremans Road, Green Valley Road and Kangaroo Valley Road.

In accordance with Section 10A(2)(d)(i) of the Local Government Act 1993, some information should remain confidential as it would, if disclosed, prejudice the commercial position of the person who supplied it. It is not in the public interest to disclose this information as it may reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests. This information will be considered under a separate confidential report.

This report is submitted directly to the Ordinary Council Meeting pursuant to Clause 3 of Council's "Acceptance of Tenders – Reports to Council" Policy.

### **Recommendation**

That Council consider a separate confidential report in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993.

### **Options**

1. Council accept the recommendation as presented.

Implications: Details of the tender submission and the assessment are included in the confidential report.

2. Council amend the recommendation.

Implications: Tenders have been subject to assessment in accordance with the Tender Evaluation Plan and this is included in the confidential report.

### **Details**

Heavy rain during an East Coast Low in August 2015 caused a number of landslips throughout the Kangaroo Valley Area. The repairs have been divided into 3 packages of works. This report relates to Package 1 works, being repairs to Burrier Road, Wattamolla Road, Foremans Road, Green Valley Road and Kangaroo Valley Road. The funding was approved through the extended process of Natural Disaster Relief and Recovery Arrangements and the geotechnical investigation and design is complex with a number

of risk to manage. These roads had originally been constructed in difficult terrain with minimal consideration of design.

Council called Tenders for Package 1 Landslip Repairs on 14 November 2016 which closed at 10:00am on 13 December 2016. 4 tenders were received at the time of closing and are shown in the table below:

Tenders Received

Tenders were received from the following:

<b>Tenderer</b>	<b>Location</b>
Earthtec	Lane Cove
Kenpass	Kiama
Ledacon	Fairy Meadow
Stefanutti Construction	Unanderra

Details relating the evaluation of the tenders are contained in the confidential report.

**Financial Implications:**

The works are being funded by the State & Commonwealth Governments' Natural Disaster Relief and Recovery Fund.

## **CL17.19 NSW Fire and Rescue - Fire Safety Report - 55 Judith Drive North Nowra**

**HPERM Ref:** D17/1288

**Group:** Planning & Development Services Group

**Attachments:**

1. FRNSW Inspection Report - 55 Judith Dr North Nowra - Rose Mumbler Village - Fire & Rescue NSW Fire Safety Compliance Unit [↓](#)
2. Emergency Fire Safety Order - ON2016/4783 [↓](#)
3. Fire Safety Report [↓](#)

### **Purpose / Summary**

Council is in receipt of a report from the Fire and Rescue NSW (FRNSW) concerning fire safety issues at Rose Mumbler Village – 55 Judith Drive, North Nowra. FRNSW inspects sites as part of their duties either routinely or on request. The premises were inspected following correspondence received by FRNSW from the Department of Planning and Environment on 6 December 2016.

Some of the issues raised at the time of the inspection resulted in Council officers issuing an emergency fire safety order on the owner of the premises the same day that the inspection was carried out. Others have been dealt with by the issue of a standard fire safety order. Officers will continue to work with the owners, operators and their consultants to see the fire safety works completed.

This report recommends Council receive the report from FRNSW and advise them of its decision.

### **Recommendation**

That Council:

1. Receive the report by NSW Fire and Rescue - Fire Safety Report - 55 Judith Drive North Nowra for information.
2. Give notice to FRNSW in accordance with 121ZD of the Environmental Planning and Assessment Act that the matter has been tabled at the Council meeting and that Council will continue to monitor the premises to completion of the orders that are in accordance with 121B and Order 6 of the Environmental Planning and Assessment Act

### **Options**

1. Accept the recommendation  
Implication: The EP&A Act (section 121ZD) reporting requirements have been met
2. Provide an alternative recommendation

### **Background**

Rose Mumbler Village is located at 55 Judith Street, North Nowra. This is an aged care facility capable of accommodating up to 24 residents. Some residents are not fully mobile and require assistance to get in and out of bed.

The village incorporates a central community building that is connected via covered walkways to 8 residential unit blocks. Each of these blocks contain 3 sole occupancy units.

### Site Plan



Under Section 118L of the Environmental Planning and Assessment Act, FRNSW can inspect any premises of shared accommodation or any other premises when requested by the Council, a person who is the owner, lessee or occupier of the building or when they receive a complaint in writing. In this instance, FRNSW received correspondence from the Department of Planning and Environment on 6 December 2016. This correspondence raised concerns previously given by the Fire Sprinkler Implementation Committee to the operators of the premises regarding the continued use of the site given the postponement for the installation of essential fire safety services (i.e. sprinklers and a monitored fire and smoke alarm system).

FRNSW requested Council undertake a joint inspection of the premises with them on 9 December 2016. A report prepared by FRNSW dated 14 December 2016 has been received by Council (Refer Attachment "1"). Council officers have moved on this report and issued both an emergency fire safety order to deal with management and use conditions and a standard fire safety order to deal with other issues.

In accordance with Section 121ZD of the Environmental Planning and Assessment Act 1979 (EP&A Act), Council must table any report and recommendations it receives resulting from an inspection by FRNSW to a meeting of the Council. Council must then advise FRNSW of its decision following receipt of the report.

### Issues

There were a number of outstanding fire safety issues at the site. The most pressing of these was the fact the buildings are only served by localised battery operated smoke detectors which are not interconnected. In the event of a fire within one of the sole occupancy units, the alarm within that unit would sound but no message would be given to others concerning the presence of the fire.

This is a major safety concern because some of the residents cannot evacuate without assistance. In the event of a fire, there is a possibility they would not survive. The situation was therefore considered life threatening and needed to be dealt with immediately.

Alternatives including the installation of radio transmitter alarms or engaging security personnel were discussed with the operators of the premises at the time of the inspection. Rather than close the premises and try to re-house the residents, it was agreed to provide some options in an emergency fire safety order that needed to be effected immediately. Council officers issued the emergency order on the evening of 9 December 2016 and this became effective at midnight on the same day (Refer Attachment “2”). The emergency fire safety order will remain in force until such time as the monitored fire and smoke alarm system is installed.

Other fire safety matters were discussed at the time of the inspection including the timing for the installation of the sprinkler system and the monitored fire and smoke alarm system. Council officers issued a notice of intention to serve a fire safety order on 16 December 2016 (Refer Attachment “3”). The order was issued on 11 January 2017 and all works identified in stage 1 and 2 of the order are to be completed by 20 February 2017 and 30 March 2017 respectively.

Council officers will continue to work with the owners, operators and their consultants to see these fire safety works completed.

#### **Financial Implications**

There are no direct financial implications for Council.



Unclassified

File Ref. No: FRN16/4082  
TRIM Ref. No: D16/90978  
Contact: Edren Ravino

14 December 2016

Shoalhaven City Council  
Attn: General Manager  
P.O. Box 42  
NOWRA NSW 2541

Email: council@shoalhaven.nsw.gov.au

Attention: Manager Compliance / Fire Safety

Dear Sir / Madam,

**Re: INSPECTION REPORT  
'ROSE MUMBLER VILLAGE'  
55 JUDITH DR, NORTH NOWRA ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence from the Department of Planning on 6 December 2016, in relation to the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence referred to concerns raised previously by the Fire Sprinkler Implementation Committee to the operators regarding the continued use of 'the premises'. The concerns relate to specific conditions within the postponement application that remain outstanding.

Pursuant to the provisions of Section 119T (1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), a meeting and a joint inspection of 'the premises' on 9 December 2016 was conducted by Shoalhaven Council Officers, 440 station of FRNSW and Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

The inspection was limited to the following:

- Council's discussions regarding key areas during the meeting of matters raised by the Fire Sprinkler Implementation Committee only; and
- A conceptual overview of the building, where an inspection had been conducted with Council as the lead agency.

Shoalhaven City Council  
Received  
23 DEC 2016  
File No. \_\_\_\_\_  
Referred to: R. Ferris

Unclassified

Fire & Rescue NSW

ABN 12 593 473 110

www.fire.nsw.gov.au

Community Safety Directorate  
Fire Safety Compliance Unit

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On behalf of the Commissioner of FRNSW, the following comments are provided for your information in accordance with Section 119T (4) and Section 121ZD (1) of the EP&A Act. Please be advised that Section 121ZD (2) requires any report or recommendation from the Commissioner of FRNSW to be tabled at a Council meeting.

**COMMENTS**

Concerns

The following items reference the concerns raised by the Fire Sprinkler Implementation Committee ("the committee) and received on 6 December 2016 by FRNSW:

- Postponement was conditionally granted with the completion date to install a sprinkler system in the facility by no later than 1 March 2017. The postponement was subject to 5 fire safety work conditions.
- Condition 3 regarding the installation of an AS1670.1 – 2004 smoke detection system throughout the facility was to be completed by 1 March 2016. This condition remains outstanding.

