

## Ordinary Meeting

**Meeting Date:** Tuesday, 26 February, 2019  
**Location:** Council Chambers, City Administrative Building, Bridge Road, Nowra  
**Time:** 5.00pm

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

**Please note:** The proceedings of this meeting (including presentations, deputations and debate) will be webcast and may be recorded and broadcast under the provisions of the Code of Meeting Practice. 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 - 29 January 2019

### 6. Declarations of Interest

### 7. Presentation of Petitions

### 8. Mayoral Minute

#### Mayoral Minute

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CCL19.3	UPDATE - Shoalhaven Affordable Housing Strategy - Property Acquisition Matters  <i>Local Government Act - Section 10A(2)(c) - Information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.</i>  <i>There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be 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.</i>
CCL19.4	Proposed Purchase of Vacant Land - Nowra  <i>Local Government Act - Section 10A(2)(c) - Information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.</i>

*There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be 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.*

## MM19.2 Mayoral Minute - Recruitment of General Manager

**HPERM Ref:** D19/32046

**Attachments:**

1. Proposal Local Government NSW (Confidential - councillors information folder)
2. Proposal McArthur (Confidential - councillors information folder)
3. Proposal Blackadder Associates (Confidential - councillors information folder)
4. Division of Local Government Guidelines for the Appointment & Oversight of General Managers (under separate cover)

### Recommendation

That:

1. With respect to the recruitment of the position of the General Manager Council note the Mayoral Minute on the Recruitment of the General Manager and the Division of Local Government 'Guidelines for the Appointment & Oversight of General Managers' (July 2011).
2. Council appoint a recruitment consultant from the following submissions received:
  - Macarthur
  - Blackadder Associates
  - LGNSW
3. Council retain the services of the consultant to assist in the first year for performance assessment and review.
4. Council constitute a selection panel as follows, with the appointment of the independent member to be made after Council discusses with the recruitment consultant a process for selecting an independent member.
  - Mayor
  - Deputy Mayor
  - Councillor
  - Independent Member
5. Council work immediately (as soon as practical) with the selected recruitment consultant in a facilitated workshop to provide background information on the needs and challenges facing Shoalhaven City Council to inform the position description. At this session Councillors also agree on a process for the selection of an independent member.
6. A further briefing be scheduled for a report back from the consultant on the position description and process for selection of an independent member.
7. Council call for expressions of interest from interested applicants for the position of Acting General Manager.
8. Report back to Senior Staff Contractual Matters Committee on the Acting General Manager Expressions of Interest process and appoint a candidate by 15 March 2019.

MM19.2

## Details

The General Manager, Russ Pigg, has submitted in writing his intention to retire and as such terminate his employment with Council effective 10 August 2019. It is the General Manager's intention to take approved leave from 8 April 2019. I believe I speak for everyone at Council in thanking Mr Pigg for his immense contribution to Council and the Shoalhaven community over many years.

Given this notice, in accordance with Section 334 of the Local Government Act 1993 ('the Act') it is necessary that Council give consideration to arranging the recruitment process for the position of General Manager.

The Office of Local Government (formerly Division of Local Government) has issued 'Guidelines for the Appointment & Oversight of General Managers' July 2011 ('the Guidelines'). A copy is attached for information.

As with the appointment of any staff, Council must ensure that the appointment of the General Manager is made based on merit selection (s349 of the Act) and equal employment opportunity principles.

In accordance with the Guidelines, the Council should delegate the task of recruitment to a selection panel and approve the recruitment process.

The Guidelines stipulate the following in relation to the recruitment selection panel:

- (i) should consist of at least the mayor, deputy mayor, another councillor and a suitably qualified person independent of the council
- (ii) must have at least one male and one female member
- (iii) the membership should remain the same throughout the recruitment process

The Council needs to determine the composition of the selection panel and this report suggests that selection should occur after initial consultation with the recruitment consultant. To ensure the independence of the independent member, a discussion needs to take place with the Council members and the facilitator about a process that will ensure an independent member and therefore be reported back to council at the same time as the position description.

In addition, the Guidelines state the Council should delegate to one person (usually the Mayor) the task of ensuring:

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

To ensure the recruitment process is as efficient as possible and attracts high quality candidates it is recommended that Council engages a suitably qualified and experienced recruitment consultant to assist with the recruitment process.

Proposals have been received from McArthur, Blackadder associates & Local Government NSW. For the purpose of openness and transparency it is suggested that the whole Council participate in the selection of a recruitment consultant. The whole Council is generally involved in financial matters such as contract letting, and it is considered that this process is no different.

Copies of the proposals are provided in Councillors Information Folder. These proposals be treated as Confidential in accordance with Section 10A(2)(d) of the Local Government Act 1993, because the proposals contain commercial information, the disclosure of which would be likely to prejudice the commercial position of the recruitment consultants if it was provided.

The indicative schedule for the recruitment process is as follows:

Appoint recruitment Consultant	26 February 2019
Open Expression of Interest for Acting GM	27 February 2019
Close Expression of Interest for Acting GM	7 March 2019
Consideration of EOI's and Appoint Acting GM - via a Senior Staff Contractual Matters Committee Meeting	12 March 2019
Workshop with consultant and Councillors	15 March 2019
Ratify position description and appoint selection panel	22 March 2019
Advertising of the position (4 weeks or as recommended by consultant)	
Shortlisting, interviews and checks undertaken	by end of May 2019
Report to Council	June 2019

The delegation of the recruitment process to the selection panel is not intended to fetter the function of Council as a whole to appoint the next General Manager. It is proposed that the selection panel provides a confidential report to the June Ordinary Meeting that:

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

It is proposed that the Mayor acts as the chair of the selection panel and a term of reference is established for the selection panel. All decisions of the selection panel are to be on a consensus basis and if consensus cannot be reached during any stage of the recruitment process then the matter is to be referred to Council to be resolved.

Section 336 of the Act requires that if a vacancy occurs in the position of General Manager, the Council appoints a person to the vacant position or appoints a person to act in the vacant position. Given Mr Russ Pigg has provided notice that he will retire effective of 10 August 2019 and will commence leave from 5 April 2019 Council needs to appoint an Acting General Manager for the period of 5 April 2019 until the commencement date of the new General Manager.

The Council has a number of options that it can consider in appointing an Acting General Manager.

1. To seek a candidate from outside of the organisation to fill the 'vacancy'.
2. To make an internal 'directed' appointment.
3. To seek expressions of interest from interested staff within the organisation and make an appointment from those interested.

This report seeks the support of Council to undertake an expression of interest process that encourages a candidate from within the organisation who would like the opportunity to act in this substantial role. Candidates that are not intending to apply for the position are to be

encouraged to express an interest, this will encourage all perspective candidates to apply and not just limit to those who will be applying for the permanent position. In adopting this approach, it will assist Council in understanding where talent and ambition are within the organisation that can be fostered into the future. In running an expression of interest process Council embarks on a more accountable pathway that doesn't necessarily favour a prospective candidate for the position.

Upon appointment of the Acting General Manager and in accordance with the Act, Council will delegate the authorities of the General Manager following Mr Pigg's departure until such time the position is filled on a permanent basis.



## **CL19.25 Notice of Motion - Australia Day Formal Endorsement as Council Policy**

**HPERM Ref:** D19/30708

**Submitted by:** Cllr Greg Watson  
Cllr Mitchell Pakes  
Cllr Andrew Guile

### **Purpose / Summary**

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

### **Recommendation**

That

1. Council adopt a formal policy of strongly supporting the celebration of Australia Day being held on the 26th of January.
2. The General Manager write to the Prime Minister and the Leader of the Opposition outlining Council's strong support for the retention of Australia Day, and associated celebrations being held on the 26th January

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

Currently, Council financially supports various community groups with their Australia Day functions held on 26<sup>th</sup> January. The Mayor and some councillors attend some functions. The Council Awards event is held on an evening prior to Australia Day, which is a common practice, and allows the Award recipients to celebrate with family and friends on Australia Day to their choosing.

CL19.25

## **CL19.26 Notice of Motion - Bomaderry Aquatic Centre Car Park Maintenance**

**HPERM Ref:** D19/51549

**Submitted by:** Cllr Greg Watson

### **Purpose / Summary**

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

### **Recommendation**

That Council carry out urgent maintenance on the Bomaderry Aquatic Centre Car Park and place the carpark on the Works Programme for reconstruction and sealing.

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

The carpark will be inspected to assess the extent of urgent maintenance required and work undertaken as needed.

At present, the Bomaderry Aquatic Centre has 25 sealed and line marked parking bays, including two (2) designated accessible parking spaces adjacent to the Centre. The northern area of the car park, which is currently unsealed, is utilised as overflow by patrons during busy periods and is maintained / graded on an annual basis.

Additional sealing is not currently listed in the capital works programme but cost estimates will be prepared and noted for future budget consideration.

CL19.26

## **CL19.27 Notice of Motion - Shower Facilities - Ulladulla**

**HPERM Ref:** D19/42948

**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 install two self-regulated cold water showers, one in the Council car park in Rennies Beach Close Ulladulla, where plumbing infrastructure already exists and the other in the Council car park in Deering Street Ulladulla, known locally as the Bombie car park, where plumbing infrastructure is 200 meters away at Light House oval.

### **Background**

These are two highly frequented locations in the middle of Ulladulla but beach goers are unable to wash the sand and salt from their bodies after a swim.

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

Cost estimates may be available at the meeting.

CL19.27

## CL19.28 Notice of Motion - Community Service Work Partnerships - Corrective Services

HPERM Ref: D19/43791

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 through the GM and Mayor instigate a meeting at the earliest opportunity with the following to discuss the way forward in activating programs for those offenders who are eligible to work outside on community programs:

1. Mr Mick Reid (Governor of South Coast Correctional Centre)
2. Mr Darren Hill (Correction Services Operation Manager)
3. Ms Donna Hume (Manager of Offenders Services Programs)
4. Ms Cathy Bland (Community Correction Manager)
5. Cllr Gash
6. Cllr Watson
7. Director of Assets & Works
8. Economic Development Officer

### Background

In November of last year at my first meeting as Rep. to the correction centre the above matter was discussed and interest was expressed. At the recent meeting on 30 January a further detailed discussion took place whereby I agreed to request Council to arrange such a meeting of the relevant parties to progress this initiative.

I understand some work has already been done with Council's Parks Operations Unit regarding the offenders program.

### Note by the General Manager

At the Ordinary Meeting 29 January 2019 Council resolved (MIN19.17):

*That a report be provided to Council on additional operational areas in which Council, as a community service work partner, can work with Corrective Services NSW Community Corrections Agency to provide opportunities for offenders to contribute to improving assets in the community, as well as providing effective cost savings to Council.*

The Corrective Services NSW Operations Procedures Manual Section 8.30 Charter for Community Consultative Committees, can be found at the following link:

<https://www.correctiveservices.justice.nsw.gov.au/Documents/custodial-op-proc-manual>

CL19.28

The following has been extracted from the manual for Councillors' convenience:

### **Policy Overview**

*Corrective Services NSW is committed to maintaining Correctional Centre Community Consultative Committees and developing government and community agency partnerships to build mutually beneficial alliances with local communities.*

### **Purpose**

*To outline the procedures for the establishment and operation of voluntary Community Consultative Committees at each correctional centre.*

*To establish the role of the committee which is:*

- *to assist in the development and maintenance of a positive relationship with the local community*
- *to provide a forum for local community consultation and comment on correctional programs and procedures*
- *to facilitate the involvement of the local community in correctional centres programs*
- *to provide a mechanism to identify appropriate programs in which the correctional centre can participate and assist in the local community*
- *to assist in the establishment of worthwhile community partnerships.*

### **8.30.2 Composition of the Committee**

*The committee shall comprise a minimum of five members and a maximum of nine members, including the General Manager (GM) of the correctional centre.*

*Committee membership should seek to be representative of the local community and be balanced in terms of the groups represented. Where practicable the committee should include a representative from at least two of the following areas:*

- *the magistracy*
- *courts administration*
- *local government*
- *the police*
- *Community Offender Services*
- *local agencies and organisations providing services to offenders*
- *local residents*
- *the council*
- *local hospitals*
- *local industry.*

*Efforts should also be made to recruit committee members from Aboriginal and culturally and linguistically diverse groups where these groups comprise a significant part of the inmate population.*

The South Coast Correctional Centre Community Consultative Committee meets on the last Wednesday of every 2 month(s) effective 31/01/2018 until 31/12/2018 from 2:00pm to 3:00pm.

The committee consists of the following members;

Mr. Mick Reid, Governor, South Coast Cluster  
Mr Darren Hill, Acting Corrective Services Industries Operations Manager, South Coast Correctional Centre  
Ms. Ms Donna Hume, Manager of Offender Services & Programs, South Coast Correctional Centre  
Mr. Paul Goodwin, Managing District Officer, District Operations, South Coast TAFE  
Ms Fiona Sneath – Deputy Commander HMAS Albatross  
Ms. Robbie Collins, Head Shoalhaven Campus, University of Wollongong  
Ms Robyn Edwards, Business Manager, South Coast Correctional Centre  
Ms. Judy Harper, Regional Manager Southern, Australian Red Cross  
Mr. Stuart Emslie, Acting Ops Manager/Deputy Director of Nursing, Shoalhaven District Memorial Hospital  
Mr Sean Doolan Station Officer, Shoalhaven Fire Station  
Ms Jade Heng, Principal Engagement Officer Prison Bed Programming, NSW Department of Justice  
Ms Amanda Buck, Project Officer Prison Bed Capacity Program – Corrective Services NSW  
Mr Gary Pudney, Senior Solicitor, Aboriginal Legal Service  
Clr Jo Gash  
Clr Greg Watson

So far this year the Director Assets and Works has been inadvertently excluded from meeting invites; this has now been rectified. The Director will invite along Council staff as appropriate.

CL19.28

## **CL19.29 Notice of Motion - Drainage Issues - Waratah Cres, Sanctuary Point**

**HPERM Ref:** D19/51519

**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 drainage issue regarding 'flash flooding' at 153-157 Waratah Crescent Sanctuary Point be addressed urgently, and at no cost to the residents, by implementing the following measures:

1. Raise the crest of the nature strip by around 200mm at the said location.
2. Construct essential kerb and guttering, and minor road surface rehabilitation, adjacent to the three properties in question.
3. Ensure that the nearby open drain (creek) is included in a regular maintenance programme which includes the removal of rubbish, silt, tree roots and dead vegetation.

### **Background**

This particular invasive flood water location is a direct result of a local Sanctuary Point stormwater management plan, which enables the urban run-off from many properties and road networks to the west, to drain through the nearby golf course to the flooding flashpoint, as well as floodwaters making their way across many residential properties to the inundated sites. Council did assist with this crisis issue by improving the quality of the drainage system downstream, and part of the commitment was to include the points in the Notice of Motion as part of the stormwater catchment plan. The cost of funding the Notice of Motion is minimal and can be paid for from either the existing drainage budget or from other savings that have occurred in similar projects.

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

Cost estimates may be available at the meeting.

CL19.29

## **CL19.30 Notice of Motion - Growth Management Strategy - Industrial Land - Sussex Inlet**

**HPERM Ref:** D19/52259

**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 as part of the Growth Management Strategy process a full review of the supply of industrial land at Sussex Inlet take place. The review would focus on, but not be restricted:

1. More viable short-term uses leading to greater investment and employment opportunities.
2. The likelihood of industrial development occurring in the short to medium term, or in fact occurring at all.

### **Background**

There is a view in the community that the supply of industrial land in Sussex Inlet far outstrips future needs, and by changing to a more appropriate use far greater business opportunities will flow.

Employment opportunities in the present time should not be sacrificed for the speculation that industry may choose to set up some time in the future.

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

The Growth Management Strategy review process is underway, with the exhibition of an initial Discussion Paper concluding in January 2019. The next steps in this review process will be discussed with Council shortly. The GMS review does provide the opportunity to consider and review whether there is sufficient employment land (including industrial) for the future. The Discussion Paper contains a specific section on the 'Supply of employment land' and posed a number of questions in this regard. As such the GMS is the appropriate strategic vehicle to consider industrial land demand/supply at Sussex Inlet. However, in this regard it is noted that there are specific NSW Government plans/policies in place that seek to protect existing zoned industrial land, much of the existing industrial zoned land at Sussex Inlet is within the buffers to the existing sewerage treatment plant/former rubbish depot, and there are existing underutilised commercial zones in the Sussex Inlet CBD.

CL19.30



## **CL19.31 Notice of Motion - Francis Ryan Reserve Sanctuary Point**

**HPERM Ref:** D19/52270

**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 double-gate entry for large vehicles on the south-western end of Francis Ryan be widened by a sufficient margin to allow for comfortable access to the playing fields.

### **Background**

The current situation is most unsatisfactory with emergency service vehicles struggling to negotiate their way through the opening. Last year, at the Spring into Sanctuary Point, a horse-float became wedged in the gateway as it attempted to exit the reserve. It took quite some time to free the float, which was damaged in the process.

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

Council staff will attend to widening of the gate as an operational matter.

CL19.31

## CL19.32 Notice of Motion - Woodridge Estate Bangalee

HPERM Ref: D19/51831

Submitted by: Cllr Andrew Guile

### Purpose / Summary

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

### Recommendation

To assist land owners in the Woodridge Estate Bangalee wherever possible upon the recent changes to the Biodiversity Act, that

1. Council accept the position put forward by OEH in regard to multiple Development applications for an individual property, being that each application will generate its own individual threshold for clearing when the application is being assessed as the only outstanding application for an individual property.
2. Each individual test of significance will be the principal determinant in regard to potential cumulative impact until such time as firm direction is provided in this regard by the Office of Environment and Heritage or other relevant agency.
3. The General Manager investigate the potential with the Department of Planning for upsizing the minimum lot size given the effect of the recent legislative change and, if appropriate, prepare a planning proposal to bring about this change and request a Gateway determination.

### Background

You purchase your dream block of land in Bangalee and with little or no notice, the law changes and all of a sudden you are hit with extra costs of compliance with that legislation – even to the point of wondering if it is at all possible to comply and whether it was all worthwhile or not.

Prior to purchase, as part of the contract of sale, owners received the 'Planning certification under section 149 Environmental planning and assessment act 1979' from Shoalhaven City Council that stated:

- Section 9a, the land is not biodiversity certified land.
- From the EMP, it was noted that:
- Section 1.3.5 'there are no endangered ecological communities currently listed in lot 1433'
- Section 1.4.1 'No threatened flora species have been recorded during any of the targeted or general surveys'
- Section 1.8 'Most of the project area has been significantly disturbed through logging, haul track creation, clearing and under scrubbing. This has reduced the vegetation structure, complexity, age and hence habitat values'

Then, the new Act took hold.

Biodiversity studies and credits can cost many thousands of dollars. Money that families wanting to move to the Shoalhaven just do not have.

CL19.32

So where do these problems originate? A vendor who sells the land? Council whose job it is to approve development applications? Or is it the State Government who introduced this legislation?

Ultimately, it is every member of the NSW Parliament that votes for these laws who must be held responsible. It is all very well for Ministers to intimate that Councils have powers and are responsible to their constituents. Reality is that we are governed by the laws put in place by the State. In this case, they seem to have little regard for the aspiring residents of the Woodridge Estate.

Some owners made it through under the old rules. Neither is there a moral justification for the shifting of the goal posts or is there any discretion, power or influence that our Council can invoke to dramatically alter the outcomes however we might try.