Meeting Points

The following items summarise the key points raised during the meeting on 9 December 2016:

- Present during the meeting:
  - Coral Yuke (Acting CEO –Rose Mumbler Village);
  - Jo Bailey (Assisting – Katrina Bailey and Coral Yuke);
  - Colin Wood (Section Manager – Shoalhaven Council);
  - Kristie Lissenden (Building Surveyor/Fire Safety – Shoalhaven City Council);
  - Chris Montgomery (Site Manager - Paynter Dixon);
  - Glenn Edwards (Station Officer – FRNSW);
  - Mark Knowles (Building Surveyor – FRNSW);
  - Edren Ravino (Building Surveyor – FRNSW);
- Discussion items:
  - Relocation of all the occupants to another residence whilst work is conducted on 'the premises';
  - What is the most appropriate and immediate response that caters for the residents and the financial constraints of the village, in terms of compliance;

**Unclassified**



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- What interim essential service measures are appropriate given the immediate concerns for the residents?;
  - What are the intentions of management at 'the premises' given the condition that allowed an extension to continue to trade remains outstanding?;
  - Who is the most appropriate regulatory authority to ensure continued compliance in the future? Is it FRNSW or Shoalhaven Council ("the council")?;
  - What is the proposed date for completion for the installation of the automatic smoke detection system?;
  - What is the proposed date for completion for the installation of the automatic sprinkler system?;
  - Whether a security officer with the sole responsibility of fire safety to monitor the residential portion of 'the premises' 24 hours / 7 days whilst works was being conducted?;
  - Whether members of the community could volunteer with the sole responsibility of fire safety to monitor the residential portion of 'the premises' 24 hours / 7 days whilst works was being conducted?;
- Agreed items:
    - That council in this instance is the appropriate regulatory authority to ensure continued compliance;
    - That council as the appropriate regulatory authority will issue an emergency order under the EP&A Act to formalize the agreements made during the meeting;
    - That evacuation of the residents is not an option that either management of 'the premises', FRNSW and 'the council' considers as the most appropriate response to the current matters;
    - Subject to the installation of the Automatic Fire Detection and Alarm System in accordance with E2.2, Clause 4 of Specification E2.2 of the National Construction Code 2016, Volume 1, Building Code of Australia (NCC) the following alternative would be accepted:
      - A wireless smoke alarm system that remotely notified the overnight staff of any activation.
      - The wireless smoke alarm system could also include a pendant that would allow staff to be mobile and be notified of an event.

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Fire & Rescue NSW

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Community Safety Directorate  
Fire Safety Compliance Unit

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- That hiring a security guard would be too expensive, and the appointment of a staff member or volunteer was acceptable.
- The proposed location of the Fire Indicator Panel would be best suited at the front of 'the premises' entering Francis Street.

FRNSW is therefore of the opinion that failure to adopt the agreed items means that there are inadequate provisions for fire safety within the building.

#### RECOMMENDATIONS

FRNSW endorses the items as discussed and agreed during the meeting on 9 December 2016. Moreover, that 'the council' use its discretion as the appropriate regulatory authority to address the fire safety concerns for 'the premises'.

This matter is referred to Council as the appropriate regulatory authority. FRNSW therefore awaits Council's advice regarding its determination in accordance with Section 121ZD (4) of the EP&A Act.

Should you have any enquiries regarding any of the above matters, please do not hesitate to contact FRNSW's Fire Safety Compliance Unit on (02) 9742 7434. Please ensure that you refer to file reference FRN16/4082 for any future correspondence in relation to this matter.

Yours faithfully



Stephen Netting  
Manager Fire Safety Compliance

CC: Fire Sprinkler Implementation Committee  
Department of Planning  
Attn: Liz Skerrett – Liz.Skerrett@planning.nsw.gov.au  
GPO Box 39  
SYDNEY NSW 2001

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Fire & Rescue NSW

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[firesafety@fire.nsw.gov.au](mailto:firesafety@fire.nsw.gov.au)

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

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

COUNCIL REFERENCE: ON2016/4783  
CONTACT PERSON: Colin Wood

9 December 2016

ILLAROO COOPERATIVE ABORIGINAL CORPORATION  
PO BOX 3387  
NORTH NOWRA NSW 2541

Dear Sir or Madam,

**EMERGENCY ORDER  
INADEQUATE FIRE SAFETY PROVISIONS  
55 JUDITH DRIVE NORTH NOWRA - LOT 1 DP 789616**

Reference is made to the above mentioned property and the inspection of the premises on 2<sup>nd</sup> and 9<sup>th</sup> December 2016.

Council has formed the opinion that the premises are not in a safe condition and is or is likely to become a danger to the public such that it poses a serious public risk.

In this regard, it is considered that sufficient reason exists for the giving of an Emergency Order under Section 121B, Order number 6 of the Environmental Planning and Assessment Act 1979.

If you need any further information about this matter, please contact Colin Wood – Section Manager - Building & Compliance, on telephone number (02) 4429 3454 or email [colin.wood@shoalhaven.nsw.gov.au](mailto:colin.wood@shoalhaven.nsw.gov.au). Please quote Council's reference ON2016/4783.

Yours faithfully

Colin Wood  
**Section Manager**  
**Planning and Development Services Group**



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COUNCIL REFERENCE: ON2016/4783  
CONTACT PERSON: Colin Wood

9 December 2016

ILLAROO COOPERATIVE ABORIGINAL CORPORATION  
PO BOX 3387  
NORTH NOWRA NSW 2541

Dear Sir / Madam,

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979  
EMERGENCY FIRE SAFETY ORDER  
SECTION 121B – ORDER NO. 6  
PREMISES: 55 JUDITH DRIVE NORTH NOWRA - LOT 1 DP 789616**

You being the owner in respect of the property at the above mentioned premises are ordered by Shoalhaven City Council (*Council*) to do such things as are specified in the emergency order so as to ensure and promote adequate fire safety and fire safety awareness within the subject premises. The specified works given below shall be completed to the satisfaction of Council within the compliance period detailed below.

**Circumstances in which an Emergency Order number 6 can be given:**

- a. Provisions for fire safety or fire safety awareness are not adequate to prevent fire, suppress or prevent the spread of fire or ensure or promote the safety of persons in the event of fire;
- b. Maintenance or use of the premises constitutes a significant fire hazard.

**Premises the subject of the Emergency Order:**

**55 Judith Drive, NORTH NOWRA, Lot 1 DP 789616**

**Compliance Period:**

- I. All Works shall be implemented by midnight, 9<sup>th</sup> December 2016

This Emergency Order will remain in force until otherwise lifted by council

**Terms:**

The terms of the Order are:

**THE SPECIFIED WORKS**

1. A minimum of one personnel is required to be engaged by the facility for the sole purpose of monitoring the residential buildings for detection of smoke, the activation of a smoke alarm and for relaying a signal to the NSW Fire Brigade as required; and
2. The monitoring is required to be continual for a 24hrs/7days per week until such time as either of the following Automatic Fire Detection and Alarm System is installed:
  - a) A wireless smoke alarm system connected to a wireless receiver located in accordance with Clause 2 (a)(1)(C) of Specification E2.2a of the Building Code of Australia (BCA); **OR**
  - b) An Automatic Fire Detection and Alarm System has been installed in accordance with E2.2, Clause 4 of Specification E2.2 of the BCA and AS 1670.1 – 2015. The system is required to be connected to activate a building occupant warning system in accordance with Clause 6 of Specification E2.2 of the BCA and be connected to a Fire and Rescue NSW authorised fire alarm monitoring provider; and
3. The current "Fire Management Plan During the Implementation of the Sprinkler System" is required to be amended to incorporate the procedures for personnel engaged in accordance with Term 1 of this order. A copy of the amended management plan is required to be forwarded to Council for approval;
4. Copies of a weekly staff register that confirms that the monitoring as required by Term 1 of this order and compliance with "Fire Management Plan During the Implementation of the Sprinkler System" are being followed daily are to be forwarded to Council by 5pm, Friday of each week until such time as the Automatic Fire Detection and Alarm System is installed in accordance with 1(b);

**REASONS FOR GIVING THE FIRE ORDER**

**Pursuant to s.121 L of the Environmental Planning and Assessment Act 1979,  
this Order was given for the following reasons:**

**GENERAL**

1. The building is considered to be in an unsafe fire safety condition, lacking proper provision for fire detection.

**Relevant Authority:**

The relevant legislative provision is section 121B-6 of the Environmental Planning and Assessment Act, 1979.

**Modification of Orders:**

The terms of this Order can only be modified by Council in writing, and only if the person to whom the Order was given agrees to that modification. In no circumstances can the terms of the Order be amended orally.

Any application to Council seeking an amendment of this Order must be writing clearly setting out:

- the term(s) to be modified,
- the reasons for the modification of the term(s) and
- any substitute term(s) to be added to the Order (if applicable)

**Submission of Fire Safety Certificate:**

That a person to whom a fire safety order is given, must within the time specified in the order, cause a copy of the final fire safety certificate for the building (being a certificate issued after the requirements of the order have been complied with) to be given to the Council.