At the moment, all we can really do is tinker around the edges which is effectively what this resolution seeks to do.

There is no way to turn off the Biodiversity Act, with suggestions from our staff to OEHL being met with a negative response.

The issue is that the development footprint for most dwellings/access driveway and waste disposal area is above the 2500m<sup>2</sup> threshold, thus generating offset calculation. A typical size for development envelope is 3500-4000m<sup>2</sup>. On the positive side, if the original dwelling development footprint is below 2500m<sup>2</sup>, then any subsequent applications will benefit by having its allocation for calculating threshold.

Should we just try and change the minimum lot sizes? The challenge is that these Lots are created, are now in different ownership and a fair percentage have been developed. To support a Planning Proposal for an increase in minimum lot size, Council must address a number of Ministerial considerations, one of the primary ones being strategic merit and demonstrated strategic policy supporting the proposal. Further, there are some larger, 2 hectare allotments in the subdivision that would have development potential taken away if the minimum lot size was increased.

Therefore, we should be cautious in how we approach this, hence the suggestion to investigate this with Planning NSW.

CL19.32

## CL19.33 Notice of Motion - Improving Ordinary Meetings

HPERM Ref: D19/52552

Submitted by: Cllr Andrew Guile

### Purpose / Summary

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

### Recommendation

That

1. The code of meeting practice be amended to include a procedural motion to prioritize the business of the meeting within the adopted Code of Meeting Practice.
2. This procedural motion be termed a 'Call over' of the business paper
3. It occur immediately after declarations of interest

### Background

The purpose of a 'call over' is to allow the Council to prioritize matters on the agenda within the adopted policy for the conduct of meetings.

Councillors would be invited by the Mayor to nominate those items to be extracted for questions, discussion, debate and decision.

Numerous matters of interest to members of the public (present in the Gallery or viewing online), staff and Councillors are uncontroversial and are carried without debate. By indicating early in the meeting which matters will be examined and discussed in more detail, it assists people to manage their time effectively. The same procedural motion should also bring forward those items that are the subject of deputations. In the interests of further creating expectations as to the procedure of the meeting, Councillors might also be invited to indicate if they will be moving matters of urgency later in the meeting. This should not be the time to flag what those matters might be.

The remaining items that are not brought forward in the procedural motion should be moved together after the Mayoral Minute and Councillor Notices of Motion. This gives Councillors a chance to extract further items should it be necessary.

### Note by the General Manager

There is no legal impediment to a 'Call Over' of items being dealt with procedurally at a meeting.

The Council can either alter the Order of Business procedurally during a meeting or by amending its resolved Order of Business for all meetings.

The current Order of Business adopted by the Council on 25 September 2018 is as follows:

1. Acknowledgement of Traditional Custodians
2. Opening Prayer
3. Australian National Anthem
4. Apologies/Leave of Absence
5. Confirmation of Minutes

CL19.33

6. *Declarations of Interest*
7. *Presentation of Petitions*
8. *Mayoral Minutes*
9. *Deputations & Presentations*
10. *Notices of Motion and Questions on Notice*
11. *Report of Committees (\*\* matters requiring council resolution)*
12. *Report of the Shoalhaven Traffic Committee*
13. *Officers Reports*
14. *Addendum Reports*
15. *Confidential Report of the General Manager*

*\*If any items of business require attendance of specialist staff (e.g. Legal, Insurance, Property) then Council will generally consider those items following the Deputations*

*\*\*Any matters from Committee Reports that can be dealt with by delegation at either Development or Strategy & Assets Committee will be referred to those committees."*

The Model Code of Meeting Practice at Part 13. Dealing with Items by Exception' provides Non – Mandatory Provisions for Council to consider for inclusion in the New Code of Meeting Practice with respect to dealing with items 'en block' or 'en globo'.

A Draft Code of Meeting Practice will be provided to the Council for consideration in March 2019.

## **CL19.34 Question on Notice - Disbandment - Sustainable Futures Committee - Natural Resource & Floodplain Management Committee**

**HPERM Ref:** D19/52443

**Submitted by:** Cllr Kaye Gartner

### **Question**

At Ordinary Meeting September 2018, Council voted to disband the Sustainable Futures Committee and the NRFMC, absorbing the functions of the NRFMC into the S&A committee.

Could staff provide information on the level of community response to these decisions please.

1. How much correspondence was received?
2. How many letters opposed the decision?
3. How many supported the decision?
4. How many letters were from individuals?
5. How many were from Community groups?

### **Response**

1. 173 submissions were received
2. All opposed the decision
3. Nil supported the decision
4. 161 submissions were from individuals
5. 12 submissions were from Community Groups

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## CL19.35 Report of the Strategy & Assets Committee - 12 February 2019

HPERM Ref: D19/46779

### SA19.8 Notice of Motion - “The Blockstars”! - FIRST Lego League

HPERM Ref:  
D19/33603

#### Recommendation

That Council

1. Provide the Blockstar students with a donation of \$5,000.00 from Council’s unallocated donations to assist with costs to attend and complete in the USA Open International Tournament in California in May 2019.
2. Write to the Blockstar students and congratulate them on their success in the FIRST Lego League during 2018.
3. Request the Blockstar Students to make a presentation to Council following their participation in the US Open International Tournament.

### SA19.12 December 2018 - Quarterly Budget Review

HPERM Ref:  
D19/29638

#### Recommendation

That Council

1. Receive the December Quarterly Budget Review information
2. Adopt the adjustments, as outlined in the December Quarterly Budget Review document.

### SA19.15 Proposed Lease of Part Lot 702 DP 1024852 - West Street Nowra - Nowra Tennis Clubhouse and Courts

HPERM Ref:  
D19/15632

#### Recommendation

That Council resolve to:

1. Enter into a one (1) year lease agreement over Part Lot 702 DP 1024852, West Street Nowra, with a three (3) year option period with Schizophrenia Fellowship NSW Ltd trading as One Door Mental Health at a commencing rent of \$3,904.40 pa plus GST with annual CPI increases, and a court resurface contribution (2 tennis courts) of \$3,090.00 pa.
3. Approve the allocation of court resurface contribution (2 courts) of \$3,090.00 under the lease agreement into the Restricted Asset Account for this facility.
4. Approve that the Common Seal of the Council of the City of Shoalhaven be affixed to any documents required to be sealed otherwise the General Manager be authorised to sign any documentation necessary to give effect to this resolution.

#### Note by the General Manager:

Users of the four northern tennis courts will only be able to access toilets within the “Tennis Club House” during office hours, when One Door are there. Outside of these hours (i.e. weekends etc.) users will need to access the public toilets in the Showground. This has been

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the ongoing practice since early 2017 without issue.

Wheelchair Sport NSW relocated its NSW wheelchair tennis tournament to Canberra in 2017. Council is not aware of any other wheelchair organisation currently using the courts. The arrangement as proposed does not affect the ability for patrons in wheelchairs to continue to access and/or utilise the four northern courts.

**SA19.16 Ratepayer Advance - 29 - 33 Elizabeth Drive  
Vincentia**

**HPERM Ref:  
D19/25613**

**Recommendation**

That

1. Council enter into a Ratepayers Advance Agreement, executed under the Seal of Council, with:
  - a. D J Talbert, 29 Vincentia Drive, Vincentia in respect of Kerb and Gutter construction to the value of \$5,852.16 (advance) of which \$1,859.28 is the contribution, \$3,992.88 is the loan and the amount to be repaid to the Ratepayer in 5 years at 5% interest per annum is \$4,991.10.
  - b. A R & S L Smith, 31 Vincentia Drive, Vincentia in respect of Kerb and Gutter construction to the value of \$5,852.16 (advance) of which \$1,859.28 is the contribution, \$3,992.88 is the loan and the amount to be repaid to the Ratepayer in 5 years at 5% interest per annum is \$4,991.10.
  - c. F L Camm, 33 Vincentia Drive, Vincentia in respect of Kerb and Gutter construction to the value of \$5,852.16 (advance) of which \$1,859.28 is the contribution, \$3,992.88 is the loan and the amount to be repaid to the Ratepayer in 5 years at 5% interest per annum is \$4,991.10.
2. The Common Seal of Council of the City of Shoalhaven be affixed to any documentation required to be sealed otherwise the General Manager be authorised to sign any documentation necessary to give effect to the resolution.

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**SA19.18 Grant of Electricity Easements - Bomaderry  
Sewerage Treatment Plant**

**HPERM Ref:  
D19/15911**

**Recommendation**

That:

1. Council resolve to grant the following easements for electricity purposes over Council land Lot 1 DP572583 at Railway Street, Bomaderry:
  - An Easement for Underground Cables 3 wide, marked (E) on the attached plan.
  - An Easement for Padmount Substation 2.75 wide, marked (P) on the attached plan.
  - A Restriction on the use of land variable width, marked (R) on the attached plan.

The easements are also highlighted yellow on the attached plan.
2. Costs associated with the transaction be met from Council's Sewer Fund. The Easement and Restriction are to be granted at \$nil consideration.
3. The Common Seal of the Council of the City of Shoalhaven be fixed to any document required to be sealed.



## CL19.36 Report of the Nowra CBD Revitalisation Strategy Committee - 6 February 2019

HPERM Ref: D19/47813

**CBD19.6 Bannerconda Banner Systems - Policy and Management Strategy - Southern Side Shoalhaven Bridge to Moss Street**

HPERM Ref:  
D19/23187

### Recommendation

That:

1. The Nowra CBD Revitalisation Strategy Committee not proceed with purchase and installation of the Bannerconda system for the Princes Highway from the Shoalhaven River Bridge to Moss Street, Nowra.
2. Council write to the RMS requesting that the Shoalhaven River Bridge Upgrade Project include the installation of Banners (such as or similar to a Bannerconda® system) on the highway, both north and south of the Bridge, with Council being prepared to be involved in the ongoing management of the Banners.
3. Council amend the Nowra CBD Banner Policy (POL16/243) Clause under Part 4 which reads:

*Advertising of tobacco products, alcohol or drugs will not be permitted.*

To read as follows:

*Advertising of tobacco products, alcohol and 'political materials' will not be permitted.*

**CBD19.8 Parking Infringements in the Shoalhaven - Parking Fine Concessions for Constituents**

HPERM Ref:  
D18/434301

### Recommendation

That Council reduce penalty notice charges for overtime carparking, overtime street parking and not stand vehicle within marked space by 25% as suggested by the State Government.

#### Note by the General Manager:

The NSW Government has suggested Councils may be able to reduce the following parking fines by up to 25%:

1. Park continuously for longer than permitted (\$112)
2. Park without current ticket displayed
3. Park after ticket expired
4. Stand vehicle in area longer than allowed (\$112)
5. Stop in restricted parking area (\$112)
6. Park after meter expired
7. Not stand vehicle in marked parking space (\$112)
8. Remain in ticket-operated loading zone after ticket expired
9. Park without current loading zone ticket

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## 10. Park without paying meter fee

Of the 10 penalties put up by the Minister for possible reduction, only three of these apply in the Shoalhaven (Items 1, 4 and 7 in the above list). We have no paid parking in the Shoalhaven nor are we considering such a proposal at this point in time.

The penalties under consideration for review relate mainly to timed parking. The following areas are implicated within the city:

- (a) Nowra: In Nowra CBD it relates to the Council-managed parking areas (Stewart Place and Egans Lane) which provide 2-3 hours of free parking. Council staff also monitor some of the private carparks at the request of the owners (i.e. Stockland Nowra, Nowra Mall, Aldi etc). There is also timed street parking, and this varies from 15 minutes up to 1 hour.
- (b) Berry: In Berry it relates to the Council-managed parking areas (Albert Court and Princess Street) which provide 3 hour free parking. There is also timed street parking, and this varies from 15 minutes up to 3 hours.
- (c) Huskisson: In Huskisson it only relates to timed street parking and this varies from 30 minutes up to 2 hours. The Council-managed car parks in Owen Street, Currambene Street and White Sands are all day parking with no restrictions.
- (d) Ulladulla and Milton: In Ulladulla and Milton it relates to the Council-managed parking areas (Boree Street East, Boree Street West, South Street, Wason Street, etc) which provide 1-3 hours of free parking. Council staff also monitor some of the private carparks at the request of the owners (i.e. Aldi and Coles car parks). There is also timed street parking, and this varies from 15 minutes up to 2 hours.

The purpose of timed parking is to turn over spaces so that business in the town centres can benefit. The current fine for overstays is \$112.00 and this does act as a deterrent. This results in people being more likely to move their vehicles, freeing up space for others to do their business in town. Reducing the fee by 25% (i.e. to \$84.00) does reduce the deterrent effect and it should be noted that a vehicle can only be booked once a day in a given space. Fines are only issued to vehicle owners who overstay the time having regard to a "grace" period of at least 10 minutes.

Based on the 2017/2018 financial year, these penalties provided \$228,704 in income and this represented 26.8% of the total income from parking infringements. If Council reduces the fines from \$112.00 to \$84.00, this will result in a \$57,176 reduction in revenue (i.e.  $2,042 \times \$28.00 = \$57,176$ ).

If Council considers a reduction in fine income of this magnitude it needs to be acknowledged that the general ratepayers of the City will cover this decrease, otherwise Council would need to also reduce staff hours to reduce expenditure.

## CL19.37 Report of the Shoalhaven Traffic Committee - 12 February 2019

HPERM Ref: D19/45002

**Attachments:** 1. TC19.6 - Proposed Multi-Storey Carpark - Shoalhaven Hospital [↓](#)  
2. TC19.7 - Proposed BB line marking and signage upgrades - Upper Kangaroo River Road, Upper Kangaroo River [↓](#)

*The Shoalhaven Traffic Committee is a technical review committee not a committee of Council under the Local Government Act, 1993.*

*The Roads and Maritime Services has delegated certain powers to Council under the Transport Administration Act 1988 (Section 50). A condition of this delegation is that Council must take into account the Traffic Committee recommendations.*

### IMPORTANT NOTE:

*Council cannot amend a Traffic Committee recommendation. The Council can only:*

- 1. Adopt the Traffic Committee recommendation;*
- 2. Not Adopt the Traffic Committee recommendation; or*
- 3. Request the Traffic Committee reconsider the issue.*

*Other issues can be raised as Additional Business at the Ordinary Meeting.*

*The full guide to the delegation to Council's for the regulation of traffic can be viewed at: [RMS Website](#)*

**TC19.6 Proposed Multi-Storey Carpark - Shoalhaven Hospital - Scenic Drive, Nowra (PN 3487)**

**HPERM Ref: D19/39597**

### Recommendation

That the General Manager (Director Assets and Works) be advised that the Shoalhaven Traffic Committee has no objection to the following modifications to the proposed interim parking arrangements installed as part of the parking management during construction of the off-street car park associated with the Shoalhaven District Memorial Hospital, Scenic Drive, Nowra, as shown on the attached plans:

- Removing 2 proposed on-street disabled parking spaces west of the proposed construction access
- Removing 3 existing on-street parallel parking spaces east of the proposed construction access

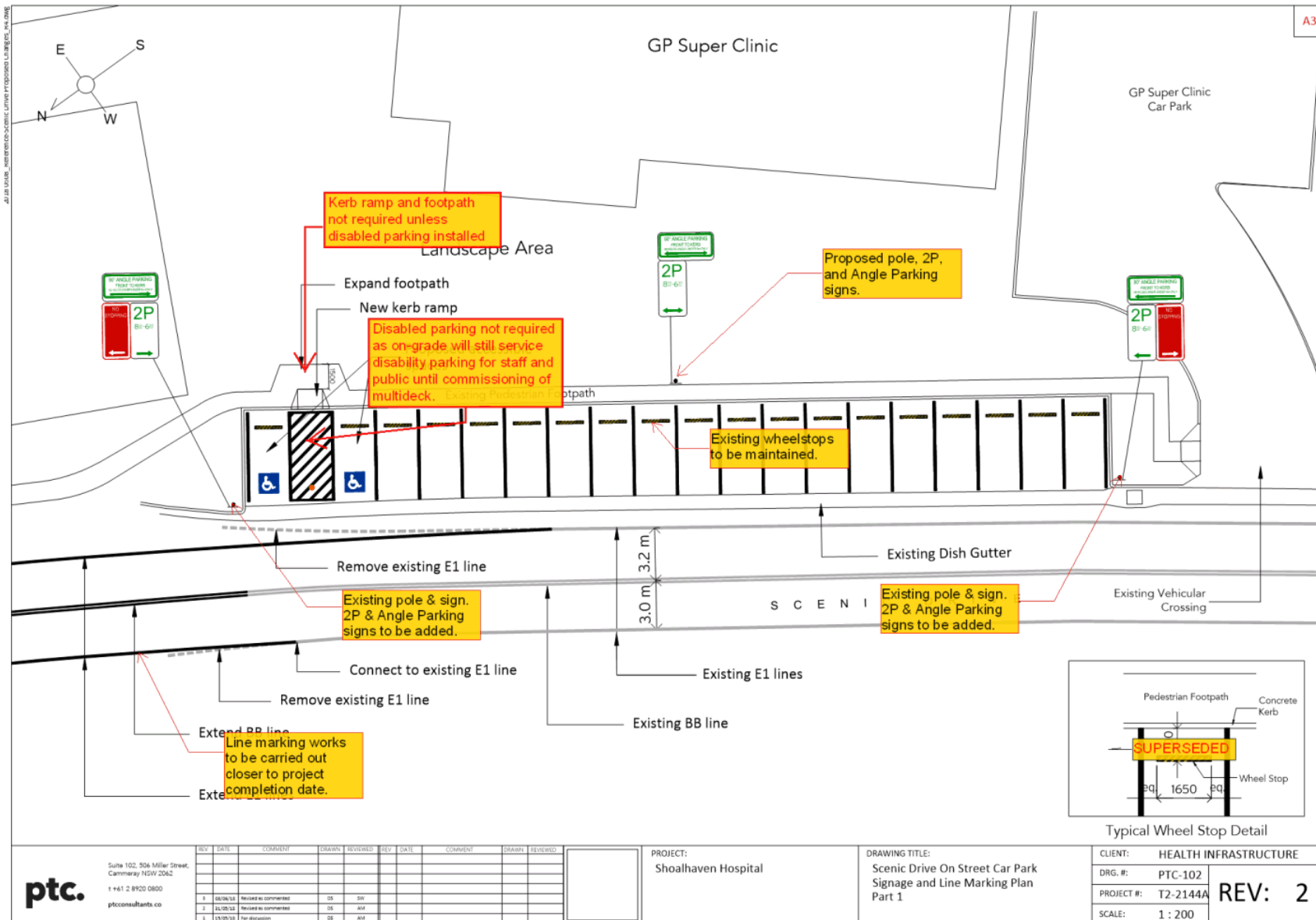
**TC19.7 Proposed BB line marking and signage upgrades - Upper Kangaroo River Road, Upper Kangaroo River (PN 3532)**