**IMPORTANT NOTES**

You are advised that the provisions of the Environmental Planning and Assessment Act, 1979 and Regulations made under the Act are not being complied with.

The requirements of the paragraph above include items which are classified as Essential Fire Safety measures pursuant to Part 9 of the Environmental Planning and Assessment Regulation 2000.

Such items are listed in the attached schedule of this Order together with the minimum standard to which those services are required to be designed, installed and maintained.

**APPEAL**

If you wish to appeal against this Order or a specified part of this Order, YOU MUST APPEAL TO THE LAND AND ENVIRONMENT COURT, LEVEL 4, 225 MACQUARIE STREET, SYDNEY WITHIN 28 DAYS OF THE SERVICE OF THIS ORDER UPON YOU.

**FIRE AND RESCUE NSW NOTIFICATION**

A copy of this Order has been sent to the Commissioner of Fire and Rescue NSW pursuant to the requirements of S.121 ZB of the Environmental Planning and Assessment Act 1979.

**PENALTY**

It should be noted that failure to comply with this Order is an offence with a maximum penalty of 10,000 penalty units and to a further daily penalty not exceeding 1000 penalty units (currently one penalty unit is \$110). Also if the Order is not complied with, Council may give effect to the Order and recover the costs of doing so from you. It is important to note that Council has given this Order with one distinct compliance periods. Failure to comply with any one constitutes an offence under the Environmental Planning and Assessment Act 1979.

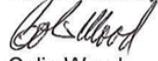
**COMPLIANCE COST NOTICE**

As a result of the issue of this Order, Council may also issue you with a Compliance Cost Notice under section 121CA of the Act. Where such a notice is issued it will require you to pay a specified amount, being Council's reasonable costs and expenses incurred in monitoring works and ensuring compliance with the Order. This may include the time spent by Council staff; including time spent undertaking inspections, as well as any other expenses incurred in taking steps to ensure that the Order is complied with. Where Council issues you with a Compliance Cost Notice you will have a right of appeal to the Local Court or, where you are also appealing against this Order, the Land and Environment Court in accordance with s 121ZKA of the Act.

**CONTACT DETAILS**

For further information regarding this Order please contact Colin Wood – Section Manager - Building & Compliance, on telephone number (02) 4429 3454 or email [colin.wood@shoalhaven.nsw.gov.au](mailto:colin.wood@shoalhaven.nsw.gov.au).

Yours sincerely,



Colin Wood

**Section Manager**

**Planning and Development Services Group**



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

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

## FIRE SAFETY SCHEDULE

Clauses 166 & 168 Environmental Planning and Assessment Regulation, 2000

**LAND:** 55 Judith Drive, NORTH NOWRA, Lot 1 DP 789616

**APPROVED USE AND OR DEVELOPMENT:** Residential Aged Care Facility and Administration Building

**DATED** 9/12/2016

Essential Fire Safety Measures	Standard of Performance	BCA clause	Existing or Proposed	Location of Existing Measure & or BA/CC/Plan Reference if applicable	Critical Fire Safety Measure	
					Y/N	Period
Automatic Fail Safe Devices		D2.21	Proposed	Front Entry Gate	N	
Automatic Fire Detection and Alarm System	AS 1670.1 - 2015	E2.2a, Spec E2.2a	Proposed	Residential Aged Care Facility	N	
Automatic Fire Suppression Systems	AS 2118.1 – 1999, AS 2118.4 - 2012 and Fire Sprinkler Standard 2013	E1.5, Spec E1.5	Proposed	Residential Aged Care Facility	N	
Building Occupant Warning System	AS1670.1 - 2015	E1.5, E2.2, Spec E1.5, Spec E2.2a	Proposed	Residential Aged Care Facility		
Emergency Lighting	AS2293-2005	E4.2 & E4.4	Existing		N	
Exit Latches (Required Exit Doors)		D2.21	Proposed and Existing		N	
Exit Signs	AS2293.1 - 2005	E4.4, E4.5, E4.6, E4.8	Proposed and Existing		N	
Fire Alarm Monitoring / Communication Link	AS1670.3 - 2004	E2.2a, Spec E2.2a, Spec E1.5	Proposed	Residential Aged Care Facility	N	
Fire Blanket	AS2444-2001		Existing			
Fire Door	AS 1905.1 - 2005	C2.13	Proposed	Residential Aged Care Facility	N	
Fire Hydrants Systems	AS2419.1 - 2005	E1.3	Proposed		N	
Fire Seals Protecting Openings in Fire Resisting Components of the Building	AS1530.4 - 2005 1997 & AS4072.1 - 2005	C3.15, Spec C3.15	Proposed and Existing	Residential Aged Care Facility	N	

CL17.19 - Attachment 2

Hose Reel Systems	AS 2441 - 2005	E1.4	Proposed and Existing	Residential Aged Care Facility	N	
Paths of Travel	CI 186 of EP&A Regulations 2000	D1.6	Proposed and Existing		N	
Portable Fire Extinguishers	AS2444 - 2001	E1.6	Proposed and Existing		N	
Smoke Alarms and Heat Alarms	AS3786 -1993	Spec E2.2a	Existing	Illaroo Administration Building	N	

Note: A copy of this Schedule must be prominently displayed in the building in accordance with Part 9 Division 4 of the Environmental Planning and Assessment Regulation 2000.

At least once in each period of twelve months after a Final Fire Safety Certificate is required to have been furnished to Council and the Commissioner of NSW Fire Brigades, the owner of the building must cause the Council and the Commissioner of the NSW Fire Brigades to be furnished with an annual Fire Safety Statement with respect to each fire safety measure nominated in the attached schedule.

COUNCIL REFERENCE: ON2016/4792  
CONTACT PERSON: Kristie Lissenden

16 December 2016

ILLAROO COOPERATIVE ABORIGINAL CORPORATION  
PO BOX 3387  
NORTH NOWRA NSW 2541

Dear Sir or Madam,

**NOTICE OF INTENTION TO SERVE AN ORDER, SECTION 121H  
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT  
ORDER 6 - INADEQUATE FIRE SAFETY PROVISIONS**

**55 JUDITH DRIVE NORTH NOWRA - LOT 1 DP 789616**

Reference is made to the subject property and the fire safety inspection of the premises carried out on the 2<sup>nd</sup> and 9<sup>th</sup> December 2016.

The inspection and a search of Councils records revealed that the building is required to have essential fire safety measures installed and maintained in the building.

Council has formed the opinion that the premises do not provide an appropriate level of fire safety within the building to protect the safety of the occupants and considers that sufficient reasons exist for the giving of an Order under Section 121B, Order number 6 of the Environmental Planning and Assessment Act 1979.

Pursuant to Section 121H, the Council of the City of Shoalhaven gives notice to you (being the person to whom the Order is proposed to be given) of its intention to give an Order in terms of the attached draft which gives the terms of the proposed Order and the period proposed for compliance.

In accordance with Section 121I, you may make representations to Council as to why the Order should not be given or as to the terms of, or period for compliance with the Order. In making representation you may represent yourself or you may be represented by a barrister, solicitor or an agent.

In this regard, representations should be made in writing to the General Manager or personally to Kristie Lissenden within twenty one (21) days of the date of this Notice. Should you wish to modify the proposed period for compliance, please provide a schedule of works that outlines the timeframe required to address the terms of the proposed Order.

If you need any further information about this matter, please contact Kristie Lissenden – Building Surveyor on 4429 3436, 9.00am to 10.30am Tuesday to Friday. Please quote Council's reference ON2016/4792.

Yours faithfully

Kristie Lissenden  
Building Surveyor – Fire Safety  
**Planning and Development Services**

CL17.19 - Attachment 3

COUNCIL REFERENCE: **ON2016/4792**  
CONTACT PERSON: **Kristie Lissenden**

16 December 2016

ILLAROO COOPERATIVE ABORIGINAL CORPORATION  
PO BOX 3387  
NORTH NOWRA NSW 2541

Dear Sir / Madam,

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979  
FIRE SAFETY ORDER  
SECTION 121B – ORDER NO. 6  
PREMISES: 55 JUDITH DRIVE NORTH NOWRA - LOT 1 DP 789616**

You being the owner in respect of the property at the above mentioned premises are ordered by Shoalhaven City Council (*Council*) to do such things as are specified in the order so as to ensure and promote adequate fire safety and fire safety awareness within the subject premises. The specified works given below shall be completed to the satisfaction of Council within the compliance period detailed below.

**Circumstances in which an Order number 6 can be given:**

- a. Provisions for fire safety or fire safety awareness are not adequate to prevent fire, suppress or prevent the spread of fire or ensure or promote the safety of persons in the event of fire;
- b. Maintenance or use of the premises constitutes a significant fire hazard.