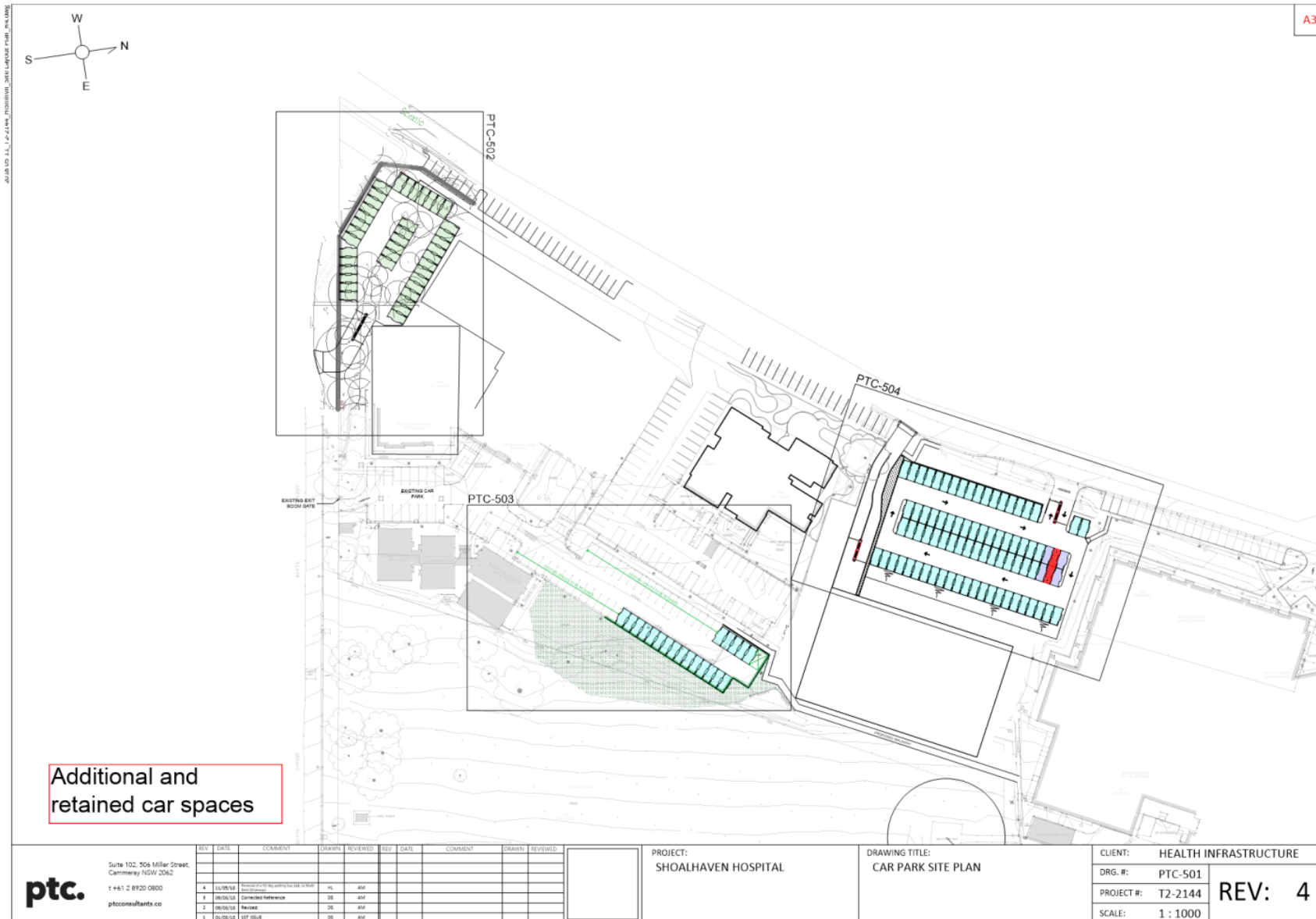
**HPERM Ref: D19/39611**

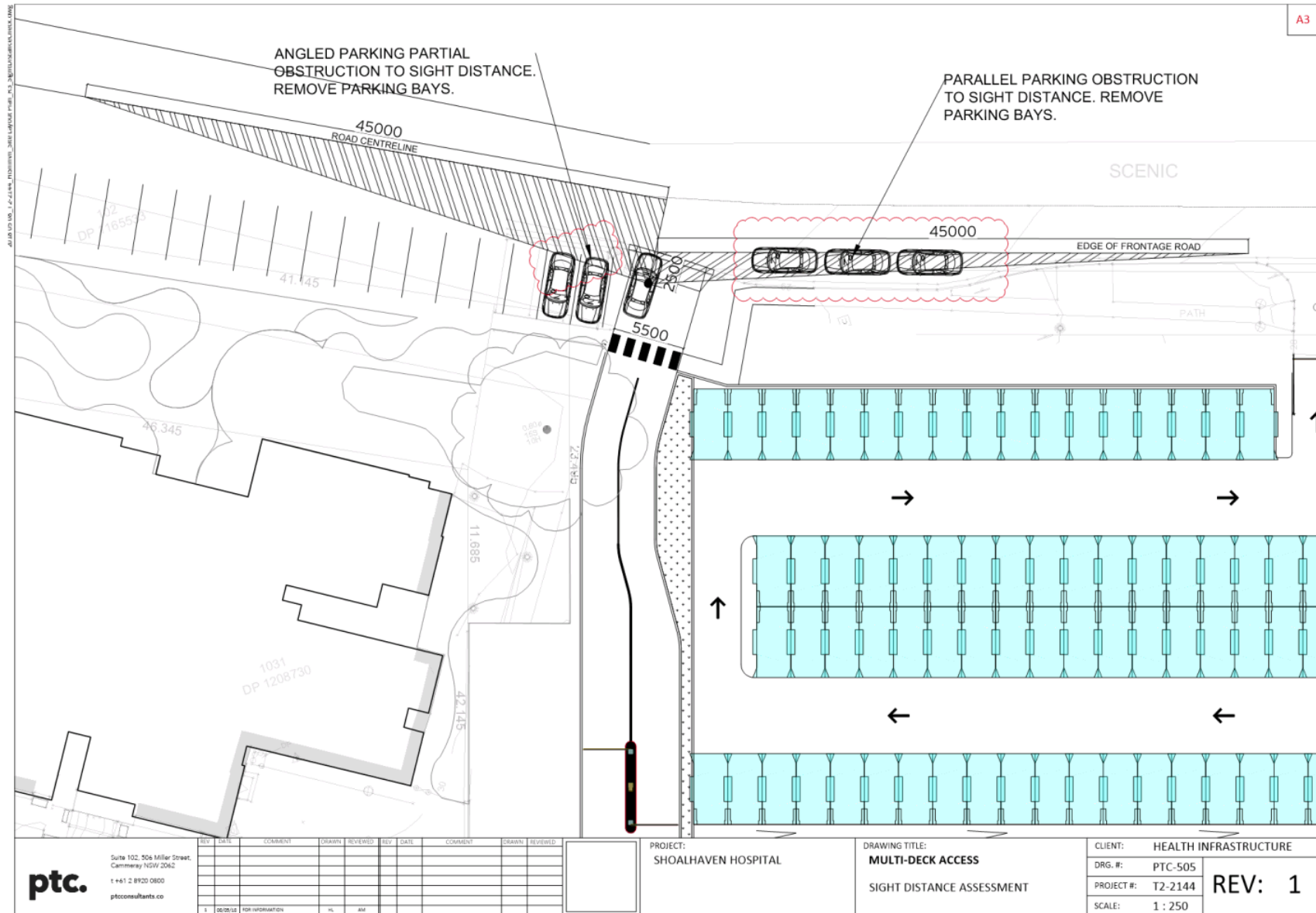
### Recommendation

That the General Manager (Director Assets and Works) requested to arrange for the installation of approximately 365m of BB centreline marking and associated curve warning signage on Upper Kangaroo River Road approximately 100m from Moss Vale Road, as detailed in the attached plan.

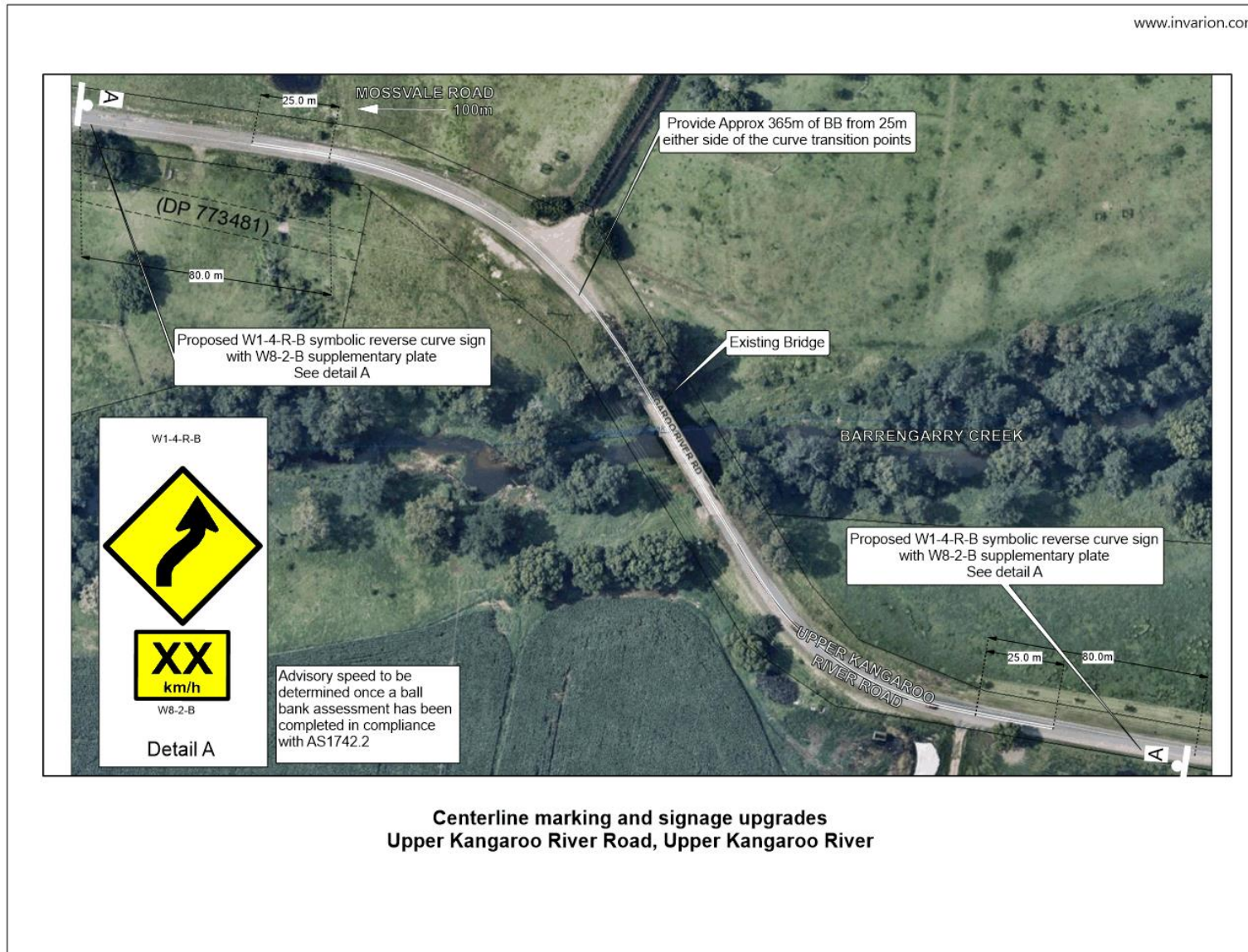
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## CL19.38 Bi-Annual Delivery Program and Operational Plan Report - 1 July 2018 to 31 December 2018

**HPERM Ref:** D19/33974

**Group:** General Manager's Group  
**Section:** Executive Strategy

**Attachments:** 1. First Bi-Annual Report - July to Dec 2018 (under separate cover)

### Purpose / Summary

The purpose of this report is to provide information on how the organisation has performed against targets in the Delivery Program and Operational Plan during the last six months of the 2018/19 financial year commencing 1 July 2018.

### Recommendation

That the report of the General Manager (Executive Strategy) regarding progress to 31 December 2018 on the 2017/2021 Delivery Program and 2018/2019 Operational Plan be received for information, endorsed and published on Council's website.

### Options

1. As recommended

Implications: Council will meet its legislative requirements under the Local Government Act and inform the community of progress towards Community Strategic Plan Key Priorities.

2. Adopt the recommendation and seek a further report on specific aspects of the six monthly report

Implications: Additional staff resources required to produce additional information

### Background

Attached (**Attachment 1**) is the six-monthly progress report on the Delivery Program and Operational Plan. The Bi-annual Report provides a snapshot of how the organisation has performed against targets during the first six months of the 2018/2019 financial year. Most Goals are 'on' target and have associated comments describing the work completed over the past two quarters. Three of the 57 four-year Goals require attention; comments have been provided to address what will be done in the next quarter to help bring these Goals back on target. Highlights for each Key Priority have been provided to document the range and depth of work currently being completed.

### Community Engagement

Community engagement on the development of the Delivery Program and Operational Plan is maintained through the feedback mechanism provided by this report.



## CL19.39 2020 Local Government (Council) Elections

**HPERM Ref:** D19/17660

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

**Attachments:**

1. OLG Circular 18-43 - Council decisions on the administration of the September 2020 elections [↓](#)
2. Frequently asked Questions - Administration of the September 2020 elections (under separate cover)
3. OLG Circular 19-02 - IPART review of the costs of conducting Local Government Elections [↓](#)

### Purpose / Summary

To seek a Council Resolution by the required date of 11 March 2019 on how the 2020 Local Government Elections in the Shoalhaven will be administered.

### Recommendation

That Council resolve that:

1. Pursuant to s.296(2) and (3) of the Local Government Act 1993 (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
2. Pursuant to s.296(2) and (3) of the Act, as applied and modified by s.18, that a Council poll arrangement be entered into by contract for the Electoral Commissioner to administer all Council polls of the Council.
3. Pursuant to s.296(2) and (3) of the Act, as applied and modified by s.18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.
4. That the contract be finalised by 11 June 2019 (15 months before the scheduled election) subject to:
  - a. The cost estimate from Electoral Commission NSW being presented to, and accepted by the Council, and
  - b. Any alternative requirements enacted by legislation passed or directives from the Office of Local Government received before that time (as foreshadowed in Office of Local Government Circular 19-02).

### Options

1. Engage the Electoral Commission NSW (NSWEC) to conduct the Election (as recommended) with contractual negotiations being subject to a cost estimate being accepted by the Council and any legislative amendments arising from the announcement of an IPART review of the NSWEC Election charges.

Implications: This would result in the continuation of the successful arrangement in 2016 to outsource the Local Government Election. This option will not require additional internal resourcing and provides the least risk for Council. A decision before 11 March 2019 will meet the current legislative requirements; however, the recommendation as

proposed will allow flexibility for the Council to reconsider its options depending on cost estimates and changes to legislation.

2. The General Manager administers and conducts the election by one of the following methods detailed in the report.
  - a. The General Manager to administer the election personally
  - b. The General Manager will engage an electoral services provider

Implications: Either option would require the engagement of additional internal resources for the Council and holds a greater risk for the Council. At the time of the report the Council has not been approached by any election services provider other than the NSWEC.

3. That the Council not make a decision on the election at this time and await further advice from the Office of Local Government (OLG).

Implications: This would not comply with current legislative provisions.

## Background

The current provisions (Section 296AA) of the Local Government Act, 1993 (LGA), outlines that

- Councils must resolve, by 11 March 2019, how their September 2020 Ordinary Elections are to be administered.
- The options for the administration of the Council's elections, polls and referenda are to either:
  - engage the NSWEC, or
  - resolve that the Council's elections are to be administered by the General Manager of the Council.
- Councils who choose to engage the NSWEC must enter into a contract for the provision of election management services by 11 June 2019.
- If a Council fails to make a decision on the administration of its elections, polls and referenda by 11 March 2019, it will not be able to engage the NSWEC to administer its ordinary election and it will be required to make its own arrangements for the administration of its elections.

Further details of the engagement of the conduct of elections are outlined in the OLG Circular 18-43 – 'Council decisions on the administration of the September 2020 Elections' (**Attachment 1**) and 'Administration of the 2020 Elections - Frequently Asked Questions' (**Attachment 2**).

On 8 February 2019 OLG released Circular 19-02 – 'IPART review of the costs of conducting Local Government elections and extension of the deadline for Councils to make a decision on the administration of their elections' (**Attachment 3**)

Circular 19-02 advises that the Government has approved a review by the Independent Pricing and Regulatory Tribunal (IPART) of the costs of conducting Local Government elections in NSW. The terms of reference for the review are outlined in the Circular. It further advises: "As the outcomes of the IPART review may impact on the administration of the September 2020 Council elections, it is proposed to introduce legislation in the first parliamentary sitting period of 2019 following the NSW State Election to amend the Local Government Act 1993 (the LGA) to extend the deadline for councils to make a decision on

*the administration of their elections under sections 296AA and 296. This deadline will be extended to 1 January 2020.”*

It is noted the intention is to introduce legislation after the 23 March 2019 NSW State Government Elections. Regardless of this intention, it is considered that the Council remains obliged to comply with current legislation and make a decision by 11 March 2019. In order to address this unusual situation, the recommendation proposes qualifications to the decision prior to entering into a contract. A further report will be provided to Council once the estimate is received and/or legislative change is introduced, to allow the Council to consider all available options at that time.

The Local Government Amendment (Elections) Act 2011 was passed by the NSW Parliament and commenced on 27 June 2011. The amendments removed the mandate of the NSWEC to run local government elections, and instead returned the responsibility to councils (section 296).

In 2012 Council resolved to conduct their own election and the firm Australian Election Company was engaged to provide electoral services. The final cost for the election was \$375,173.

In 2016 the NSWEC was engaged to conduct the election for Shoalhaven City Council and the costs for the election were \$515,562 ex GST. This was \$67,624 less than the estimated cost of \$583,186.

The options available to Council for the administration of the election are as follows:

#### **1. Engage the Electoral Commission NSW**

Advice from OLG is that Council should only resolve to administer its own elections if it is confident that it has the capacity to do so. Most Councils use the NSWEC as they have the expertise, resources and experience to administer Local Government elections.

This would be the simplest approach and separates responsibilities from the Council and Council staff, as the NSWEC engagement is to manage and conduct the complete election process and is the lowest risk option to Council.

Under this option, NSWEC would also manage complaints or protests arising from the elections, rather than the General Manager and staff, as would be required under other options.

Council has yet to receive a preliminary estimate from the NSWEC and for that reason the proposed report recommendation makes it conditional on the acceptance of the estimate once received.

The Local Government Act exempts the need to call tenders if the NSWEC is engaged.

#### **2. The General Manager administers the election by engaging a third-party company**

Council has not received any correspondence, offers or quotations from private companies who have the capacity to run a Local Government election.

The legislation states that if Council decided to conduct their own election, then the General Manager has the responsibility for administering the elections even if a private company is engaged.

The cost to conduct an election for the Shoalhaven Local Government Area exceeds the \$150,000 tender limit and therefore Council will need to call for tenders prior to officially engaging any private company to conduct the elections on Council's behalf. This is not required if the NSWEC is engaged. To avoid calling tenders Council would have to resolve, using the provisions of the Act & Regulations, that tenders would not be called because of

extenuating circumstances or on the basis of unavailability of competitive or reliable tenderers.

Since 2012 when Council last administered the election, there has been structural change within the organisation, and as part of this the previous role of Executive Support Manager has now been amalgamated with the position of Public Officer to form the position of Unit Manager – Governance. The amalgamation of these roles has achieved anticipated efficiencies for Council but has removed the capacity for this role to replicate the level of support provided by the previous Executive Support Manager to the election in 2012, which included coordinating Returning Officer facilities and venues for pre-polling and polling booths and general support to the Returning Officer for the running of the election.

For the 2016 Local Government Elections the Unit Manager – Governance provided support and assistance to the General Manager in the administrative tasks that were required despite the engagement of the NSWEC which included:

- Assistance with the location of suitable premises for the Returning Officer, Pre- Poll and Polling venues
- Advertising
- Non-Residential Roll Management
- Providing information for staff and the public, including website updates.
- Responding to enquiries from the public and candidates
- Liaison with the NSWEC

Should Council determine that the 2020 Elections will be administered by the General Manager and engage a third-party company to conduct an election, additional staff resourcing will be required.

### **3. The General Manager administers the election without engaging a third-party company**

It is an option for Council to conduct the election with the General Manager assuming responsibility for its conduct. Implicit in this provision is the expectation that the General Manager would need to be aware of legislation and ensure the adequacy of all mechanisms to facilitate compliance with the Local Government Act. As indicated previously, the NSWEC has indicated that it would provide limited assistance, and the Returning Officer would be responsible for the development of all manuals, forms, training programs, and appointment of polling officials.

In considering this matter, Council should be aware that it does not have the resources available for the development of the necessary Group Voting software required for the count. A further factor that needs to be considered is that since Council staff last conducted an election in 1991, a significant amount of in-house election knowledge and experience is no longer available given the retirement of many experienced staff. In addition, Council no longer retains equipment such as ballot boxes, voting screens and other equipment necessary for the conduct of an election.

If Council were to resolve to have the General Manager administer the 2020 Election, it should be noted that additional staffing would be required and the staff involved would be required to contribute significant time to re-establishing the resources required within the organisation to successfully undertake such a venture. Other projects and services that these staff are currently employed to carry out would no doubt suffer as a result of this additional workload, and this issue should be carefully considered by Council.

There are a significant number of disadvantages to conducting an Election in house and these include:

- Access to Group Vote Counting software

- Significant diversion of staff resources
- Need to develop manuals, forms and processes
- Knowledge and experience of staff has been lost over time
- Possible loss of reputation if procedural problems arise
- Staff will be required to deal with complaints, media etc.
- Need to appoint Polling Officials
- No support service or training provided to staff from the Electoral Commission
- Additional demand on HR staff for appointing polling officials, payroll and creditors

### **Additional Information and Election Statistics**

To assist Councillors in understanding the impact of the Election the following information is provided.

Number of Enrolled Voters for 2016 Local Government Election:

Ward 1 – 24,592

Ward 2 – 26,377

Ward 3 – 27,085

Total Enrolled Voters - 70,754

The total number of ballot papers counted was 124,138 (Including 62,030 Mayoral ballots) from 49 polling booths in the Shoalhaven and adjoining Local Government Area areas.

At 22 January 2019 there was 79,838 enrolled voters in the Shoalhaven Local Government Area.

### **Policy Implications**

The Local Government Act (s.296(2) and (3) of the Local Government Act 1993 (NSW)) is definitive in the requirement to resolve to enter into an arrangement with the NSWEC by the specified date or conduct its own elections. Council needs to be assured that the election is conducted professionally and transparently and still be cost effective.

### **Financial Implications**

The cost estimate for the NSWEC to administer Council's 2020 Election has not yet been provided by the NSWEC. This will be provided to Council when it is received.

The estimate for the 2020 Election will be provided for in the 19/20 and 20/21 Operational Plan and budget.

### **Risk Implications**

The option to have the General Manager administer the election rather than the engagement of the NSWEC holds additional operational, reputation and legal risks for the organisation.

Council needs to be assured that the election is conducted professionally and transparently and still be cost effective.



Office of  
Local Government

## Circular to Councils

<b>Circular Details</b>	Circular No 18-43 / 12 December 2018 / A624481
<b>Previous Circular</b>	15-01 <i>Local Government Amendment (Elections) Bill 2015</i>
<b>Who should read this</b>	Councillors / General Managers / Council Governance staff
<b>Contact</b>	Council Governance Team / 02 4428 4100 / olg@olg.nsw.gov.au
<b>Action required</b>	Council to Implement

### Council decisions on the administration of the September 2020 elections

#### What's new or changing?

- Under section 296AA of the *Local Government Act 1993* (the Act), councils must make a decision on how their September 2020 ordinary elections are to be administered no later than **11 March 2019**.
- Each council must resolve **either**:
  - to enter into an election arrangement with the NSW Electoral Commissioner (NSWEC) to administer all the council's elections, polls and constitutional referenda or
  - that the council's elections are to be administered by the general manager of the council.
- If a council fails to resolve to engage the NSWEC to administer its elections by **11 March 2019**, it will be required to administer its own elections.

#### What this will mean for your council

- Councils should start preparing now, if they have not already done so, to make a decision by March on the administration of their next ordinary election.
- A council should only resolve to administer its own elections if it is confident that it has the capacity to do so. The attached FAQ contains information to assist councils to assess whether they have the capacity to administer their own elections.
- If a council is proposing to engage the NSWEC to administer its elections, it should resolve to do so as soon as possible and notify the NSWEC.

#### Key points

- Where councils resolve to engage the NSWEC to administer their elections, polls and referenda they should use the model resolution suggested in the attached FAQ.
- Where councils resolve to administer the elections themselves, they must specify the following information in their resolution:
  - whether the general manager intends to administer elections personally or to engage an electoral services provider,
  - if the general manager intends to administer elections personally, whether the general manager has identified any persons to be appointed as the returning officer and substitute returning officer and, if so, their names,

- if the general manager intends to engage an electoral services provider, whether the general manager has identified an electoral services provider and, if so, the name of that provider.

**Where to go for further information**

- Further information to support councils' decision making on the administration of their September 2020 ordinary elections is contained in the FAQ attached to this circular.
- Contact OLG's Council Governance Team by telephone on 02 4428 4100 or by email at [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au).
- Contact the NSW Electoral Commission by telephone on 02 9290 5999.



**Tim Hurst**  
Chief Executive

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Office of  
Local Government

## Circular to Councils

<b>Circular Details</b>	19-02 / 8 February 2019 / A635365
<b>Previous Circular</b>	18-43 <i>Council decisions on the administration of the September 2020 elections</i>
<b>Who should read this</b>	Councillors / General Managers / Council Governance Staff
<b>Contact</b>	Council Governance Team / 02 4428 4100 / <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a>
<b>Action required</b>	Information

### IPART review of the costs of conducting local government elections and extension of the deadline for councils to make a decision on the administration of their elections

#### What's new or changing?

- The Government has approved a review by the Independent Pricing and Regulatory Tribunal (IPART) of the costs of conducting local government elections in NSW. The matters for consideration under the review's terms of reference are provided in the attachment to this circular.
- The purpose of IPART's review is to ensure a robust methodology for determining costs is applied, in order to minimise the financial burden on councils and ratepayers and to ensure local government elections are conducted efficiently and cost effectively.
- IPART has been requested to report to the Minister for Local Government recommending a costing methodology to be applied in determining the amount the NSW Electoral Commissioner (NSWEC) charges councils to administer their ordinary elections.
- In undertaking its review, IPART is expected to consult with relevant stakeholders including councils.
- IPART is to report to the Minister for Local Government by **30 August 2019**.
- As the outcomes of the IPART review may impact on the administration of the September 2020 council elections, it is proposed to introduce legislation in the first parliamentary sitting period of 2019 following the NSW State Election to amend the *Local Government Act 1993* (the LGA) to extend the deadline for councils to make a decision on the administration of their elections under sections 296AA and 296. This deadline will be extended to **1 January 2020**.

#### What this will mean for your council

- Under the proposed amendments, councils will have until **1 January 2020** to resolve to make a decision on the administration of their elections and enter into any arrangements with the NSWEC.

#### Key points

- Under section 296AA of the LGA, councils must, at least 18 months before each ordinary council election, resolve to either enter into an election arrangement with the NSWEC to administer its elections or that elections are to be administered by the council's general manager.



- Under section 296(3)(b), where a council enters into an election arrangement with the NSWEC, the arrangement must be entered into no later than 15 months before the ordinary council elections.
- Under section 296(5), councils can enter into an election arrangement for the NSWEC to administer an ordinary council election less than 15 months before the election if the council has resolved to enter into the election arrangement and the NSWEC is satisfied that there are exceptional circumstances that make it necessary or desirable for the election to be administered by the NSWEC.

**Where to go for further information**

- Contact OLG's Council Governance Team by telephone on 02 4428 4100 or by email at [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)
- Contact the NSW Electoral Commission by telephone on 02 9290 5999.



**Tim Hurst**  
Chief Executive

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## 3

**Attachment****Matters for consideration under IPART's terms of reference****Matters for consideration**

IPART is requested to provide a report to the Minister for Local Government recommending a costing methodology to be applied in determining the amount the NSWEC charges councils which use the NSWEC to administer their ordinary elections.

The purpose of the IPART's review is to ensure a robust methodology for determining costs is applied, in order to minimise the financial burden on councils and ratepayers and ensure local government elections are conducted efficiently and cost effectively.

In undertaking the review, IPART is to:

- review the NSWEC's existing methodology for determining the amount to be charged to councils which use the NSWEC to conduct their elections
- consider whether it is appropriate for the amount charged to be limited to the direct and unavoidable costs of conducting the council's election
- have regard to the market for electoral services in which the NSWEC operates
- have regard to any differences in the costs involved in conducting elections in metropolitan and regional areas
- have regard to any other matters it considers relevant.

**Consultation**

IPART should consult with relevant stakeholders and NSW Government agencies as part of its review. It may also hold public hearings and publicly release a draft report.

**Reporting**

IPART is to submit its final report to the Minister for Local Government by Friday 30 August 2019.

## CL19.13 Kangaroo Valley Netball Court - Relocation and Upgrade of Infrastructure

**HPERM Ref:** D18/396060

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

**Attachments:** 1. Lighting Design Notes [↓](#)

This item was deferred from the Ordinary Meeting 29 January 2019.

### Purpose / Summary

To seek funding of \$37,411 for the replacement and installation of infrastructure at Kangaroo Valley Netball Court, including provision of an allowance for removal of existing infrastructure if required.

### Recommendation

That Council

1. Allocate \$37,411 for the rectification works to Kangaroo Valley Netball Court;
2. Staff arrange for the erection of fencing on boundaries shared with private landowner;
3. Staff continue to seek contribution towards the fencing costs from neighbouring landowner;
4. Staff lodge *Application to Modify Development Consent* for the floodlight infrastructure, and install new floodlighting upon consent;
5. Staff arrange for removal of existing floodlight infrastructure if requested and approved by neighbouring landowner.

### Options

1. Council accept the recommendation as written and allocate the funding to progress.

Implications: This will ensure that Council is providing lighting and fencing infrastructure on its land to the appropriate standard and allow for the netball courts to be used at night.

2. Installation of fencing be delayed pending legislated contribution of funds from neighbouring landowner.

Implications: There is a high risk that netballs will leave the public land and roll onto the private land adjacent to the netball court, particularly on southern boundary. Members of the public may be unaware that the land adjacent to the netball court is private land and inadvertently trespass in order to recover netballs. Liability for members of the public in this circumstance falls to the landowner, placing a high level of responsibility on that entity.

3. Relocate existing floodlights at the fence-line.

Implications: This is a less safe-option. No *Application to Modify Development Consent* is required as the existing Development Consent approves placement of the poles mid-

way along the sideline at the boundary. However, only a very small clearance buffers the court from the boundary at the north and south sidelines. This places the poles within 1.5m of play at the sidelines.

Australian standards recommend a 3.05m buffer between the court and other infrastructure. Although the fence will also fall close to the court sidelines, this is constructed of lighter and thinner materials than the floodlight poles, which minimises effects of impact by players.

A safer option is the new, recommended lighting design, that situates the floodlights at the ends of the court so that more clearance protects players from impact with the floodlight poles.

4. Staff arrange for removal of existing floodlight infrastructure, if requested and approved by neighbouring landowner.

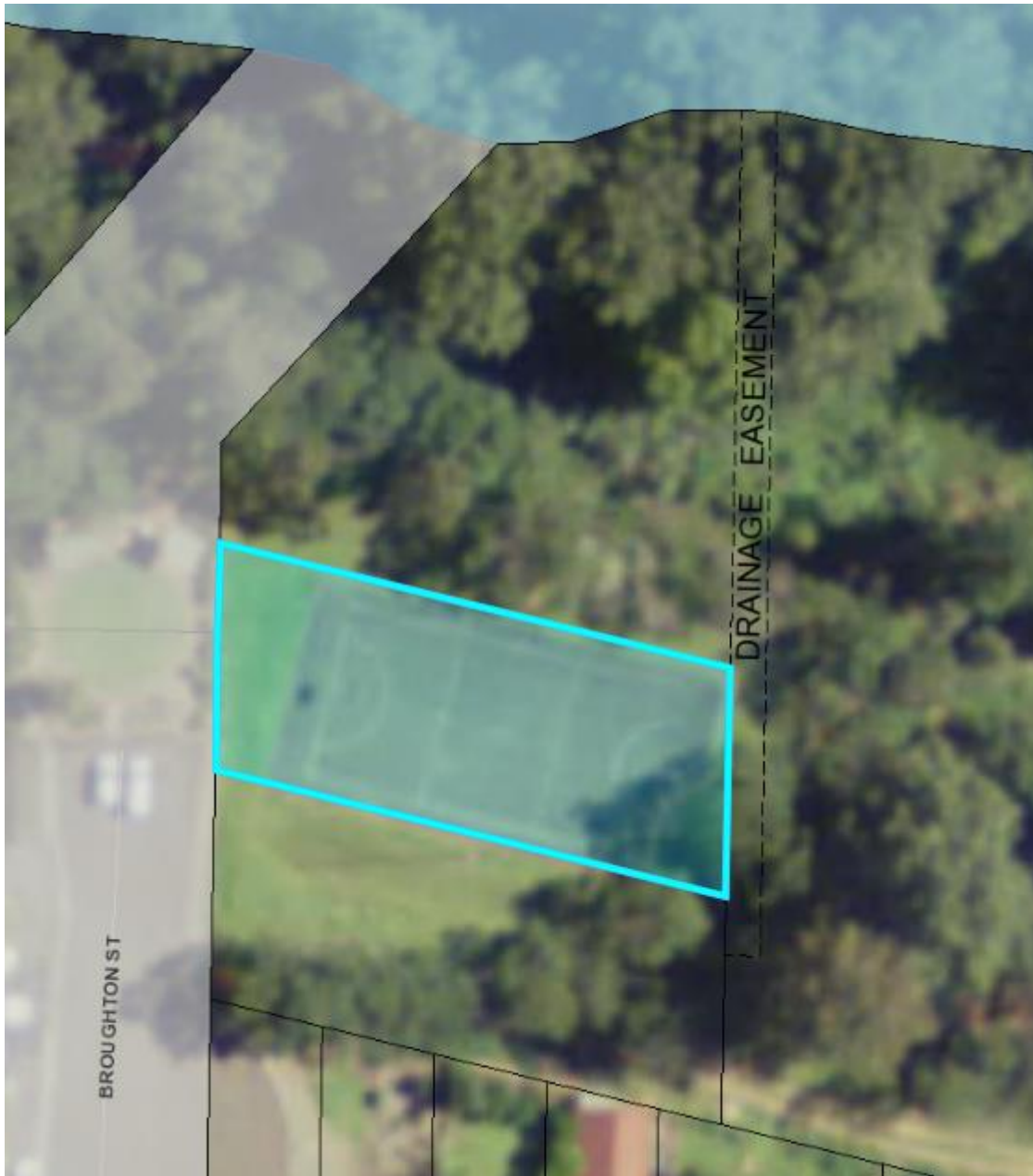
Implications: This is not a legal requirement and the option may add time to the delivery of the project. Funding to undertake the works is estimated to be \$5,000 and has been identified in this funding request. However this option does not address the requirement for floodlighting and fencing at the netball court.

5. Staff do not arrange for removal of existing floodlight infrastructure from private land, and this be left to the landowner who owns the infrastructure as it is a fixture located on his land.

Implications: This will not have an impact on Council's works program or funding, as this will not require any input from Council. However this option does not address the requirement for floodlighting and fencing at the netball court.

## Background

Council has been made aware of an encroachment issue with Council infrastructure on private land. Land ownership of the private land adjoining Kangaroo Valley Netball Court has recently changed hands. The new owner has brought to Council's attention that the floodlighting infrastructure at the courts is located on their adjoining private property.



*Council netball court identified in blue*

CL19.13

### Floodlights

Council obtained a Development Consent (DA) in 2004 for the construction of the netball courts and floodlighting. The DA identified that the floodlights should be constructed at the boundary of Council land, however installation occurred on the private land adjoining Council's facility.

Staff have requested access to remove the existing infrastructure and relocate it onto the public land. This request was denied by the landowner. The power supply was disconnected at the request of the landowner in August 2018. The lights are currently not operational. The Kangaroo Valley Netball Club has temporarily moved their summer competition games from 6, 7 and 8pm to 5, 6 and 7pm pending reconnection of floodlighting at the court.

When the construction error was initially identified, staff obtained quotations to move the floodlights onto the public land. This intention was deferred when the private landowner declined to provide access to enable this to occur.

Staff commissioned a new floodlighting lighting design and quotation to Australian Standards, with very tight spill control requirements on the boundaries to ensure minimal spill onto private land. The quotes received for installation of same lux lighting levels on the court are affected by the spill constraints but remain compliant with Australian Standards. The following quote includes installation and requires a lead-time of approximately 10 weeks from receipt of the order for delivery of new lighting poles.

New Poles	\$16,750 + GST
IWE-PL16F-1000 – Shielded x 2	\$ 4,920 + GST
Freight	<u>\$ 113 + GST</u>
<b>Total</b>	<b>\$21,783 + GST</b>

Council has also obtained a quotation for the relocation of the existing poles, installation of new LED globes and remove old footings is \$12,500 + GST This was obtained prior to the land owner's decision to not allow Council access to their land.

As the boundary of the land aligns almost exactly with the bitumen area of the court, it is possible that further excavation works will be required to trench cabling for the new electrical infrastructure. A 10% contingency amount of \$2,946 + GST is therefore added to the total funding request in this report to cover this.

If the landowner requests Council to remove the existing infrastructure and if Council resolves to do so, the cost is estimated to be \$5,000 for the removal of the existing poles and lights. These funds have been incorporated into the requested funding.

### Fencing

In discussion with the landowner it was further identified that it is preferable that fencing be constructed to demarcate the boundary between public and private lands and prevent access to the private land. As there is a very small buffer zone between the netball facility and private land this fence should ideally be constructed to a height to contain balls within the public space. Staff have obtained quotes to remove the existing northern fence and install a 2.1 metre high chainmesh fence along the northern, eastern and southern boundaries. The lowest quote received was **\$7,682 + GST**.

Under the dividing fences Act it is a requirement that neighbouring landowners meet 50% of the costs of fencing to adjoining boundaries. The neighbouring property is a rural allotment, and the 50% contribution amount would apply to fencing appropriate to the rural context. Staff have obtained a quotation to install 5 strand barbed wire fence (rural fencing), including strainer assemblies and tractor floats, for \$3,720 + GST. 50% of this cost = \$1,860 + GST. This amount can be requested from the adjacent landowner as a contribution to the works.

Total Funding Required for relocation and upgrade works without input from adjoining land owner.

\$21,783 + GST	floodlights
<u>\$ 7,682 + GST</u>	fencing
<b>\$29,465 + GST</b>	<b>total</b>
<u>\$ 2,946 + GST</u>	contingency
\$ 5,000 + GST	Removal of existing infrastructure on neighbouring property
<b>\$37,411 + GST</b>	<b>FUNDING REQUEST</b>

This amount could be reduced by \$1,860.00 if the adjoining land owner contributes 50% of rural fencing costs.