**Premises the subject of the Order:**

**55 Judith Drive, NORTH NOWRA, Lot 1 DP 789616**

**Compliance Period:**

- I. Stage 1 Works shall be completed 20<sup>th</sup> February 2017
- II. Stage 2 works shall be completed by 30<sup>th</sup> March 2017

**Terms:**

The terms of the Order are:

**THE SPECIFIED WORKS**

**1 SAFETY OF PERSONS IN THE EVENT OF FIRE**

**1.01 Fire Safety and Emergency Procedures**

- a) Provide certification that the emergency evacuation procedures have been prepared in accordance with AS4083-2010;  
*(Work to be completed as part of Stage 1)*

**1.02 Construction of Electrical Switchboard (Fire Resisting)**

- a) The main electrical switchboard that sustains emergency equipment is required to be protected by construction having a minimum fire resistance level of 120/120/120 with any doorway protected with a self-closing fire door of not less than -120/30. Existing fire doors are to be certified as achieving this level of performance or, alternatively, the door and frame are to be replaced;
- b) Certification is required to be provided by an appropriately qualified person that confirms that construction complies with C2.13 (b) of the BCA and certification from a licensed electrician is required to confirm that the requirements of C2.13 (c) of the Building Code of Australia (BCA) have been complied with.  
*(Work to be completed as part of Stage 2)*

**1.03 Exit Doors and Hardware**

- a) That every door in required exit, forming part of a required exit or in the path of travel to a required exit in the Rose Mumbler Aged Care Facility and Illaroo Administration Buildings must be openable by a single-handed lever action device that can be opened without recourse to a key from the side facing a person seeking egress or be fitted with approved panic bars in accordance with the requirements of Clause D2.19, D2.20 and D2.21 of the Building Code of Australia (BCA). Barrel bolts, locking snibs and padlocks are not permitted and shall be removed;
- b) Certification is to be provided to Council that the required exit doors comply with the requirements of D2.19, D2.20, and D2.21  
*(Work to be completed as part of Stage 2)*

**1.04 Internal Handrails**

- a) That suitable handrails shall be provided in the building in accordance with the requirements of D2.17 of the BCA.  
*(Work to be completed as part of Stage 2)*

**1.05 Fire Safety Audit/Final Fire Safety Certificate**

- (1) The Owner shall carry out an inspection and audit of all required fire safety measures installed within the building and contained within the Fire Safety Schedule attached to this Order; and

- (2) The Owner shall undertake all such remedial works necessary to ensure that those required fire safety measures contained within the attached Fire Safety Schedule are capable of operating/performing to at least the standard for which the measure was originally designed and implemented; and
- (3) A Final Fire Safety Certificate shall be submitted to Council, to the effect that each essential fire safety measure specified in the current Fire Safety Schedule for the building to which the certificate relates;
- i) has been assessed by a properly qualified person, and
  - ii) was found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued;
- (4) A copy of the annual fire safety statement is to also be submitted to the New South Wales Fire and Rescue, electronically via e-mail to [afss@fire.nsw.gov.au](mailto:afss@fire.nsw.gov.au).
- (5) A further copy must be displayed in a prominent position in the building for easy inspection by Council or the New South Wales Fire and Rescue  
*(Work to be completed as part of Stage 2)*

## **2 DETECTION OF FIRE**

### **2.01 Installation of a Fire Detection and Alarm System**

- a) That an Automatic Fire Detection and Alarm System is required to be installed in accordance with E2.2, Clause 4 of Specification E2.2 of the BCA and AS 1670.1 – 2015. Details of the proposed system are required to be submitted to Council prior to commencement of works.
- b) The system is required to be connected to activate a building occupant warning system in accordance with Clause 6 of Specification E2.2 of the BCA and be connected by data link to a Fire and Rescue NSW authorised fire alarm monitoring provider.
- c) Certification is required to be submitted to council from an appropriately qualified person confirming that the smoke detection system has been installed in accordance with the requirements of 2.01(a) & (b);  
*(Work to be completed as part of Stage 1)*

## **3 THE PREVENTION OF THE SPREAD OF FIRE**

### **3.01 Protection of Openings in Fire Resisting Components of the Building**

- a) The openings and penetrations in fire resisting elements of the building are required to be protected in accordance with the requirements of C3.15 and Specification C3.15 of the BCA
- b) Certification is required to be submitted to council that confirms that openings in fire resisting components of the building comply with C3.15 and Specification C3.15 of the BCA.  
*(Work to be completed as part of Stage 2)*

#### **4 THE SUPPRESSION OF FIRE**

##### **4.01 Installation of Automatic Sprinkler System**

- a) That an automatic sprinkler system complying with the requirements of AS 2118.1 - 1999, AS 2118.4 - 2012, Specification E1.5 of the BCA and the Fire Sprinkler Standard 2013 shall be installed throughout the Rose Mumbler Facility, including all accommodation buildings.
- b) The system shall be connected to an approved monitoring network provider having a direct data link to Fire and Rescue NSW in accordance with the requirements of Clause 3.2 of AS 2118.1 -1999, AS 1670.3 – 2004 and Spec E2.2a & Spec E1.5 of the BCA;
- c) Certification shall be submitted to council that confirms that the automatic sprinkler system has been installed in the building in accordance with AS 2118.1 – 1999, AS 2118.4 - 2012, Specification E1.5 of the BCA and the Fire Sprinkler Standard 2013.  
*(Work to be completed as part of Stage 1)*

##### **4.02 Installation of Fire Hose Reels**

- a) Certification is required to be provided from a hydraulic engineer that confirms that the existing hose reel system complies with the requirements of AS2441 – 2005.  
*(Work to be completed as part of Stage 1)*

##### **4.03 Installation of Fire Hydrants**

- a) That hydrants shall be installed throughout the building in accordance with the requirements of E1.3 of the BCA and AS2419.1 -2005;
- b) Certification from an appropriately qualified person is required to be submitted to Council that confirms that installed hydrant system complies with the requirements of AS2419.1 – 2005.  
*(Work to be completed as part of Stage 1)*

##### **4.04 Installation of Portable Fire Extinguishers**

- a) Portable fire extinguishers, with appropriate signage are required to be installed throughout the building in accordance with Clause E1.6 of the BCA and AS2444 – 2001.
- b) Certification from an appropriately qualified person is required to be submitted to Council that confirms that portable fire extinguishers have provided in accordance with E1.6 of the BCA and AS 2444 – 2001;  
*(Work to be completed as part of Stage 2)*

#### **REASONS FOR GIVING THE FIRE ORDER**

Pursuant to s.121 L of the Environmental Planning and Assessment Act 1979,  
this Order was given for the following reasons:

#### **GENERAL**

1. The building is considered to be in an unsafe fire safety condition, lacking proper provision for fire detection, controlling and extinguishment of fire and adequate provision for escape in the event of a fire emergency;

**MEANS OF EGRESS**

1. The final exit doors are not provided with a single handed downward action latching devices or panic bars. These omissions will negatively impact on the ease with which persons evacuate the building in an emergency;
2. The passageways and corridors within the building do not provide acceptable provisions for access and egress to and from the building as they have non-compliant handrails. These defects pose a serious falling threat to persons using the exit not only in an emergency but in the general day to day access of floors;
3. The building has non-compliance construction, egress facilities and lacks suitable fire fighting equipment and is in need of controlled fire safety evacuation procedures so as to assist occupants in the event of a building fire emergency;

**FIRE SERVICES AND EQUIPMENT**

1. The building is not provided with suitable fire fighting equipment to safeguard against fire spread;
2. The building does not have appropriate measures in place which would alert occupants of the building of a fire so that they may evacuate with a degree of safety before conditions become untenable or life threatening;
3. The building does not have a current fire safety certification for installed fire safety measures. This may suggest that required fire measures are not being maintained to the degree necessary to ensure their reliable performance in the event of a fire;
4. The building is not provided with appropriate fire fighting equipment to safeguard against the spread of fire and to assist occupants and Fire and Rescue NSW to undertake fire-fighting operations on a fire;
5. The building lacks facilities which provide automatic detection and alarm of an outbreak of fire to Fire and Rescue NSW which would assist in co-ordinating early Fire and Rescue NSW intervention during a building fire emergency;

**Relevant Authority:**

The relevant legislative provision is section 121B-6 of the Environmental Planning and Assessment Act, 1979.

**Modification of Orders:**

The terms of this Order can only be modified by Council in writing, and only if the person to whom the Order was given agrees to that modification. In no circumstances can the terms of the Order be amended orally.

Any application to Council seeking an amendment of this Order must be writing clearly setting out:

- the term(s) to be modified,

- the reasons for the modification of the term(s) and
- any substitute term(s) to be added to the Order (if applicable)

**Submission of Fire Safety Certificate:**

That a person to whom a fire safety order is given, must within the time specified in the order, cause a copy of the final fire safety certificate for the building (being a certificate issued after the requirements of the order have been complied with) to be given to the Council.