### **Community Engagement**

The netball court is used twice-weekly for a local netball competition, with 3 games running up to 9pm over the summer season. The club has requested to keep floodlighting available for these games.

In the past the community has used the private land to the south of the court for spectating. The general perception was that this was public land. Council has informed the club of the boundary, and the club has been requested to use the public land and not to trespass upon the adjacent private land.

Council have informed the parks maintenance crews of the error in land ownership and, on the owner's request, they have been advised to cease mowing and maintenance activities on the adjoining land owner's property.

### **Financial Implications**

A new budget allocation of \$37,411 + GST is sought to undertake this works which will address and resolve this situation. The Community and Recreation Unit budget has no available funding as monies are being used to co-fund a number of successful grant funding applications, meeting grant funding criteria obligations. As this work is urgent and allocation of funding by Council will expedite these works.

Ongoing maintenance of the infrastructure will be met utilising the existing active recreation operational budget.

The new floodlighting infrastructure will reduce operational and maintenance expenses, as the new LED technology has lower maintenance and power consumption costs.

Maintenance costs for the fencing are expected to be minimal and will be addressed through the existing active recreation operational budget.

## Lighting Design Notes:

### Client Requirements:

- AS 2560.1-2002 Sports Lighting - General Principles
- AS 2560.2.4-1986 Sports Lighting - Specific Applications  
Lighting For Outdoor Netball/Basketball.

### Pole Mounting Height

- 2 poles at 16m.

### Lux & Uniformity Requirement

- Over 50 Lux

### Maintenance Factor

- The maintenance factor of 0.88 has been chosen in accordance with table 4.1 from AS2560.1-2002.

### Court Dimensions

- Standard basketball court layout 15.25 x 30.5m.

### Obtrusive Light

- This simulation **DOES NOT** comply with standard AS 4282-1997 Control of the obtrusive effects of outdoor lighting.
- 2 spill boundaries were identified, North and South
- A 10m vertical calculation grid was used starting from 1.5m above ground level. Each lux spill calculation point is 2m apart.
- Maximum vertical lux must not exceed 10 Lux as indicated on Table 2.1 of standard AS4282.

### Luminous Intensity

- This simulation **DOES NOT** comply with standard AS 4282-1997 Control of the obtrusive effects of outdoor lighting on luminous intensity.
- Maximum luminous intensity must not exceed 2500cd as indicated on Table 2.2 of standard AS4282.

Calculation Summary							
Label	CalcType	Units	Avg	Max	Min	U-1	U-2
PPA	Illuminanc	Lux	63.09	69.5	52.3	0.83	0.75
NorthSpill Cd Seg1	Obtrusive	N.A.	16584	37527	153	0.01	0.00
SouthSpill Cd Seg1	Obtrusive	N.A.	16097	37962	114	0.01	0.00
NorthSpill I11 Seg1	Obtrusive	Lux	26.83	74.3	0.2	0.01	0.00
SouthSpill I11 Seg1	Obtrusive	Lux	26.45	76.0	0.2	0.01	0.00

Preliminary Design Only.  
Subject to site verification of boundaries, pole positions and heights.  
Aiming details and instructions will be supplied after this confirmation.  
**NOT FOR CONSTRUCTION**

Luminaire Schedule			
Qty	Label	LLF	Description
2	IWE-PL6K-480-110Standard-	0.880	IWE-PL6K-480-110Standard-Citizen-Shielde

## Lighting Design Prediction

Site - Kangaroo Valley Basketball

Rev	Description	Designer	Date	Rev	Description	Designer	Date
1	Submitted for review/approval	M.A	28.06.2018				

This design calculation is based upon specified parameters supplied by the client, and other design inputs assumed by us, as detailed in this document.

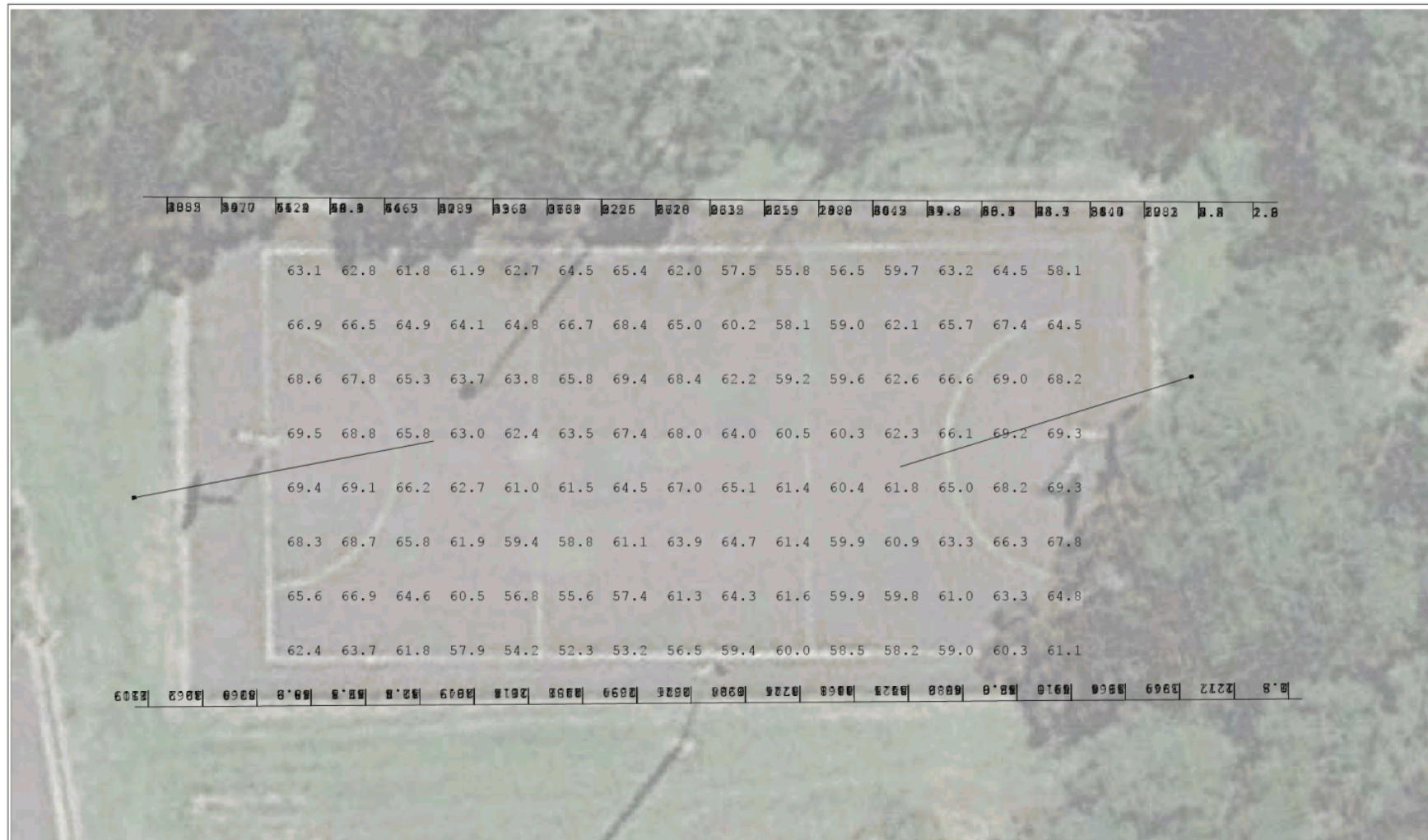
In practice, the accuracy of the values may differ due to environmental variations such as actual luminaire positioning, surface reflectance, supply voltage, local luminaire ambient temperature, obstacles, etc. These results are also subject to normally accepted photometric tolerances and calculation program uncertainties.

IWE provides this calculation "as is" without any representation or warranty of any kind.

The Company shall be under no liability to the Customer for failure to attain such performance figures unless the performance of the Goods supplied is specifically guaranteed in writing, and any such written guarantee shall be subject to recognised manufacturing variations and tolerances applicable to goods







### Lighting Design Prediction

Site - Kangaroo Valley Basketball

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## CL19.40 Investment Report - January 2019

**HPERM Ref:** D19/48054

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

**Attachments:** 1. January 2019 Monthly Investment Report (under separate cover)

### Purpose / Summary

In accordance with section 625 of the Local Government Act 1993 and Clause 212 of the Local Government (General) Regulation, a written report is provided to Council setting out the details of all money it has invested.

### Recommendation

That the report of the General Manager (Finance, Corporate & Community Services Group) on the Record of Investments for the period to 31 January 2019 be received for information.

### Options

1. The report on the Record of Investments for the period to 31 January 2019 be received for information.

Implications: Nil

2. Further information regarding the Record of Investments for the period to 31 January 2019 be requested.

Implications: Nil

3. The report of the Record of Investments for the period to 31 January 2019 be received for information with any changes requested for the Record of Investments to be reflected in the report for the period to 28 February 2019.

Implications: Nil

### Background

Please refer to the attached monthly report provided by Council's Investment Advisor, CPG Research and Advisory Pty Ltd. The investment advisors specifically comment this month on issues relating to Council's inability to increase investments with non-fossil fuel institutions. The majority of non-fossil fuel institutions are in the BBB category and Council's policy limits our investment in this category to 30%; we are currently at 26%. There are two institutions in the higher A category and we invest with them whenever we can, in accordance with the investment policy.

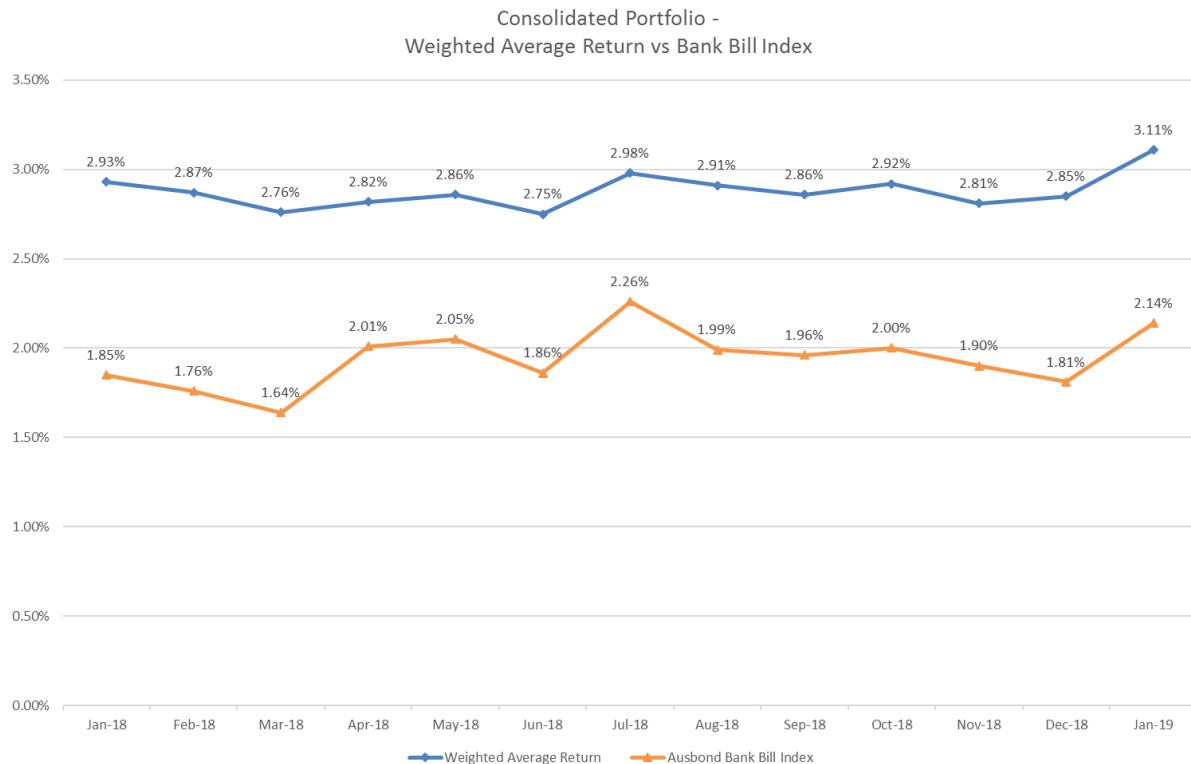
Even though there are policy restrictions limiting an increase in non-fossil fuel investments, the current practise of keeping within our policy limitations and not investing too highly with a single institution demonstrates prudent control of Council's funds. The two non-fossil fuel institutions (Suncorp and Rabobank) in the A+ category each have 7% (\$14m each) of our total investments; these could be increased to 15% each (within the policy limits) but having \$30m in a single institution increases the risk and lack of diversification. Our current level of non-fossil fuel investments has probably reached its maximum, in the absence of investing in

complying green bonds, with a suitable tenor, as they become available. These offerings are reviewed as and when they appear.

A Councillor Briefing with CPG will be arranged shortly to explore these issues in more detail.

Council's investment portfolio returned a strong 3.11% for the month of January 2019, exceeding the benchmark AusBond Bank Bill Index (2.14% pa) by 97 basis points (0.97%).

The following graph shows the performance of Council's investment portfolio against the benchmark on a rolling twelve (12) month basis. As can be seen, performance has consistently exceeded benchmark.



CL19.40

The interest earned to the month of January was \$3,648,533; 90.71% of the current full year budget. Spending against loan funds for the REMS 1B project is on track but slightly behind estimated project cash flows, resulting in continued higher than expected interest earnings. General Fund interest is higher due to more cash being on hand than predicted; however, future returns are expected to slow during the year as capital expenditure increases and higher earning investments mature.

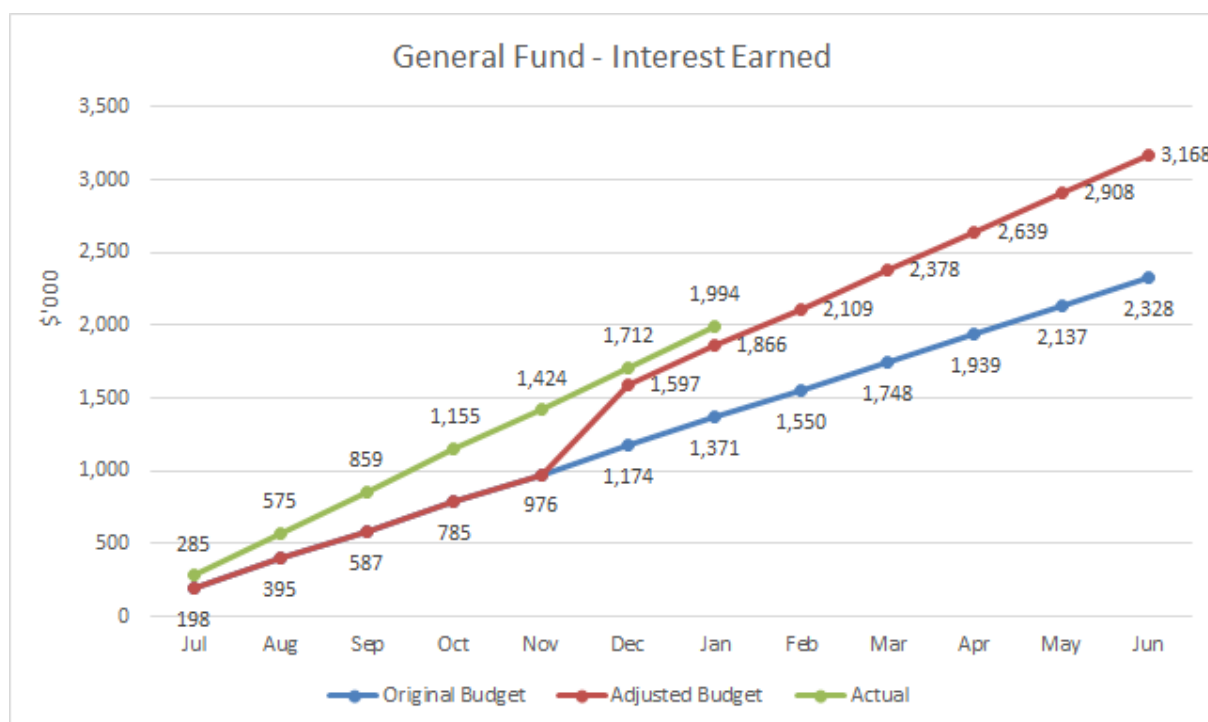
A budget adjustment for interest on investments is recommended in the December quarterly budget review; the table below shows the effect.