**IMPORTANT NOTES**

You are advised that the provisions of the Environmental Planning and Assessment Act, 1979 and Regulations made under the Act are not being complied with.

The requirements of the paragraph above include items which are classified as Essential Fire Safety measures pursuant to Part 9 of the Environmental Planning and Assessment Regulation 2000.

Such items are listed in the attached schedule of this Order together with the minimum standard to which those services are required to be designed, installed and maintained.

**APPEAL**

If you wish to appeal against this Order or a specified part of this Order, YOU MUST APPEAL TO THE LAND AND ENVIRONMENT COURT, LEVEL 4, 225 MACQUARIE STREET, SYDNEY WITHIN 28 DAYS OF THE SERVICE OF THIS ORDER UPON YOU.

**FIRE AND RESCUE NSW NOTIFICATION**

A copy of this Order has been sent to the Commissioner of Fire and Rescue NSW pursuant to the requirements of S.121 ZB of the Environmental Planning and Assessment Act 1979.

**PENALTY**

It should be noted that failure to comply with this Order is an offence with a maximum penalty of 10,000 penalty units and to a further daily penalty not exceeding 1000 penalty units (currently one penalty unit is \$110). Also if the Order is not complied with, Council may give effect to the Order and recover the costs of doing so from you. It is important to note that Council has given this Order with two (2) separate and distinct compliance periods. Failure to comply with any one constitutes an offence under the Environmental Planning and Assessment Act 1979.

**COMPLIANCE COST NOTICE**

As a result of the issue of this Order, Council may also issue you with a Compliance Cost Notice under section 121CA of the Act. Where such a notice is issued it will require you to pay a specified amount, being Council's reasonable costs and expenses incurred in monitoring works and ensuring compliance with the Order. This may include the time spent by Council staff; including time spent undertaking inspections, as well as any other expenses incurred in taking steps to ensure that the Order is complied with. Where Council issues you with a Compliance Cost Notice you will have a right of appeal to the Local Court or, where you are also appealing against this Order, the Land and Environment Court in accordance with s121ZKA of the Act.

**CONTACT DETAILS**

For further information regarding this Order please contact Tony Pearman – Supervisor – Compliance, on telephone number (02) 4429 3612 or email [tony.pearman@shoalhaven.nsw.gov.au](mailto:tony.pearman@shoalhaven.nsw.gov.au).

Yours sincerely,

Tony Pearman  
Supervisor - Compliance  
Planning and Development Services Group

DRAFT

CL17.19 - Attachment 3

## FIRE SAFETY SCHEDULE

Clauses 166 & 168 Environmental Planning and Assessment Regulation, 2000

**LAND:** 55 Judith Drive, NORTH NOWRA, Lot 1 DP 789616

**APPROVED USE AND OR DEVELOPMENT:** Residential Aged Care Facility and Administration Building

**DATED** 9/12/2016

Essential Fire Safety Measures	Standard of Performance	BCA clause	Existing or Proposed	Location of Existing Measure & or BA/CC/Plan Reference if applicable	Critical Fire Safety Measure	
					Y/N	Period
Automatic Fail Safe Devices		D2.21	Proposed	Front Entry Gate	N	
Automatic Fire Detection and Alarm System	AS 1670.1 - 2015	E2.2a, Spec E2.2a	Proposed	Residential Aged Care Facility	N	
Automatic Fire Suppression Systems	AS 2118.1 – 1999, AS 2118.4 - 2012 and Fire Sprinkler Standard 2013	E1.5, Spec E1.5	Proposed	Residential Aged Care Facility	N	
Building Occupant Warning System	AS1670.1 - 2015	E1.5, E2.2, Spec E1.5, Spec E2.2a	Proposed	Residential Aged Care Facility		
Emergency Lighting	AS2293-2005	E4.2 & E4.4	Existing		N	
Exit Latches (Required Exit Doors)		D2.21	Proposed and Existing		N	
Exit Signs	AS2293.1 - 2005	E4.4, E4.5, E4.6, E4.8	Proposed and Existing		N	
Fire Alarm Monitoring / Communication Link	AS1670.3 - 2004	E2.2a, Spec E2.2a, Spec E1.5	Proposed	Residential Aged Care Facility	N	
Fire Blanket	AS2444-2001		Existing			
Fire Door	AS 1905.1 - 2005	C2.13	Proposed	Residential Aged Care Facility	N	
Fire Hydrants Systems	AS2419.1 - 2005	E1.3	Proposed		N	
Fire Seals Protecting Openings in Fire Resisting Components of the Building	AS1530.4 - 2005 1997 & AS4072.1 - 2005	C3.15, Spec C3.15	Proposed and Existing	Residential Aged Care Facility	N	
Hose Reel Systems	AS 2441 - 2005	E1.4	Proposed and Existing	Residential Aged Care Facility	N	
Paths of Travel	CI 186 of EP&A Regulations 2000	D1.6	Proposed and Existing		N	

Portable Fire Extinguishers	AS2444 - 2001	E1.6	Proposed and Existing		N	
Smoke Alarms and Heat Alarms	AS3786 -1993	Spec E2.2a	Existing	Illaroo Administration Building	N	

Note: A copy of this Schedule must be prominently displayed in the building in accordance with Part 9 Division 4 of the Environmental Planning and Assessment Regulation 2000.

At least once in each period of twelve months after a Final Fire Safety Certificate is required to have been furnished to Council and the Commissioner of NSW Fire Brigades, the owner of the building must cause the Council and the Commissioner of the NSW Fire Brigades to be furnished with an annual Fire Safety Statement with respect to each fire safety measure nominated in the attached schedule.

## **CL17.20 NSW Planning Reform - Proposed amendments to Environmental Planning and Assessment Act 1979**

**HPERM Ref:** D17/7438

**Group:** Planning & Development Services Group  
**Section:** Strategic Planning

**Attachments:** 1. Council Circular 17.01 - Draft Bill - Amendments - Environmental Planning and Assessment Act 1979 - Office of Local Government [↓](#)

### **Purpose / Summary**

The purpose of this report is to notify Council that the NSW Department of Planning & Environment (DP&E) have released draft amendments to the *Environmental Planning and Assessment Act 1979*.

### **Recommendation**

That Council:

1. Prepare a submission on the proposed amendments to the *Environmental Planning and Assessment Act 1979*; and
2. Consider the draft submission through a future report to Council.

### **Options**

1. Adopt the recommendation

Implications: This option is preferred. Council staff will continue to review the proposed amendments and prepare a draft submission to DP&E. Council's draft submission will be reported back to Council for consideration.

2. Not adopt the recommendation

Implications: This is not preferred. It is important that Council provides feedback on this major planning legislation update during the public exhibition period.

### **Background**

On the 9<sup>th</sup> January 2017 the NSW Planning Minister, Rob Stokes, released a summary of proposed amendments to the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The principles underpinning these reforms are to:

- enhance community participation;
- promote strategic planning;
- increase probity and accountability in decision-making; and
- promote simpler, faster processes for all participants.

In 2016, the Department consulted with planning stakeholders to prepare improvements to the *Environmental Planning and Assessment Act 1979* (the EP&A Act). As a result of this consultation, the Department is proposing a number of amendment proposals, including:

- *enhancing community participation: establishing a new part of the Act that consolidates community consultation provisions, and requiring decision-makers to give reasons for their decisions*
- *completing the strategic planning framework: through local strategic planning statements, up to date Local Environment Plans and more consistent and workable Development Control Plans*
- *development pathways: improvements to the various development pathways and preventing the misuse of modifications*
- *State significant development: through better environmental impact assessment and more effective conditions of consent*
- *clearer building provisions: simplified and consolidated building provisions, allowing conditions on construction certificates and ensuring consistency with development approvals*
- *elevating the role of design: through a new design object in the act, and a Design-Led Planning Strategy*
- *improving enforcement: with the introduction of enforceable undertakings in compliance actions.*

The Council Circular 17/01 from the Office of Local Government provides a summary of the amendments (**Attachment 1**).

#### Public consultation

The consultation package is in four parts:

- Summary of Proposals
- Draft Bill
- A plain English guide to the Bill
- A report on stakeholder feedback to date.

All documents are available for download at [www.planning.nsw.gov.au/Policy-and-Legislation/Legislative-Updates](http://www.planning.nsw.gov.au/Policy-and-Legislation/Legislative-Updates).

The draft amendments are open for public comment until 10 March 2017, however this timeframe provides little opportunity for detailed review by Council staff and to allow for reporting timeframes. An extension until Friday 14 April 2017 has been requested from DP&E. This will allow Council staff to thoroughly review the amendments, consider any policy and resource implications for Council and prepare a report for Council to consider the draft submission. It is anticipated that this report will be considered at Council's March or April 2017 Development Committee.

DP&E have advised that the following activities will be scheduled to assist Council staff in contributing to this policy process:

- *Information sessions – to be held in Sydney and around the state, in early February; members of the DP&E policy team will step through the attached proposals and the submissions process.*
- *Web Q&A – during the exhibition period, the Department welcome any questions about the proposed legislation and will publish the answers on the Department’s website, for the benefit of all stakeholders.*
- *Technical workshops – round-table page-turns for policy & legal specialists to consider the operation of the proposed legislation in deeper detail, scheduled later in February.*

Council staff are yet to receive invitations or see any information online regarding the information sessions, online Q&A and technical workshops detailed above and Council staff have raised concern with the lack of scheduled dates for these workshops in justifying a request for an extension to the exhibition timeframe.

### **Community Engagement**

The draft amendments were released for public comment on 9 January 2017. The exhibition period closes on 10 March 2017. Council has requested an extension of time to provide feedback on this major amendment to the EP&A Act.

### **Policy Implications**

The draft amendments propose a vast number of changes to Council’s Planning documents which will need to be reviewed in detail. Policy implications will be reviewed in detail and will be outlined to Council in a future report for Council to consider the draft submission on the amendments.

### **Financial Implications**

There are no immediate financial implications for Council in making this submission.

Council staff have not yet completed a detailed review of the proposed amendments and any associated financial implications for Council. Additional detail will be provided to Council in a future report.

<b>Circular Details</b>	Circular No 17-01 / 09 January 2017 – A531757
<b>Previous Circular</b>	16-01 New Local Government Act Development Consultation 16-30 Local Government Amendment (Governance and Planning) Act 16-35 More Phase 1 amendments to the Local Government Act commenced by proclamation
<b>Who should read this</b>	Councillors / General Managers / All council staff
<b>Contact</b>	Office of Local Government Relationship Manager
<b>Action required</b>	Information

### Exhibition draft of Bill to amend the Environmental Planning and Assessment Act 1979

#### What's new or changing

- As announced in May 2016, the Government is exhibiting draft amendments to the *Environmental Planning and Assessment Act 1979* (EP&A Act). The draft Bill will be on exhibition from 9 January 2016 to 10 March 2016.
- The draft Medium Density Design Guide and an Explanation of Intended Effect for a Medium Density Housing Code were exhibited from October to December 2016, and submissions are currently being considered.
- These changes will support increased housing supply and choice by making the planning assessment process more efficient for terraces and other low-rise medium density housing where they are already permitted under councils' planning policies, and where they meet a set of new detailed design guidelines. This will ensure that these homes are consistent with the local character of the area.
- The exhibition follows 10 roundtables discussion forums across regional New South Wales (Queanbeyan, Gosford, Newcastle, Tamworth, Griffith, Coffs Harbour, Wollongong and Dubbo) and metropolitan Sydney (including Parramatta) attended by 373 representatives from 235 key stakeholder organisations, including councils, industry, practitioners, Aboriginal groups, the community and environmental groups.

#### What this will mean for your council

- The following proposed amendments are of particular relevance to councils.

##### *Community participation*

- Planning authorities, including councils, will be required to prepare community participation plans. The plan will set out how and when the planning authority will undertake community participation in relation to upcoming proposals and development applications.
- In preparing community participation plans, planning authorities will be required to have regard to prescribed community participation principles.

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2

- It is also proposed to update the current minimum public exhibition requirements. For example, all applications for consent for local development will be required to be exhibited for a minimum of 14 days.
- To reduce duplication, a council will not need to prepare a separate community participation plan if it can meet the EP&A Act requirements through the broader community engagement strategy it has prepared under the *Local Government Act 1993*.
- Decision makers, including councils, will be required to provide reasons for their decisions. The statement of reasons should be proportionate to the scale and impact of decision.
- The Department of Planning and Environment (DPE) will provide guidance material to assist decision makers, and implementation timeframes will be developed following consultation with councils.

*Local planning*

- Councils will be required to publish local strategic planning statements. These will:
  - explain the strategic context within which the Local Environmental Plan (LEP) has been developed, including the rationale behind the application of zones and development controls;
  - explain how strategic priorities at the regional and/or district level are given effect at the local level; and
  - incorporate and summarise land use objectives and priorities identified through the council's Community Strategic Plan process.
- Councils will also be required to undertake a five-yearly LEP check against set criteria. The criteria relate to demographic changes in an area, infrastructure investment, and number of planning proposals.
- The outcomes of the LEP check and any recommendations will be provided to the Minister for Planning, or the Greater Sydney Commission in the case of councils located in the Greater Sydney region. The check may result in planning proposals for minor amendments or full LEP reviews.
- Development Control Plans (DCPs) will be required to follow a standard format. The standard format will be developed in consultation with councils to ensure that DCPs have the right balance of consistency and flexibility.
- Model DCP provisions will also be developed, which councils will be able to opt to use.

*Local development*

- For integrated development, the Secretary of DPE will be able to give advice, concurrence or general terms of approval on behalf of another agency where:
  - the agency has not provided the advice, granted or refused concurrence, or provided general terms of approval within statutory timeframes; or
  - the advice, concurrence or general terms of approval from two or more agencies are in conflict.
- The framework for independent hearing and assessment panels (IHAPs) will be standardised, with the new panels to be known as local planning panels. Existing IHAPs, whether established under the EP&A Act or the *Local Government Act 1993*, will be deemed to be local planning panels with appropriate savings and transitional provisions.

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- The Minister for Planning will have the power to direct a council to use local planning panels and/or to direct that more planning functions are carried out by council staff, in order to address performance or conflict of interest issues.
- Thresholds for regionally significant development will be adjusted, which will result in more developments being determined by councils.
- The draft Bill ensures that construction certificates must be consistent with development consents. This addresses the issue raised in *Burwood Council v Ralan Burwood Pty Ltd* (No. 3) [2014] NSWCA 404.

*Complying development*

- The regulations will be able to specify certain categories of development for which only a council certifier is authorised to issue a Complying Development Certificate (CDC).
- A new investigative power is proposed for councils, whereby councils will be able to suspend building works for up to seven days to investigate whether the works are being completed in accordance with a CDC.
- A compliance levy will be established as part of the fee structures for CDCs to support councils' compliance role, whether issued by council or private certifiers.
- The draft Bill ensures that CDCs that do not comply with relevant standards can be declared invalid. This addresses the issue identified in Land and Environment Court decision of *Hornsby Shire Council v Trives* [2015] NSWCA 158.

*Planning agreements*

- The power for the Minister for Planning to make directions about planning agreements will be broadened in relation to the circumstances in which agreements may be entered into, and the basis on which public benefit can be determined.
- A draft Ministerial direction, Practice Note and Planning Circular are currently on public exhibition following an announcement in November 2016.

**Where to go for further information**

The draft amendment Bill, a summary of proposals, and a Bill guide are available for review at [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

There are two methods to make a submission:

1. Complete the online feedback form available on DPE's website at [www.planning.nsw.gov.au/Have-Your-Say/Community-Consultations](http://www.planning.nsw.gov.au/Have-Your-Say/Community-Consultations).
2. Send written submissions to the Legislative Updates email box at [legislativeupdates@planning.nsw.gov.au](mailto:legislativeupdates@planning.nsw.gov.au).

Michelle Wood, A/Executive Director, Planning Policy Project, at DPE can be contacted on 02 9274 6222 or [Michelle.Wood@planning.nsw.gov.au](mailto:Michelle.Wood@planning.nsw.gov.au)



**Alan Dalton**  
Acting Chief Executive  
Office of Local Government

## **CL17.21 Tenders - TM27 Lake Tabourie Watermain Replacement**

**HPERM Ref:** D17/17789

**Group:** Shoalhaven Water Group  
**Section:** Water Asset Planning & Development

### **Purpose / Summary**

To inform Council of the tender process for TM27 Lake Tabourie Watermain Replacement.

In accordance with Section 10A(2)(d)(i) of the Local Government Act 1993, some information should remain confidential as it would, if disclosed, prejudice the commercial position of the person who supplied it. It is not in the public interest to disclose this information as it may reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests. This information will be considered under a separate confidential report.

This report is submitted directly to the Ordinary Council Meeting pursuant to Clause 3 of Council's "Acceptance of Tenders – Reports to Council" Policy.

### **Recommendation**

That Council consider a separate confidential report in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993.

### **Options**

1. Consider the separate confidential report as recommended
2. Council amend the recommendation and consider in open Council

Implications: Council may diminish the competitive commercial values of the tenders received or prejudice the tenderers legitimate interests if these matters are discussed non-confidentially.

3. Council amend the recommendation

Implications: Council propose an alternative resolution. Depending on the resolution Council may not be able to deliberate on the tender process for the TM27 Lake Tabourie Watermain Replacement while giving consideration to all the available information.