Fund	Budget	Actual	%	Budget Including Quarterly Review Adjustment	Revised %
General	\$2,328,000	\$1,993,992	85.65%	\$3,168,000	62.94%
Water	\$794,000	\$829,575	104.48%	\$1,384,000	59.94%
Sewer	\$900,000	\$824,965	91.66%	\$1,200,000	68.75%
<b>Total</b>	<b>\$4,022,000</b>	<b>\$3,648,533</b>	<b>90.71%</b>	<b>\$5,752,000</b>	<b>63.43%</b>

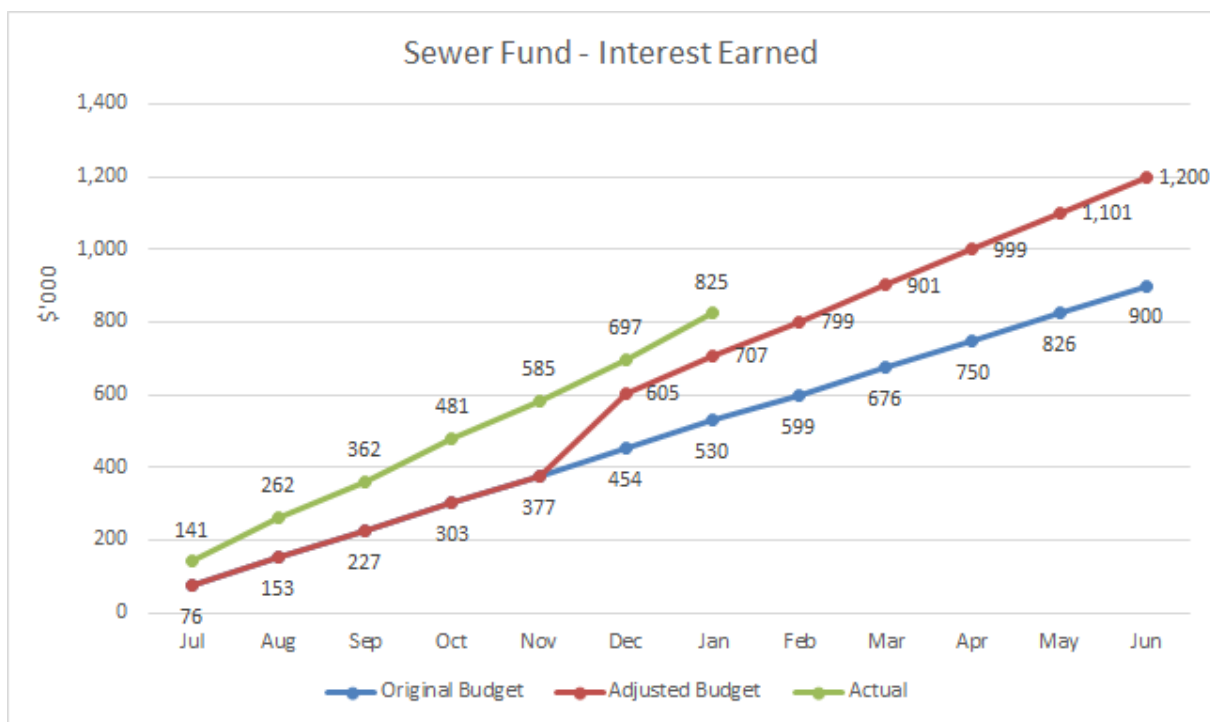
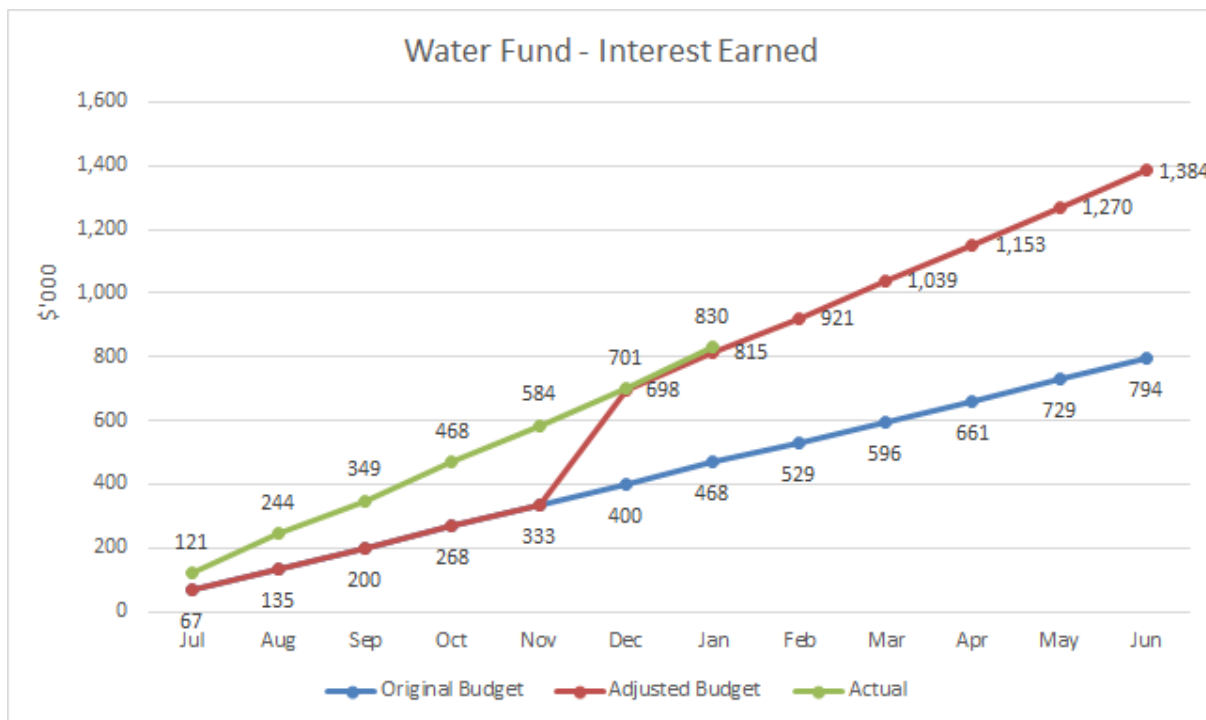
The interest earned for the month of January was \$538,765, which was \$197,170 above the current budget.

Fund	Monthly Budget	Actual	Difference	Budget Including Quarterly Review Adjustment	Revised Difference
General	\$197,721	\$282,061	\$84,340	\$269,063	\$12,998
Water	\$67,436	\$128,859	\$61,423	\$117,545	\$11,314
Sewer	\$76,438	\$127,845	\$51,407	\$101,918	\$25,927
<b>Total</b>	<b>\$341,595</b>	<b>\$538,765</b>	<b>\$197,170</b>	<b>\$488,526</b>	<b>\$50,239</b>

The graphs below illustrate the cumulative interest earned for the year for each fund against budget.



CL19.40



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## RECORD OF INVESTMENTS Cash and Investment Balances

	January 2019	December 2018
<b>Cash And Investments Held</b>		
Cash at Bank - Transactional Account	\$8,612,194	\$6,501,803
Cash at Bank - Trust Fund	\$0	\$0
Cash on Hand	\$60,590	\$67,790
Other Cash and Investments	\$191,139,995	\$199,044,447
	<b>\$199,812,779</b>	<b>\$205,614,040</b>
 Fair Value Adjustment	 \$99,194	 \$126,221
Bank Reconciliation	-\$7,541	-\$74,363
	\$91,653	\$51,858
 <b>Book Value of Cash and Investments</b>	 <b>\$199,904,431</b>	 <b>\$205,665,898</b>
 <b>Less Cash &amp; Investments Held In Relation To Restricted Assets</b>		
Employee Leave Entitlements	\$8,136,913	\$8,136,913
Land Decontamination	\$1,190,731	\$1,191,387
Critical Asset Compliance	\$2,103,394	\$2,113,031
North Nowra Link Road	\$459,576	\$459,592
Other Internal Reserves	\$7,472,375	\$7,047,191
Section 7.11 Matching Funds	\$314,490	\$314,490
Strategic Projects General	\$0	\$109,722
Industrial Land Development Reserve	\$6,622,217	\$6,677,502
Plant Replacement	\$2,743,255	\$2,520,897
Financial Assistance Grant	\$3,108,733	\$3,108,733
S7.11 Recoupment	\$1,313,005	\$1,313,207
Commitment To Capital Works	\$3,320,115	\$3,325,260
Property Reserve	\$193,069	\$212,756
<b>Total Internally Restricted</b>	<b>\$36,977,873</b>	<b>\$36,530,681</b>
 Loans - General Fund	 \$5,334,960	 \$5,418,112
Self Insurance Liability	\$1,625,415	\$1,587,155
Grant reserve	\$7,694,106	\$7,735,630
Section 7.11	\$32,522,499	\$32,126,443
Storm Water Levy	\$1,139,896	\$1,047,834
Trust - Mayors Relief Fund	\$86,675	\$86,665
Trust - General Trust	\$4,239,536	\$4,205,536
Waste Disposal	\$7,298,525	\$8,443,879
Sewer Fund	\$48,365,470	\$49,905,479
Sewer Plant Fund	\$2,458,186	\$2,379,314
Section 64 Water	\$18,752,537	\$18,708,265
Water Fund	\$26,612,313	\$25,633,715
Water Communication Towers	\$1,358,569	\$1,356,436
Water Plant Fund	\$2,476,985	\$2,372,643
<b>Total Externally Restricted</b>	<b>\$159,965,673</b>	<b>\$161,007,107</b>
 <b>Total Restricted</b>	 <b>\$196,943,545</b>	 <b>\$197,537,788</b>
 <b>Unrestricted Cash And Investments</b>		
General Fund	\$2,960,886	\$8,128,110

CL19.40

The table below lists the major movements:

Total Cash and Investments	-\$5,761,467	
Strategic Projects	-\$109,722	This reserve currently has a zero balance; this will be rectified when the dividend from Shoalhaven Water is received.
Waste Disposal	-\$1,145,354	Not a rates instalment month, expenditure on projects
Sewer Fund	-\$1,540,009	Expenditure on projects, REMS1B
Water Fund	+\$978,597	Normal operating cycle
Unrestricted General Fund	-\$5,167,224	Not a rates instalment month, expenditure on projects

### Financial Implications

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

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 POL18/57.



Michael Pennisi  
Chief Financial Officer

CL19.40

## CL19.41 2018/19 Council Borrowings - Loan Agreement

**HPERM Ref:** D19/48217

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

**Attachments:** 1. TCorp Loan Agreement (under separate cover)

### Purpose / Summary

To seek Council approval to enter into a loan agreement with TCorp for General Fund borrowing requirements.

### Recommendation

That Council enter into a loan agreement, executed under the seal of Council, with New South Wales Treasury Corporation for the following loans:

1. Loan 1: \$6,370,000 (repayment over 10 years) – Land acquisition at Moss Vale Road south for provision of open space.
2. Loan 2: \$1,783,000 (repayment over 10 years) – \$1,545,000 for Huskisson Service Lanes and \$238,000 for Worrigee cemetery memorial gardens expansion

### Options

1. Adopt the recommendation in the report.

Implications: Nil

2. Not adopt the recommendation and make an alternative resolution.

Implications: Need to seek borrowings from other financial institutions

### Background

As part of Fit for the Future reforms, the NSW Government announced that councils who were declared “Fit” would be able to borrow funds from TCorp at reduced interest rates. Given that Shoalhaven City Council was deemed “Fit” in October 2015, it is eligible to utilise TCorp for borrowing funds at reduced rates for approved purposes.

Accordingly, Council applied to TCorp for approval to borrow \$8,153,000 to cover General Fund (excluding Holiday Haven) borrowing requirements. The application included \$6,370,000 for Land Acquisition at Moss Vale Road south. This project has also been approved for a 50% interest subsidy under the NSW Government’s Low Cost Loans Initiative Program. The loan repayments for this loan will be funded from developer contributions. There was also \$1,545,000 for service lanes in Huskisson (to be repaid from developer contributions) and \$238,000 for the expansion of Worrigee cemetery memorial gardens.

The remainder of the 2018/19 proposed borrowings for Holiday Haven, \$1,647,500, will need to be sourced from other financial institutions as TCorp’s loan facilities are not available for a Council-run business in competition with existing privately run businesses.

The current indicative interest rate is 3.08%; TCorp will provide an updated interest rate when the drawdown date has been confirmed.

CL19.41



**Community Engagement**

This agreement does not require consultation with the community as Council's required borrowings have been reported in the Operational Plan and any changes have been reported through Council minutes.

**Financial Implications**

It is important for Council to gain the best interest rates on loan funding and locking this agreement in place will confirm a much lower rate for the full term of the loan agreement.

## CL19.42 Authority for Cheque and Electronic Banking Signatories

**HPERM Ref:** D19/48242

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

### Purpose / Summary

To update the list of Council's authorised cheque and electronic banking signatories to reflect recent staff changes within the Finance, Corporate and Community Services Group.

### Recommendation

That:

1. Council authorise any two of the following persons:
 

Russell Desmond PIGG	General Manager
Stephen DUNSHEA	Group Director – Finance, Corporate and Community Services
Michael Joseph PENNISI	Chief Financial Officer
Vanessa Jane PHELAN	Finance Manager
Angele TAYLOR	Team Coordinator - Financial Accounting
Stephanie Jane MOORLEY	Team Supervisor – Management Accountant
Craig Robert GILFILLAN	Assistant Financial Accountant
Graham David LONGFIELD	Accounting 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 open accounts with Council's contracted transactional bank for daily transactional banking purposes;
  - c. 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

### Options

1. The proposed account signatory amendments are accepted to reflect changes in staff in the Finance, Corporate and Community Services Group

Implications: Nil

2. The proposed account signatory amendments are not accepted and Council's existing signatories are maintained.

Implications: May cause limitations on Council's ability to manage its finances in a timely manner

CL19.42

**Background**

There have been staffing changes within the Finance, Corporate and Community Services Group. As staff have left the organisation, they were removed as a signatory with the bank. Following the appointment of new staff, a revised list of signatories is required.

The signatories will have the authority 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. The signatories will be able to open accounts with Council's contracted transactional bank for daily transactional banking purposes.

Authority is given for staff to sign, draw, make, accept and negotiate cheques on behalf of the Shoalhaven City Council.

The above list of authorised cheque signatories does not serve as authority to negotiate fixed deposits, bills of exchange, promissory notes or any other negotiable instruments. These instruments can only be acted upon by staff with the General Manager's Delegated Authority under Section 378 of Local Government Act 1993.

CL19.42

## CL19.43 9th Australian Small Bridges Conference

**HPERM Ref:** D19/49724

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

### Purpose / Summary

To consider Councillor attendance at the 9<sup>th</sup> Australian Small Bridges Conference scheduled for 1-2 April 2019 in Surfers Paradise, Queensland.

### Recommendation

That Council

1. Notes the details of the 9<sup>th</sup> Australian Small Bridges Conference scheduled for 1-2 April 2019 in Surfers Paradise, QLD.
2. Authorise available Councillors to attend the conference and such attendance be deemed Council Business.
3. Travel, registration fees, accommodation and all reasonable out-of-pocket expenses be met in accordance with its adopted policy.
4. Request Councillors attending the conference to provide a written report within 30 days of returning from the conference.

CL19.43

### Options

1. As per the recommendation.
2. That Council limit the number of Councillors attending the Conference and such attendance be deemed Council Business.
3. That Council not approve Councillor attendance at the Conference as Council Business.

### Background

The 9<sup>th</sup> Australian Small Bridges Conference is considered relevant to Local Government and information relating to the conference may be found at the following website:

<https://www.eiseverywhere.com/ehome/index.php?eventid=351700&>

Costs associated with the conference are estimated as follows:

- Registration: Full 2 day registration \$1090.00  
(delegate 2 & 3: \$1000.00, 4<sup>th</sup> or more: \$900.00)  
Day One ticket \$650.00  
Day Two ticket \$600.00
- official functions, (optional): Conference Dinner \$140.00
- travel, accommodation and out of pocket expenses: not yet determined

An option available to Council is to define the number of Councillors attending the conference and for Council to determine the appropriate Councillors authorised to attend. This option is presented having regard to the increase in Councillor expenses in recent years, so that Council may pro-actively control this area of expenses when appropriate. However enforcing this option may be seen as reducing the learning experiences of some councillors.

The Conference commences at 8.00am Monday 1 April 2019 and concludes at 4.00pm Tuesday 2 April 2019 and the following Council Business is scheduled within the period of the conference:

- Development & Environment Committee – Tuesday 2 April 2019.

### **Policy Implications**

The Council Members – Payment of Expenses and Provision of Facilities Policy limits attendance at conferences to three per annum per Councillor exclusive of any conference arranged by either the State or National Local Government Associations.

### **Financial Implications:**

Funds are available for Councillors to attend this conference.

## CL19.44 Roads to Recovery Program - Funding Allocation - 2019 - 2024

**HPERM Ref:** D19/47603

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

### Purpose / Summary

To report to Council on ministerial advice relating to the Roads to Recovery Program.

### Recommendation

That Council note that the Hon Michael McCormack MP, Deputy Prime Minister & Federal Minister for Infrastructure, Transport & Regional Development, has issued a Roads to Recovery life of program allocation for the period 1 July 2019 to 30 June 2024 of \$8,567,375 for the Shoalhaven.

### Options

1. Receive the report for information.

### Background

The Hon Michael McCormack MP, Deputy Prime Minister & Federal Minister for Infrastructure, Transport & Regional Development, has issued a Roads to Recovery life of program allocation for the period 1 July 2019 to 30 June 2024 of \$8,567,375.

The program will continue to run under simple administrative arrangements with councils free to decide the projects to be funded. As per the current arrangements, projects funded under Roads to Recovery can be delivered as early as needed in the 5-year program life, subject to councils proactively identifying projects in line with their local priorities.

The total allocation for the 2014-2105 to 2018-2019 financial years was \$13,521,739

(Source: [https://investment.infrastructure.gov.au/infrastructure\\_investment/roads\\_to\\_recovery/](https://investment.infrastructure.gov.au/infrastructure_investment/roads_to_recovery/))

The report is provided for the information of Council.

## CL19.45 Coffs Harbour Waste Processing Inspection

HPERM Ref: D19/53223

Group: Assets & Works Group

### Purpose / Summary

The purpose of this report is to allow Councillors to consider the benefit of sending the Alternative Waste Tender Delegation to Coffs Harbour to discover and discuss the finer points associated with constructing and operating an autoclave waste processing plant.

### Recommendation

That Council authorise the Alternative Waste Tender Delegation (Cr Pakes, Cr Wells, and staff determined by the General Manager) to visit the Autoclave based Waste Processing Plant at Coffs Harbour to discover the lessons learnt with respect to the specific resources and cost structures to oversee the construction and operation of a high-tech waste processing plant, and thus ensure that the Shoalhaven Team who oversees this work is adequately experienced and supported right from the start of the Bioelektra project.

### Options

1. As recommended

Implications: as outlined in the recommendation. If this option is not supported it either fails to be moved or is defeated

### Background

The Alternative Waste Tender Delegation was formed to assist Council to make a decision in relation to Tender 55454E.

The Delegation consisted of

Clr Mitchell Pakes  
Clr John Wells  
Paul Keech (Director – Assets & Works)  
David Hojem (Unit Manager – Waste Services)

On 22 January 2019 Council held a press conference to announce that Bioelektra will be engaged to construct and operate a Waste Processing plant which consists of various of mechanical sorting processes after size-reduced waste is dried and sterilised in an innovative autoclaving process.

This process is unique in that the interim product yielded from previously attempted autoclave processes was a wet, or very moist, “waste soup”. The Bioelektra autoclave process delivers a drier mass, more readily separated into recyclable components and much less prone to biological activity that produces odour.

Coffs Harbour constructed an autoclave plant that has processed mixed waste since around 2010. The main points about this plant are:

- At one stage, about 4-5 years ago, the plant was out of action for 10 months due to a fire
- The process, like Bioelektra’s, sterilizes and separates a biomass, recyclables and inert residuals from the municipal solid waste

CL19.45

- The household waste feed is the red-lid bin waste from 3-bin FOGO collection setups for the Nambucca, Bellingen and Coffs Harbour LGAs
- Materials reside in one of 2 vessels, in batches for 2-3 hrs
- Until 26 October 2018 diversion from landfill was around 70%, with the resultant biomass being composted (reinvigorated with biological activity) and used for rehabilitation and agricultural purposes, and about 20% being diverted as recyclables
- From 26 October 2018, the overall diversion dropped overnight to 20-25% when the EPA announced that organic outputs from mixed waste were no longer to be applied to land
- Back in 2010 a proposed future use for the biomass was to be as a renewable fuel.

Although the autoclaves are different in their output (i.e. wet verses dry) the lessons learnt in the construction and operation of the Coffs Harbour Facility could be valuable in developing the Supervision Processes and Quality Control Documentation for construction and operation of the Bioelektra process.

The delegation is currently well positioned to consider the benefit of lessons learnt by Coffs Harbour, given the recent and thorough study tour in Europe and Australia and an in-depth knowledge of the Bioelektra process, and an ability to report back on what changes are being considered and implemented for the biomass product further to the EPA decision on land application.

The main objective of the tour will be to:

“Allow Senior Management and Councillors (via the representative delegation) to understand some of the lessons learnt with respect to the specific resources and cost structures to oversee the construction and operation of a high-tech waste processing plant, and thus ensure that the Shoalhaven Team that oversees this work is adequately experienced and supported right from the start of the project”

### **Financial Implications**

Direct Costs to visit Coffs Harbour for including flights and one night's accommodation is estimated to be approximately \$2,500.

The value of this contract is estimated at \$321,000,000 over 22 years.

The visit to Coffs Harbour can be funded from the existing Waste Services budget.

### **Risk Implications**

Not leveraging off lessons learn by others.

CL19.45



## CL19.46 Proposed Acquisition of Land required for the Moss Vale Road South Urban Release Area Open Space

**HPERM Ref:** D19/39178

**Group:** Assets & Works Group  
**Section:** Business & Property

### Purpose / Summary

To provide Council with the opportunity to consider a confidential report on acquiring land for open space within the Moss vale Road South Urban Release Area.