### **Details**

Introduction: Council, at its Ordinary Meeting on 16 December 2014, resolved to appoint a panel of contractors for mains construction works. The Panel comprises the following contractors:

- i. Comdain Civil Construction Pty Ltd
- ii. Murphy McCarthy & Associates Pty Ltd

- iii. EL Civil Engineering Pty Ltd
- iv. Ledonne Constructions Pty Ltd
- v. Interflow Pty Ltd
- vi. Hisway Pty Ltd
- vii. Select Civil Pty Ltd, and
- viii. Lynch Civil Contractors Pty Ltd.

The Panel was formed following an Expressions of Interest (EOI) process. The philosophy behind this approach was to identify suitably qualified contractors (based on a non-price assessment) to bid on a number of mains replacement packages over the next few years. This would enable a simplified assessment procedure whereby only price and assessment of project specific resourcing and construction methodology would need to be considered for the award of future works packages.

Background: Shoalhaven Water, through its Asset Management Systems, has identified a series of DN300 white uPVC pipelines installed in the early to mid 1980's. It has been the experience of Shoalhaven Water, and other water utilities across New South Wales, that this particular pipe type/size purchased at that time has a higher than average failure rate. It is proposed to replace these faulty uPVC mains with Polyethylene (PE) mains to reduce the risk of future failures.

The first DN300 white uPVC pipeline replaced under this program was two sections of Trunk Main 19 (one section in North Bendalong and one section in Manyana). The second DN300 white uPVC pipeline proposed to be replaced is Trunk Main 27 between Burrill Lake to Lake Tabourie. This 6 km (approximately) section of TM27 begins at the corner of the Princes Highway and Dolphin Point Rd, Burrill Lake and extends along the alignment of the Princes Highway to the township of Lake Tabourie. Lake Tabourie is the southern-most extent of Shoalhaven Water's reticulated water supply and TM27 is the sole source of reticulated water to the Lake Tabourie township.

Records indicate that this section of main has broken 7 times from 2012 to 2015. In late 2015 a pressure reducing valve was installed on the main, as a risk mitigation measure, and the replacement of the main placed in the capital works program. The main burst again on 17 January 2017, indicating its vulnerability. Design, environmental studies and consultation have proceeded prior to tendering.

Tenders have been called and the award of a contract for the construction of the TM27 Lake Tabourie Watermain Replacement is now being presented to Council for determination.

Tenders Received

Tenders were invited from all contractors on the Panel on the 14 November 2016 for the construction of the TM27 Lake Tabourie Watermain Replacement with a mandatory pre-tender site meeting on 21 November 2016.

A Tender Evaluation Committee (TEC) was formed and a Tender Evaluation Plan (TEP) was developed for the tender analysis.

Tenders closed at 10am on 22 December 2016 with a total of five (5) tenders received by the deadline.

<b>Tenderer</b>	<b>Location</b>
Hisway Pty Ltd	Tenderlink Portal
Ledonne Constructions Pty Ltd	Tenderlink Portal

CL17.21

EL Civil Engineering Pty Ltd	Tenderlink Portal
Select Civil Pty Ltd	Tenderlink Portal
Murphy McCarthy & Associates Pty Ltd	Tenderlink Portal

The tenders were evaluated in accordance with the TEP, which comprised mandatory, price and non-price criteria including:

- Total cost of tenderers bid, including application of Local Preference Policy
- Construction methodology and program
- Skills, experience and availability of proposed key personnel
- Past performance on previous Mains Construction Panel Contracts

In order to identify the best value for money while ensuring a suitable balance between the main criteria of price, experience and methodology it was determined to use an 80% price to 20% non-price ratio for the tender assessment.

Details relating the evaluation of the tenders are contained in the confidential report.

Summary of the Evaluation Process:

1. Assessment of Price Criteria

The five tenders had their price components assessed as per the formula given in Clause 5.5 of the TEP.

Reductions in the assessed tender price were given to those tenderers who included local contractors and suppliers as per the Local Preference Policy capped at \$15,000.

i. The Asset & Works Group of Council is considering the installation of a shared user path between Burrill Lake and Lake Tabourie and had requested that Shoalhaven Water include in the tender documents provision for variation pricing to install the subgrade of this path. During the tender evaluation process the TEC was advised that it may be feasible to proceed with 300m of the shared user path subgrade, at the Burrill Lake end of the job. The assessed tender price for each tenderer was adjusted to account for this 300m of shared user path subgrade.

2. Assessment of Non-Price Criteria

The TEC assessed the tenders for non-price criteria as detailed in the methodology for Non-Price Ratings contained within the Tender Evaluation Plan (Sections 5.6).

Tenders were assessed by the TEC as a group. Following discussions a consensus score was reached for each assessment criteria for each of the tender submissions. Tenders were assessed following the guidelines for scoring Non-Price Criteria described in Attachment B of the TEP.

3. Outcome of Tender Evaluation

ii. The final score for each tenderer was obtained by adding together the normalised total non-price score with the normalised total price score. The Tenderer with the highest total combined score was identified as the Preferred Tenderer. The tenderer with the second highest score was identified as the alternate Preferred Tenderer.

- iii. As per the Procedure defined in section 4 of the TEP, the TEC resolved to hold tender evaluation interviews with the two highest scoring tenderers to ensure that each tenderer had a comprehensive understanding of the scope of works and clarify any issues identified in each tender. These interviews were held in the SCC Nowra Administration Building on the 10 and 12 January 2017 and attended by two (2) members of the TEC.
- iv. As a result of these interviews, along with the price and non-price criterias, the TEC made the recommendation contained in the confidential report.

**Community Engagement:**

Shoalhaven Water has consulted extensively with the Roads and Maritime Service (RMS) as the owner of the land through which the pipeline will be constructed. A s138 Approval to undertake works in the Princes Highway road reserve has been obtained from the RMS.

A Review of Environmental Factors (REF) for the pipeline installation was developed by Council's Environmental Services Section for the project. This REF did not identify any threatened flora or fauna species in the area of influence for the construction works. One Threatened Ecological Community (EEC), the Bangalay Sand Forest, was identified however sufficient control measures (including adjustments to the pipeline alignment) have been incorporated into the project to mitigate the impact of the works on the sand forest. The recommended control measures from the REF form part of the tender specifications.

It is a requirement of the tender to provide ongoing community consultation, as needed, during the construction of the works. Minor water outages will be required during the transition from the existing water main to the new. It will be necessary to provide at least 48hrs notice to affected residents of any planned water outages. Further, no planned water outages will be permitted on the three major tourist parks located between Burrill Lake and Lake Tabourie during NSW School Holiday periods.

**Financial Implications:**

Sufficient funds have been allocated in the Water fund capital budgets for 2016/17 and 2017/18. Contract management will be done by Shoalhaven Water employees. Daily site inspections to be undertaken by Shoalhaven Water nominated construction inspectors.

It is proposed to start construction of the project in April 2017 with completion expected by the end of the 2017 calendar year.

**Conclusion:**

Shoalhaven Water have undertaken a comprehensive tender evaluation in accordance with the approved tender evaluation plan and have made a recommendation to Council in a separate Confidential Report. It is therefore recommended that Council consider the Confidential Report and the recommendations there-in.

## **CL17.22 Draft Proposal for 2017-18 Water and Sewer Charges**

**HPERM Ref:** D17/18253

**Group:** Shoalhaven Water Group

**Attachments:** 1. Reply from Department of Primary Industries [↓](#)

### **Purpose / Summary**

The purpose of this report is to provide a draft proposal for water and sewer charges for the 2017/18 financial year for Council's consideration and direction as to any other options that should be analysed prior to public consultation.

### **Recommendation**

That Council:

1. Adopt the following proposal for 20mm residential connections for inclusion in the draft 2017/18 budget.  
Water Availability Charge – No increase from \$82/connection  
Water Usage Charge – No increase from \$1.70/kL  
Sewer Availability Charge – Increase of \$35 p.a. from \$795 p.a. to \$830 p.a.
2. Amend the Delivery Program and Operational Plan to include the new capital projects for sewer extensions to Woollamia Village and the residential subdivision at St Andrews Way.

### **Options**

1. Adopt the recommended values.  
Implications: This would result in a 2.9% increase to the total Shoalhaven Water bill for Water and Sewer services for a residential household using 200 kL/annum or 3.1% for a household using 144 kL/annum.
2. Request further analysis of other pricing models and their implications.  
Implications: Different pricing paths can be achieved by deferral or re-prioritisation of works (other than those where contracts are already let).

### **Background**

The proposed 2017/18 Water and Sewerage budgets presented in this report have been derived by analysis and of operating and capital drivers, with the aim of minimising increases in water and sewer charges. 10 and 20 year modelling of the funds have been undertaken

#### *Water Fund*

The water fund has no loans outstanding and in 2016 had a net operating result for the 2016 financial year of \$6.1M (see Note 21 to the Financial Statements). Major infrastructure works

are being funded from reserves as previously modelled and reported. After taking into account dividend payment, capital expenditure and depreciation the water fund had a negative cash flow from its externally restricted water supply reserve of \$1.2M. (see Note 6c to the Financial Statements), bringing this reserve to \$25.9M. The current 2017 budget is expected to result in a negative cash flow of \$13.1M as the Porters Creek dam project concludes. This will reduce the water fund reserves as scheduled.

The current Delivery Program and Operational Plan (DPOP) forecasts an increase in the water access charge of \$2 per residential connection and a 5c / kL increase in water usage charges for the 2017/18 financial year. Updated modelling with the 2016 results has demonstrated that a zero increase to residential access and usage charges can be applied for the 2017/18 financial year, with a sustainable dividend payment.

#### *Sewer Fund*

As has been reported for many years, the sewer fund is heavily influenced by ongoing significant capital requirements and has a number of current and future loan borrowings factored into the 20 year model. The sewer fund pricing path has included “above CPI” increases over a number of previous years to avoid price shock and to fund both significant backlog programs (Lake Tabourie, Conjola Regional Scheme, Currarong and Kangaroo Valley) in addition to the upgrade of the Nowra and Bomaderry systems (REMS1B). The sewer fund had a net operating result for the 2016 financial year of \$17.1M (see Note 21 to the Financial Statements). After taking into account dividend payment, capital expenditure, depreciation and the REMS1B grant reconciliation, the sewer fund had a positive cash flow of \$18.4M into reserve, bringing the sewer restricted reserve to \$26.6M (Note 6c of Financial Statements). The current 2017 budget includes a \$44M loan as previously reported to Council. This loan plus reserves will fund the \$68M capital program for this year.

The REMS 1B contract will continue to have significant impacts on the sewer program budget for the next 2 years. Further loans will be required over that period as has been previously reported.

The current DPOP forecasts an increase in the residential sewer access charge of \$24 per residential connection for the 2017/18 financial year and by \$25 per residential connection the following year. This forecast did not include any allowance for Woollamia or St. Andrews Way schemes.

After representations from various residents in Woollamia Village, Council resolved in November 2016 to:

1. Make an application to the NSW state Government for a subsidy under the new subsidy scheme to assist with the extension of sewer to Woollamia Village area
2. Carry out a scoping study and detailed design
3. Should there be a significant delay in the receipt of the subsidy this will be the trigger for another report from the General Manager to enable Council to consider fully funding the extension itself.

Council wrote to the State Government in response to item 1 above and has now received a reply from the Department of Primary Industries (copy see Attachment 1). As outlined in that letter there is currently no funding available for this project under current subsidy schemes.

Council also resolved in November 2016 that a report be provided by the General Manager on the financial aspects of providing a Sewer Main System to St Andrews Way.

As stated above, neither of these projects have been included in the current DPOP pricing considerations. In order to finance additional loans for these projects, an additional \$11 per assessment above the DPOP figure will be required.

The effect of the above proposal on the Shoalhaven Water bill for a residential connection in respect of water supply and sewerage services is shown on the following table.

**Table: Proposed effect on Shoalhaven Water bill (water and sewerage)**

		2016/17	2017/18	% increase	\$ increase		
Availability Charge		\$82	\$82	0.0%			
Usage Charges	Usage per annum in kL	\$1.70	\$1.70	0.0%	per annum	per week	per bill (quarterly)
	50	\$167.00	\$167.00	0.0%	\$0.00	\$0.00	\$0.00
	100	\$252.00	\$252.00	0.0%	\$0.00	\$0.00	\$0.00
	144	\$326.80	\$326.80	0.0%	\$0.00	\$0.00	\$0.00
	200	\$422.00	\$422.00	0.0%	\$0.00	\$0.00	\$0.00
	450	\$847.00	\$847.00	0.0%	\$0.00	\$0.00	\$0.00
Add Sewerage		\$795.00	\$ 830.00	4.4%			
	Usage per annum in kL				per annum	per week	per bill (quarterly)
	50	\$962.00	\$997.00	3.6%	\$35.00	\$0.67	\$8.75
	100	\$1,047.00	\$1,082.00	3.3%	\$35.00	\$0.67	\$8.75
	144	\$1,121.80	\$1,156.80	3.1%	\$35.00	\$0.67	\$8.75
	200	\$1,217.00	\$1,252.00	2.9%	\$35.00	\$0.67	\$8.75
	450	\$1,642.00	\$1,677.00	2.1%	\$35.00	\$0.67	\$8.75

It should be noted that the latest available National Performance Benchmark Urban Water Utilities (2014-15) for the median of an annual bill based on 200kl (\$) for water and sewer across the same group as Shoalhaven is **\$1,276 p.a.** and all Water Utilities is **\$1,393 p.a.**

### Community Engagement

Any draft proposal adopted by Council will form part of the community engagement process for the DPOP. The Woollamia and St Andrews Way projects could be included for design in 2018/19 and construction in 2019/20 on the basis of the above draft proposal.

### Financial Implications

The draft proposal articulated in this report seeks to minimise price increases to customers while providing essential infrastructure in a sustainable manner. As noted in the response from the Department of Primary Industries, Shoalhaven Council has received over \$100M in grants for water and sewer services over many years. Changes in government grant funding arrangements means that Council is currently not eligible for subsidy for our major capital works. The sewer fund will therefore continue to rely on significant loans to provide necessary capital infrastructure. The 2016/17 TCorp loan for \$44M has been confirmed at a rate of 3.9%.

A number of variables and uncertainties are contained within the financial models for water and sewer, including the timing of new infrastructure for development, interest rates, climatic factors and major contract programming. The draft pricing proposal is based on information current at this date. This will be further refined as factors change.



Department of  
Primary Industries  
Water

Shoalhaven City Council

Received

16 JAN 2017

File No. \_\_\_\_\_

Referred to: C. Krogh

RM8 reference: OUT16/50626

The General Manager  
Shoalhaven City Council  
PO Box 42  
NOWRA NSW 2520

Attention: Carmel Krogh (Director Shoalhaven Water)

Dear Carmel

**Funding for Woollamia Village Sewerage**

Thank you for your letter of 8 December 2016 to DPI Water concerning subsidy for the provision of sewer to Woollamia Village.

Unfortunately there is no funding available for this project under current NSW Government funding Programs as these are fully committed.

Although nothing is scheduled at this time, there may be future funding programs from Infrastructure NSW for which a sewerage scheme for Woollamia might be considered.

It is pleasing to see that the NSW Government has provided over \$100 million to Shoalhaven City Council under Country Towns Water Supply and Sewerage Program to assist in delivering key water infrastructure projects in the area

DPI Water will continue to support programs that address the challenges facing Local Water Utilities, including Backlog Sewerage, and will advise Council when additional funding opportunities become available.

Should you have any further enquiries about this matter, I have arranged for Mr Peter Ledwos to assist you. Peter Ledwos may be contacted at the DPI Water's Wollongong Office on telephone number (02) 4224 9731.

Yours sincerely

**Frank Garofalo**  
Group Director Water Regulation 10/1/17

## LOCAL GOVERNMENT AMENDMENT (GOVERNANCE & PLANNING) ACT 2016

### Chapter 3, Section 8A Guiding principles for councils

#### (1) Exercise of functions generally

The following general principles apply to the exercise of functions by councils:

- (a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Councils should work with others to secure appropriate services for local community needs.
- (h) Councils should act fairly, ethically and without bias in the interests of the local community.
- (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

#### (2) Decision-making

The following principles apply to decision-making by councils (subject to any other applicable law):

- (a) Councils should recognise diverse local community needs and interests.
- (b) Councils should consider social justice principles.
- (c) Councils should consider the long term and cumulative effects of actions on future generations.
- (d) Councils should consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

#### (3) Community participation

Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

### Chapter 3, Section 8B Principles of sound financial management

The following principles of sound financial management apply to councils:

- (a) Council spending should be responsible and sustainable, aligning general revenue and expenses.
- (b) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- (c) Councils should have effective financial and asset management, including sound policies and processes for the following:
  - (i) performance management and reporting,
  - (ii) asset maintenance and enhancement,
  - (iii) funding decisions,
  - (iv) risk management practices.
- (d) Councils should have regard to achieving intergenerational equity, including ensuring the following:
  - (i) policy decisions are made after considering their financial effects on future generations,
  - (ii) the current generation funds the cost of its services

### **Chapter 3, 8C Integrated planning and reporting principles that apply to councils**

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by councils:

- (a) Councils should identify and prioritise key local community needs and aspirations and consider regional priorities.
- (b) Councils should identify strategic goals to meet those needs and aspirations.
- (c) Councils should develop activities, and prioritise actions, to work towards the strategic goals.
- (d) Councils should ensure that the strategic goals and activities to work towards them may be achieved within council resources.
- (e) Councils should regularly review and evaluate progress towards achieving strategic goals.
- (f) Councils should maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals.
- (g) Councils should collaborate with others to maximise achievement of strategic goals.
- (h) Councils should manage risks to the local community or area or to the council effectively and proactively.
- (i) Councils should make appropriate evidence-based adaptations to meet changing needs and circumstances.