Further information is provided in a separate confidential report in accordance with Section 10A(2)(c) of the Local Government Act 1993; if the information was disclosed this would confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

### Recommendation

That Council in accordance with Section 10A(2)(c) of the Local Government Act 1993, consider a separate confidential report in relation to property acquisition matters associated with the Moss Vale Road South Urban Release Area Open Space.

### Options

1. Council accept the recommendation

Implications: Property acquisition matters will be considered by Council.

2. Not adopt the recommendation

Implications: The opportunity to purchase land for open space will be missed

### Background

Council sought and was given approval for a low interest loan through the NSW Department of Planning & Environment's Low-Cost Loan Initiative to accelerate the provision of infrastructure (open space) for new housing.

The purchase of land for open space using funds from the above loan forms part of a separate confidential report to Council.

CL19.46

## CL19.47 UPDATE - Shoalhaven Affordable Housing Strategy - Property Acquisition Matters

HPERM Ref: D19/30004

**Group:** Assets & Works Group  
**Section:** Business & Property

### Purpose / Summary

The purpose of this report is to provide Council with an update in relation to negotiations with property owners in Bomaderry in association with the Shoalhaven Affordable Housing Strategy.

Further information is provided in a separate confidential report in accordance with Section 10A(2)(c) of the Local Government Act 1993; if the information was disclosed this would confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

### Recommendation

That Council in accordance with Section 10A(2)(c) of the Local Government Act 1993, consider a separate confidential report in relation to property acquisition matters associated with the Shoalhaven Affordable Housing Strategy.

### Options

1. Council accept the recommendation as presented.

Implications: Consider a separate confidential report on property acquisition matters associated with the Shoalhaven Affordable Housing Strategy.

2. Not adopt the recommendation.

Implications: Property acquisition matters will not be considered.

### Background

Council resolved at its Ordinary meeting on 30 October 2018 (MIN 18.887C) to enter into negotiations with property owners in Bomaderry to facilitate the Shoalhaven Affordable Housing Strategy.

A separate confidential report details the outcome of those negotiations.

CL19.47

## CL19.48 Proposed Purchase of Vacant Land, Nowra

HPERM Ref: D19/34091

**Group:** Assets & Works Group

**Section:** Business & Property

### Purpose / Summary

This report notifies Council of a confidential report to acquire vacant land in Nowra, to compensate for land acquired by RMS for the Nowra Bridge Project.

### Recommendation

That Council in accordance with Section 10(a)(2)(c) of the Local Government Act 1993 consider a separate confidential report on the proposed purchase of vacant land in Nowra.

### Options

1. Council accept the recommendation as presented.

Implications: Consider a separate confidential report outlining the results of the investigation.

2. Not adopt the recommendation.

Implications: Proposed property acquisition will not commence.

### Background

The proposed purchase of vacant land identified in the confidential report can be used as a temporary parking area for Council staff during the RMS Bridge Project construction, prior to allowing some future development opportunity.

CL19.48

## CL19.49 Development Application 18/1815 – 270 Back Forest Road, Back Forest – Lot 2231 DP 1034774

**DA. No:** DA18/1815/4

**HPERM Ref:** D19/26923

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

**Attachments:** 1. Recommended Conditions of Consent [↓](#)

**Description of Development:** Consent sought for the construction of a rural dwelling and change of use of an existing dwelling to a rural worker's dwelling.

**Owner:** Peter Harold Watts

**Applicant:** Andrew Gordon

**Notification Dates:** Between 8 August 2018 and 23 August 2018

**No. of Submissions:** Nil

### Purpose / Reason for consideration by Council

On 21 January 2019 the Development and Environment Committee resolved to approve Development Application No.18/1815 and that a further report be provided to the Council outlining appropriate conditions for consent.

### Recommendation

That Development Application No.18/1815, being for the construction of a dwelling and change of use of the existing dwelling to a rural worker's dwelling, be determined by way of approval as resolved by the Development and Environment Committee on 21 January 2019 in accordance with the recommended conditions at Attachment 1.

### Options

1. Approve the Development Application (DA) in accordance with the recommendation.

Implications: Approving the DA will enable the development of the property in accordance with the applicant's submission and Council's resolution.

2. Approve the Development Application (DA) subject to amended or additional conditions of consent.

Implications: Council will have to indicate the conditions to be amended and / or conditions to be inserted.

## Background

### Proposed Development

An application has been lodged with Council seeking consent for the construction of a rural dwelling and the change of use of an existing dwelling to a rural worker's dwelling. The proposed dwelling will contain the following features:

- 4 bedrooms, main with ensuite bathroom;
- Combined living/dining/kitchen;
- Laundry;
- Separate w.c. and main bathroom; and
- Timber deck.

Upon the completion of the new dwelling, and the issue of an Occupation Certificate, it is proposed that the existing 3 bedroom dwelling be used as a rural worker's dwelling. No physical works are proposed to facilitate the change of use.

### History

On 21 January 2019 the Development and Environment Committee resolved to approve Development Application No.18/1815 and that a further report be provided to the Council outlining appropriate conditions for consent.

## Planning Assessment

The DA has been assessed under s4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) and previously reported to Council. The conclusion of that report was not to support the development; however, Council considered the matter on 21 January 2019 and determined that the proposal was capable of approval. Discussion at the meeting centred around the economic viability of the future business, amongst other things. The Council was ultimately satisfied that the farming activities could sustain a rural worker living on site.

Recommended conditions of consent have been provided as part of this report and can be found in Attachment 1. They have been drafted in accordance with section 4.17 of the EP&A Act 1979. Conditions of consent have been imposed to:

- Ensure the proposed development:
  - a) achieves the objects of the Environmental Planning and Assessment Act, 1979;
  - b) complies with the provisions of all relevant environmental planning instruments;
  - c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.
- Ensure that the relevant public authorities and the water supply authority have been consulted and their requirements met, or arrangements made for the provision of services to the satisfaction of those authorities.
- Meet the increased demand for public amenities and services attributable to the development in accordance with Section 7.11 of the Environmental Planning and Assessment Act, 1979.
- Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.

- Minimise any potential adverse environmental, social or economic impacts of the proposed development.
- Ensure the development does not conflict with the public interest.

**Summary and Conclusion**

The Development and Environment Committee has resolved to approve Development Application No.18/1815 being for the construction of a dwelling and change of use of the existing dwelling to a rural worker's dwelling. Conditions of consent have been recommended as per the resolution

.

CL19.49



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

**NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION  
DEVELOPMENT CONSENT  
Environmental Planning and Assessment Act, 1979  
DA18/1815**

**TO:**

Andrew Gordon  
270 Back Forest Road  
Back Forest NSW 2535

**being the applicant(s) for DA18/1815 relating to:**

270 Back Forest Rd, BACK FOREST - Lot 2231 - DP 1034774

**APPROVED USE AND OR DEVELOPMENT:**

Construction of a Dwelling and change of use of the existing Dwelling to a Rural Workers Dwelling

**DETERMINATION DATE: TBA**

Pursuant to the Section 4.18 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

**CONSENT TO OPERATE FROM: TBA**

**CONSENT TO LAPSE ON: TBA**

*This consent is valid for five years from the date hereon.*

*In accordance with Section 4.53 of the Act, development consent for the use of the land or the erection of a building does not lapse if building, engineering or construction work relating to the building or work or the use is physically commenced on the land to which the consent applies before the lapse date.*

**DETAILS OF CONDITIONS:**

The conditions of consent and reasons for such conditions are set out as follows:



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**PART A**  
**CONDITIONS OF A GENERAL NATURE, INCLUDING A DESCRIPTION OF**  
**THE PROPOSED DEVELOPMENT**

1. **General**

This consent relates to **Construction of a Dwelling and change of use of the existing Dwelling to a Rural Workers Dwelling** as illustrated on the plans (referenced in the table below), specifications and supporting documentation stamped with reference to this consent, as modified by the following conditions. The development must be carried out in accordance with this consent.

Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions prevail to the extent of that inconsistency.

STAMPED DOCUMENTS/PLANS	REF/SHEET NO.	PREPARED BY	DATED
Site Plan / Building Area Plan	Sheet No.1 of 1	MJD Design & Drafting	22/8/2018
Floor Plan (New Dwelling)	Drawing No.WD3, Issue No.A, Job No.4015-293	Kitome	14/6/2018
Floor Plan (Rural Workers Dwelling)	Dwg No.4659, Sheet 2 of 3	Southplan	Feb 99
Elevations	Drawing No.WD5, Issue No.A, Job No.4015-293	Kitome	14/6/2018
Elevations	Drawing No.WD6, Issue No.A, Job No.4015-293	Kitome	14/6/2018
Waste Minimisation and Management Plan		Stuart Dixon	
Report on Effluent Disposal	-	Cowman Stoddart Pty Ltd	July 2018
BASIX Certificate	Certificate No.936988S	APeart Building Design	17/6/2018

**Notes:**

- Any alteration to the plans and/or documentation must be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under Section 4.55 of the Act, or a fresh development application. No works, other than those approved under this consent, must be carried out without the prior approval of Council.
2. The approved development must not be occupied or the use must not commence until all relevant conditions of development consent have been met or unless other satisfactory arrangements have been made with Council (i.e. a security).
3. **Occupation Certificate**

An **Occupation Certificate** must be issued by the Principal Certifying Authority (PCA) before any of the approved development can be used or occupied.



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**PART B**  
**CONDITIONS THAT MUST BE COMPLIED WITH BEFORE WORK CAN COMMENCE**

**4. Principal Certifying Authority, Construction Certificate and Notice of Commencement**

The following must be undertaken prior to the commencement of any construction works:

- a) a Principal Certifying Authority (PCA) must be appointed,
- b) a Construction Certificate must be obtained from either Council or an accredited certifier,
- c) notice must be given to Council at least two (2) days prior to the commencement of any works, and
- d) Council must be advised in writing of the name and 24hr contact number of the designated person/company nominated by the developer or their agent to be responsible for construction of all engineering works including erosion and sediment control measures and their maintenance.

**5. Residential Building Work**

Any licensed contractor(s) performing residential building work valued at \$20,000 or more must obtain indemnity insurance as required by the Home Building Act 1989. Evidence of such insurance must be provided to the Principal Certifying Authority (PCA) before building works commence.

**Notes:**

- *This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.*
- *If appointed as PCA, Shoalhaven City Council will not inspect any building work unless evidence of indemnity insurance has been provided. A copy of the Certificate of Insurance will suffice.*

**6. Builders' Toilet**

Before commencing building operations, a builder's water closet accommodation must be provided to Council's satisfaction.

A chemical toilet may be used on the site or alternatively the site may be provided with temporary closet accommodation connected to Council's sewer where sewer is available and operational. Under no circumstances will pit toilets or similar be accepted by Council.

**7. Existing services/damage to public assets (Dilapidation Report)**

Prior to the commencement of any work(s) associated with this development, the person benefitting from this consent must check that the proposed works are not affected by any Council, electricity, telecommunications, gas or other services. All services, existing and proposed, above or below ground are to be shown accurately on the engineering plans including longitudinal sections with clearances to proposed infrastructure clearly labelled. Any required alterations to services as a consequence of undertaking works under this

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consent or any repair to services will be at the expense of the person benefitting from this consent; and

**8. Erosion and Sediment Control**

Prior to the commencement of works, a Soil and Water Management Plan (SWMP) and accompanying specifications for the construction phase of the works, prepared by a suitably qualified and experienced person and based on the Landcom manual - *Soils and Construction, Managing Urban Stormwater*, Vol 1, 4th Edition, March 2004", must be submitted to the PCA (for works within the development lot) and Council (for works within the road reserve) for approval.

9. Prior to the commencement of any works, the approved erosion and sediment control measures must be implemented by the contractor, and inspected and approved by the PCA prior to the commencement of any other site works. The erosion and sediment measures must be maintained for the life of the construction period and until runoff catchments are stabilised.

**10. Sign – Supervisor Contact Details**

A sign must be erected in a prominent position on any site where of any building or demolition work is being carried out:

- a) Showing the name, address and telephone number of the PCA for the work;
- b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c) Stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work is being carried out.

**11. Public Safety and Protection of Public Property**

The building site/area where works are being undertaken is to be fenced (in accordance with Safework NSW (formerly WorkCover) requirements), prior to the commencement of works, suitable for keeping members of the public and unauthorised people out.

**PART C**  
**CONDITIONS THAT MUST BE COMPLIED WITH BEFORE A CONSTRUCTION**  
**CERTIFICATE CAN BE ISSUED**

**12. Shoalhaven Water**

Prior to the issue of a Construction Certificate, all conditions listed on the Shoalhaven Water Development Application Notice under the heading "Prior to the Issue of a Construction Certificate" must be complied with and accepted by Shoalhaven Water. The authority issuing the Construction Certificate for the development must obtain written approval from Shoalhaven Water allowing a Construction Certificate to be issued.

**Note:** Relevant details, including monetary contributions (where applicable) under the Water Management Act 2000, are given on the attached Notice issued by Shoalhaven Water.

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For further information and clarification regarding the above please contact Shoalhaven Water's Development Unit on (02) 4429 3111.

13. **Contributions for Additional Services and/or Facilities**

This development will generate a need for additional services and/or facilities as described in Council's *Contributions Plan 2010*, as itemised in the following table.

Project	Description	Rate	Qty	Total	GST	GST Incl
01 AREC 2006	Northern Shoalhaven Sports Stadium	\$563.30	1	\$563.30	\$0.00	\$563.30
01 AREC 2008	Planning Area 1 - Active recreation facility upgrades	\$205.94	1	\$205.94	\$0.00	\$205.94
01 AREC 3007	Nowra Swimming Pool Expansion	\$400.98	1	\$400.98	\$0.00	\$400.98
01 CFAC 2003	Nowra District Community Centre	\$142.91	1	\$142.91	\$0.00	\$142.91
01 CFAC 2012	Nowra District Integrated Youth Services Centre	\$32.09	1	\$32.09	\$0.00	\$32.09
CW AREC 2004	Synthetic Hockey Field Facility	\$81.98	1	\$81.98	\$0.00	\$81.98
CW CFAC 0003	Shoalhaven City Arts Centre	\$36.89	1	\$36.89	\$0.00	\$36.89
CW CFAC 0004	Shoalhaven Mobile Childrens Services	\$12.21	1	\$12.21	\$0.00	\$12.21
CW CFAC 0005	Shoalhaven Multimedia & Music Centre	\$12.13	1	\$12.13	\$0.00	\$12.13
CW CFAC 0006	Shoalhaven City Library Extensions	\$321.54	1	\$321.54	\$0.00	\$321.54
CW CFAC 2002	Shoalhaven Multi Purpose Cultural & Convention Centre	\$1,490.97	1	\$1,490.97	\$0.00	\$1,490.97
CW FIRE 2001	Citywide Fire & Emergency services	\$133.68	1	\$133.68	\$0.00	\$133.68
CW FIRE 2002	Shoalhaven Fire Control Centre	\$195.57	1	\$195.57	\$0.00	\$195.57
CW MGMT 3001	Contributions Management & Administration	\$555.90	1	\$392.22	\$0.00	\$392.22
CW OREC 2001	Embellishment of Icon and District Parks and Walking Tracks	\$238.89	1	\$238.89	\$0.00	\$238.89
MA CFAC 2002	Northern Shoalhaven Community Transport and Family Support Services	\$7.52	1	\$7.52	\$0.00	\$7.52
MA CFAC 4001	Northern Shoalhaven Integrated Children's Services	\$45.62	1	\$45.62	\$0.00	\$45.62
Sub Total:					\$4,314.44	
GST Total:					\$0.00	
Estimate Total:					\$4,314.44	

Contribution rates are adjusted annually on 1<sup>st</sup> July in accordance with the indexation formula indicated in the Contributions Plan (currently the implicit price deflator) and the total contribution levied **will be adjusted accordingly at the time of payment**. (ie contributions are calculated on the rate applicable at the date of payment, **not** the date of development consent.)

A total contribution, currently assessed as per the table above or as indexed in future years **must be paid to Council before the issue of a Construction Certificate**.

*Contributions Plan 2010* can be accessed on Councils website [www.shoalhaven.nsw.gov.au](http://www.shoalhaven.nsw.gov.au) or may be inspected on the public access computers at the libraries and the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

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**14. Stormwater Disposal**

Stormwater runoff from the development is to be disposed of via an onsite absorption/infiltration disposal system designed by a qualified licenced plumber or a practicing Civil Engineer or equivalent. Details of the proposed onsite disposal must be approved by the Principal Certifying Authority with the Construction Certificate application, consistent with the following requirements:

- a) any absorption system must be a minimum distance of 3m to any building on the lot or adjacent lots;
- b) all plumbing within the site must be carried out in accordance with Australian Standard AS/NZS3500.3.2015 Plumbing and Drainage – Stormwater Drainage;
- c) the stormwater needs to be captured in an onsite detention system (i.e rainwater tank) and then overland flows will need to be equivalent to predevelopment overland flows;
- d) the trench(s) must be sufficient capacity to store the inflow of a one in three months average recurrence interval design storm, with an emptying time of less than 24 hours;
- e) the trench is not to be located above any effluent disposal area; and
- f) the design of the trench must include a documented maintenance program.

Nothing within this consent grants approval for the construction of a new dam for the purpose of managing stormwater flows.

**15. Local Government Act 1993 – Section 68 Approval**

Approval for water, sewer and drainage works is required to be obtained under Section 68 of the Local Government Act prior to the issue of a Construction Certificate.

**PART D**  
**CONDITIONS RELATING TO THE APPROVED WORK AND SITE**  
**MANAGEMENT**

**16. Building Code of Australia**

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

***Note:** This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.*

**17. Sewage Management System**

The sewage management system must be designed, located and installed in accordance with the recommendations in the wastewater management plan 'Report on Effluent Disposal' prepared by Cowman Stoddart Pty Ltd, dated July 2018.

**18. Rainwater Facility**

Water stored in the rainwater tank must be plumbed into the dwelling such that it is supplied to each of the fixtures listed in the BASIX Certificate for the property. Plumbing must be in

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accordance with the current edition of the AS/NZS 3500 National Plumbing & Drainage Code.

It will be necessary to install, maintain and repair the facility so that it functions in a safe and efficient manner in accordance with the current editions of AS/NZS 3500 National Plumbing and Drainage Code and the New South Wales Code of Practice Plumbing and Drainage.

Pumps must be located and installed to minimise any potential noise nuisance to surrounding residents, and in the case of a permanent electric pump, must be installed by a licensed electrician. Pump performance must achieve a minimum 300 Kpa output.

Overflow from the tank must be directed into an approved storm water disposal system in accordance with the conditions of this consent so that it will not create a nuisance.

Marking and labelling of rainwater services must be in accordance with AS 1345, "Identification of the contents of pipes, conduits and ducts" including distribution pipes, rainwater pipes and tank outlets.

**19. Design and Construction - Bushfire**

New construction must comply with Australian Standard AS3959-2009 "Construction of Buildings in Bush Fire-Prone Areas" BAL 12.5 and "Planning for Bushfire Protection Addendum – Appendix 3".

**20. Survey Certificate**

A survey must be undertaken by a Registered Surveyor, and a copy submitted to Council for its information. The survey certificate is to locate the position of the offset pegs as they relate to the proposed dwelling. The survey pegs are to be maintained through construction to enable the Principal Certifying Authority to ascertain the dwelling location in relation to the approved plans and any building envelope.

**21. Colours and Materials**

Exterior materials (excluding windows and other glazing) are to be non-reflective and of a texture and colour which blend with the existing surroundings. White, light grey or bright colours are not acceptable. Metal roofing and wall cladding must be pre-coloured at the manufacturing stage. Water tanks must be painted to match either the roof or walls, or a dark green or brown colour.

**22. Heritage**

Should any historical relics be unexpectedly discovered in any areas of the site, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 146 of the *Heritage Act 1977*.

**23.** Should any Aboriginal relics be unexpectedly discovered in any areas of the site, then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service (NPWS) should be informed in accordance with Section 89A of the *National Parks and Wildlife Act, 1974*.

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**24. Waste Minimisation and Management Plan**

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Minimisation and Management Plan (WMMP) or removed to an authorised waste disposal facility. No waste must be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site.

Compliance with the WMMP must be demonstrated by the retention of relevant receipts. These must be submitted to Council, upon request.

**Note:** "Waste" has the same meaning as the definition of "Waste" in the Protection of the Environment Operations Act 1997.

**25. Work Hours and Noise**

The following must be complied with during demolition and construction works:

- a) To limit the impact of the development on adjoining owners, all demolition and construction work must be restricted to the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 3.00pm Saturdays. No work is to take place on Sundays or Public Holidays. These hours will prevail unless otherwise approved by Council in writing; and
- b) The noise from all activities associated with any demolition works and construction of the approved development must comply with the work practices as outlined in the NSW Department of Environment & Climate Change *Interim Construction Noise Guideline*. The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

**PART E**  
**CONDITIONS THAT MUST BE COMPLIED WITH BEFORE AN OCCUPATION**  
**CERTIFICATE CAN BE ISSUED**

**26. Certificate of Compliance – Shoalhaven Water**

A Certificate of Compliance (CC) under Section 307 of Division 5 of Part 2 of Chapter 6 of the *Water Management Act 2000* must be obtained to verify that all necessary requirements for matters relating to water supply and sewerage (where applicable) for the development have been made with Shoalhaven Water. A Certificate of Compliance must be obtained from Shoalhaven Water after satisfactory compliance with all conditions as listed on the Development Application Notice and prior to the issue of an Occupation Certificate.

**Note:** Relevant details, including monetary contributions (where applicable) under the *Water Management Act 2000*, are given on the Notice issued by Shoalhaven Water.

For further information and clarification regarding the above please contact Shoalhaven Water's Development Unit on (02) 4429 3111.

**27. Damage to public assets**

Prior to the issue of an Occupation Certificate, any infrastructure within the road reserve along the frontage of the subject site or within close proximity, which has been damaged

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as a result of construction works, is to be repaired by the person benefitting from this consent and to the satisfaction of Council.

**28. BASIX**

Prior to the issue of an Occupation Certificate, all the commitments listed in the relevant BASIX Certificates for the development must be fulfilled in accordance with Clause 97A of the *Environmental Planning and Assessment Regulation 2000*.

Prior to the final inspection being undertaken, the person benefitting from this consent must submit certification and/or documentation to the PCA confirming that the buildings have been constructed in accordance with the details and commitments listed in the BASIX Certificate for the development.

**Note:** Clause 154B of the EPAR 2000 provides for independent verification of compliance in relation to certain BASIX commitments.

**29. Sewage Management System**

The sewage management system, including all works associated with the effluent disposal area, must be completed to the satisfaction of Council to enable Council to issue an Operational Approval. An Occupation Certificate must not be issued until such time as the Operational Approval for the sewage management system has been issued.

**PART F**  
**CONDITIONS THAT RELATE TO THE ONGOING MANAGEMENT OF THE**  
**APPROVED DEVELOPMENT**

**30. Site Maintenance**

The owner or operator must at all times be responsible for on-going site management and maintenance in accordance with the following:

- a) Maintenance of vehicular movement areas including driveways, carparking, manoeuvring areas, line marking, pedestrian facilities, lighting, to the standard specified by this consent;
- b) Maintenance of stormwater drainage pipes and systems to ensure efficient discharge of stormwater in accordance with the approved stormwater drainage plan; and
- c) Maintenance of buildings, fencing, signage/markings to the standards specified in this consent.

**31. Rural Workers Dwelling**

The approved rural workers dwelling must only be utilised by persons employed for the purpose of agriculture or a rural industry on that land.

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## **PART G** **STATEMENT OF REASONS**

### ***Reasons for Approval***

1. The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, notably the Shoalhaven Local Environmental Plan 2014 (SLEP 2014).
2. The proposed development is, subject to the recommended conditions, consistent with the objectives of the Shoalhaven Development Control Plan 2014 (SDCP 2014).
3. The proposed development is considered to be suitable for the site.
4. The proposed development, subject to the recommended conditions will not result in unacceptable adverse impacts on the natural and built environments.
5. Any issues raised in submissions have been considered in the assessment of the application and where appropriate, conditions have been included in the determination.

### ***Conditions of Consent Have Been Imposed to:***

1. Ensure the proposed development:
  - a) achieves the objects of the *Environmental Planning and Assessment Act, 1979*;
  - b) complies with the provisions of all relevant environmental planning instruments;
  - c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.
2. Ensure that the relevant public authorities and the water supply authority have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities.
3. Meet the increased demand for public amenities and services attributable to the development in accordance with Section 7.11 of the *Environmental Planning and Assessment Act, 1979*.
4. Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.
5. Minimise any potential adverse environmental, social or economic impacts of the proposed development.
6. Ensure the development does not conflict with the public interest.

## **PART H** **ADVICE ABOUT RIGHTS OF REVIEW AND APPEAL**

### ***Determination under Environmental Planning and Assessment Act, 1979***

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request must be made **within three (3) months** of the date of the receipt of the determination to allow



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Council time to undertake the review within the prescribed period of six (6) months and be accompanied by the prescribed fee.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within 6 months after the applicant has been notified of the decision.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within 28 days after the date the objector is notified of the decision.

***Approvals under Local Government Act, 1993***

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within **twelve (12) months** of the date of determination.

## PART I

### GENERAL ADVICE TO APPLICANT

***Privacy Notification***

Personal information contained on this Development Consent and any associated documents will be published on Council's website as required by the *Government Information (Public Access) Act 2009* (GIPAA).

***Disclaimer –Conveyancing Act 1919 – Division 4 – Restrictions on the Use of Land***

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

***DBYD Enquiry - 'Dial Before You Dig'***

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

***Inspections***

If Council is the appointed Principal Certifier for this project, a minimum twenty-four (24) hours notice must be given to Council to make an inspection of the work.

## CL19.50 Quarterly Update on Compliance Matters

**HPERM Ref:** D19/7186

**Group:** Planning Environment & Development Group  
**Section:** Building & Compliance Services

**Attachments:** 1. Statistics for penalties issued 1 October 2018 to 31 December 2018 [↓](#)

### Purpose / Summary

At Council's Ordinary meeting held on 13 November 2018 it was resolved to receive a detailed quarterly report on compliance activities (MIN18.907). The resolution specifically requested information on the fines issued and the reasons why.

The report expands on the information requested to provide a broader view of Council's compliance actions within the various teams in the Planning, Environment and Development Group.

This is the first report since the Council resolution and it provides information on the period October – December 2018 (second quarter).

### Recommendation

That Council receive the Quarterly Update on Compliance Matters report for information.

### Options

1. Council receive the report for information

Implications: Nil

2. Council receives the report and provides additional direction for future reports

Implications: As this is the first report to update Councillors, any changes or additional matters can be added to future reports.

### Report

Compliance activities are completed by the following Teams within the Planning, Environment and Development Group:

- (a) Compliance Team: Development compliance matters including unauthorised development, development not in accordance with development consent, land and water pollution incidents (including building sites), land use management issues and swimming pool safety issues.
- (b) Environmental Health: Pollution incidents (noise and water), environmental incidents, food shops and the operation of on-site sewage waste management facilities.
- (c) Parking: All parking offences
- (d) Rangers: Animal control, littering, unauthorised camping, rubbish dumping and other environmental offences.

This report provides Councillors with an update on the penalties issued (number, type and ticket value), penalty reviews dealt with by the panel, any Local or Land and Environment

Court matters determined or progressing, ongoing compliance actions and other compliance matters that may be of interest to Councillors.

This report relates to October – December 2018 (second quarter).

#### Penalties issued during the period

A combined total of 1459 penalty notices were issued by the Teams during the period. These penalties have a face value of \$384,187. Historically Council stands to receive approximately 70% of this ticketed figure. Attachment 1 to this report provides a breakdown of the penalties issued.

The following is a summary of the penalties issued during the period for each team within the Planning, Environment and Development Group.

Team	Number Issued	Total Amount	% of total amount
Compliance	9	\$36,500.00	9.5%
Compliance – Pools	5	\$2,750.00	0.7%
Environmental Health	6	\$36,000.00	9.4%
Rangers – Animal issues	70	\$26,965.00	7.0%
Rangers – Environmental issues	24	\$18,570.00	4.8%
Parking	1,342	\$258,572.00	67.3%
Sewer Management Facility	3	\$4,830.00	1.3%
<b>Totals</b>	<b>1459</b>	<b>\$384,187.00</b>	<b>100%</b>

CL19.50

#### Penalty infringement panel reviews

During the period, the review panel met on 4 October 2018, 10 October 2018 and 7 November 2018. A total of 6 penalty infringement appeals were considered at these three meetings. The following results were recorded:

(a) Development without Development Consent (\$6000).

The offence related to the removal of vegetation from the site without consideration of the development consent conditions requiring suitably qualified consultants be present to supervise the clearing.

It was identified that the penalty had been issued in error as the incorrect offence code was used. The penalty was withdrawn and a formal caution was issued.

(b) Development not in Accordance with Consent (\$1500).

The offence related to undertaking construction works on ANZAC Day 2018. The offence was committed by a sub-contractor.

The penalty was withdrawn and a formal caution was issued. A caution was also issued to Builder in charge of the site.

(c) Development without Consent (\$6000).

This offence related to the construction of structures without the prior consent from Council issued to the Developer. The developer was aware of the requirements to

have development consent before commencing work as an application was awaiting Council's determination.

The panel resolved that the penalty was to stand.

(d) Development without Consent (\$6000).

This offence related to the construction of structures outlined in (c) above issued in this case to the Builder. In their submissions the Builder advised this was their first breach and there were pressures to have the works completed.

The penalty was withdrawn and a formal caution was issued.

(e) Development without Development Consent (\$6000).

This relates to the commencement of a secondary dwelling without the issue of a construction certificate. The piers and footings had been commenced prior to Council becoming aware of the breach.

The penalty had been issued in error as the incorrect offence code was used. The penalty was withdrawn and a formal caution was issued.

(f) Development not in Accordance with Consent (\$1500).

This relates to the brick enclosure of an approved attached carport without prior approval from Council issued to the owner. The submission identified a misunderstanding between the builder and the owner. New information also identified some hardship issues for the owner.

The penalty was withdrawn and a formal caution was issued.

Local or Land and Environment Court matters

- (a) Gary Knight (L&E Court): this matter relates to unauthorised works at Lot 57 Invermay Avenue, Tomerong (Jerberra Estate). This is contempt of Court proceedings against Mr Knight who has failed to comply with the Courts order to clean up the premises.

The matter has been set down for hearing on 25 February 2019. If a decision is made by the court on this day, Councillors will be updated at the meeting.

- (b) David DeBattista (Local Court): this relates to the prosecution of Mr David DeBattista for the removal of trees at Anson Street, St Georges Basin.

The matter has been called over to 4 April 2019 where a question of law is to be discussed before the prosecution can proceed. This matter will be heard in Kiama Local Court due to the fact Nowra Local Court is fully booked.

- (c) Philip Vella (Local Court): this matter relates to an appeal against Council's notice for non-compliance with the pollution prevention notice. The prevention notice had required Mr Vella to fence his land to prevent cattle entering the SEPP14 Wetlands and Crown Land that adjoin the Shoalhaven River.

This matter was heard in the Nowra Local Court on 13 February 2019. Mr Vella was found guilty of the offence and fined \$2000 and ordered to pay \$1800 in court costs.

- (d) Tokyo Sushi Vincentia (Local Court): this matter relates to providing false information to an authorised officer.

The person has pleaded guilty and is awaiting sentencing on 15 February 2019. Councillors will be updated at the meeting.

- (e) Australian Hotel Nowra: this matter relates to an appeal against Council's penalty notice for non-compliance with the Food Standards Code concerning the cleanliness of the premises.

The matter is listed for mention on 1 March 2019 and Councillors will be advised on the outcome in the next quarterly report.

### Ongoing major issues

- (a) Tomerong quarry: Councillors were updated on the progress of this matter at a briefing in December 2018.

Tests have been received from the EPA and from Council's independent Occupational Hygienist. Both test results indicate there are no impacts on the health of the community as a result of transporting fly ash to the site. This is good news and it addresses one of the major concerns identified by the community and reported in the media.

Council staff are now moving on the rehabilitation of the quarry site. Council will require the submission and approval of a detailed rehabilitation plan before any works commence. Once the plan is received, it will be advertised to the community because there are likely to be noise and traffic movement impacts.

Council will also need to have the building waste site dumps and the 800 metre long soil berm tested to determine if they contain any contaminants. If the tests come back positive, then Council will move on having the site(s) appropriately remediated.

- (b) Vincentia Marketplace noise issue: Council is working with the complainant concerning excessive noise from an alarm sounding in the Woolworths loading dock area of the Vincentia Marketplace.

This nuisance has been ongoing for a number of months and Council has been in contact with the Supermarket Manager. In late January 2019, Council's Compliance Officers spoke again with the Manager and head office concerning this noise nuisance.

Woolworths have been issued with a Noise Control Notice under the Protection of the Environment Operations Act. As the alarm automatically resets and there are reports of several soundings per night, it is breach of clause 42 of the Protection of the Environment Operations (Noise Control) Regulation 2017. This Noise Control Notice stipulates that noise from the alarm is not permitted to be heard from within any residential premises.

The notice will stay active until formally withdrawn from Council. Penalties will follow should the matter not be adequately resolved. Council also has an option of Class 4 action in the event of persistent breaches.

- (c) Mixed use development at Huskisson: Council has received several complaints from the neighbour to this development. Most of the complaints concern noise from the development and working out of approved hours. Council's Compliance Officers and Rangers have attended the property on several occasions and have confirmed a number of breaches. These have been remedied with the issue of penalty notices.

This project is now reaching practical completion; however, the most recent complaint relates to stormwater from newly constructed balconies. These balconies were not on the original approval and this would constitute development without consent.

Council has received a Section 4.55 application to regularise several anomalies at the site and this is currently under assessment. The balconies were not identified in this amendment nor were other prominent departures.

Compliance Officers have inspected the site with Town Planning staff responsible for the Section 4.55 application and identified all outstanding matters. The applicant has been requested to amend the application to include all departures.

Other compliance matters of interest

- (a) Council's Swimming Pool Compliance Team have worked with Council's Media Team and completed an advertising campaign for swimming pool barrier fencing. A 30 second commercial was run on WIN television during November and December 2018. The same advertisement has been uploaded to Council's Facebook page. Posters have also been prepared and distributed.

The result of this program has seen additional collaboration with swimming pool owners and Council's Swimming Pool Compliance staff. This education program has been positive and given credence to running similar campaigns in fire safety awareness, on-site sedimentation and erosion control measures and the storage of waste on building sites.

- (b) Council's Rangers have identified an issue with shore nesting birds and dogs on beaches. Discussions with NPWS representatives commenced in late November 2018 to consider an education program to coincide with the 2019 breeding season for these endangered species. Council's brochure entitled "Birds on Beaches – Dogs on Leashes" has been distributed to beach goers during routine Ranger patrols.
- (c) Council's Rangers have increased patrols of beaches commencing on the summer shift change (i.e. 1 October 2018). The aim has been to educate the community on the importance of taking their litter with them, having their dogs on a leash and not starting fires on the beach. Rangers have also dealt with several unauthorised camping incidents during the period.
- (d) Council's Rangers have increased patrols of Collingwood Beach foreshore to deter "would-be" tree vandals. Brochures have been given out to the community during the increased foot patrols. These brochures advise the community on the importance of foreshore vegetation and to report any suspected vandalism to Council's Ranger Services Section.
- (e) Fencing has been provided to 529B Culburra Road, Wollumboola. Cattle are now prevented from accessing the adjacent foreshore, Coastal Wetlands and crown land. Council's Environmental Health Officers will continue to monitor this situation for compliance.
- (f) A total of 55 non-compliant on-site sewage management systems were repaired or upgraded during the period. These are now operating satisfactorily resulting in less pollution incidents.
- (g) Environmental Health Officers have attended a Ranger Services Team brief and discussed several natural area reserve compliance issues. These include the removal of vegetation and the construction of unauthorised structures.

It is proposed to undertake an audit of these areas in the future with the view of having the sites remediated. Councillors will be updated as this progresses.

**List of penalties issued from 1 October 2018 to 31 December 2018 via offence Code**

Team	Offence Code	Number Issued	Offence Penalty	Total Amount
Compliance	Development not accord consent - class 1a or 10 building - Corporation	4	3000	12000
Compliance	Development not accord consent - class 1a or 10 building - Individual	1	1500	1500
Compliance	Development without development consent - any other case - Corporation	1	6000	6000
Compliance	Development without development consent - any other case - Individual	1	3000	3000
Compliance	Fail to comply with prevention notice - class 1 officer - Corporation	1	8000	8000
Compliance	Fail to comply with terms of development control order - Corporation	1	6000	6000
Compliance Pools	Fail to maintain child-resistant barrier effective and safe	1	550	550
Compliance Pools	Residential pool not have complying barrier - Owner	4	550	2200
ENV Hlth	Development without development consent - any other case - Corporation	6	6000	36000
Ranger Animal	Cause or permit animal to be unattended in public place	3	330	990
Ranger Animal	Companion animal (other) not registered as prescribed - first offence	3	330	990
Ranger Animal	Dog not wear collar and name tag - not dangerous/menacing/restricted dog	4	180	720
Ranger Animal	Fail to comply with menacing dog control requirements	1	1760	1760
Ranger Animal	Fail to comply with nuisance dog order - 1st offence	4	275	1100
Ranger Animal	Former owner not notify change of ownership	1	180	180
Ranger Animal	In charge of dog not under control in public place	3	330	990
Ranger Animal	In charge of dog which rushes at/attacks/bites/harasses/chases any person/animal	1	1320	1320
Ranger Animal	Not comply notice re registration (other) - first offence	14	305	4270
Ranger Animal	Not immediately remove dog faeces from public place	1	275	275
Ranger Animal	Not notify change in registration or identification information - not dangerous/restricted dog	1	180	180
Ranger Animal	Owner of dog in prohibited public place	8	330	2640
Ranger Animal	Owner of dog not under control in public place	23	330	7590
Ranger Animal	Owner of dog which rushes at/attacks/bites/harasses/chases any person/animal	3	1320	3960
Ranger Environment	Deposit litter excluding cigarette and from vehicle - Individual	4	250	1000
Ranger Environment	Deposit litter from vehicle no exclusions - Individual	3	250	750
Ranger Environment	Fail to comply with terms of notice erected at public place	1	110	110

Ranger Environment	Fail to comply with terms of notice erected by council	3	110	330
Ranger Environment	Fail to comply with terms of notice erected by council (driving/parking/use of vehicle)	5	110	550
Ranger Environment	Fail to state full name/residential address	1	330	330
Ranger Environment	Transport etc excess waste to unlawful facility - class 1 officer - Individual	2	4000	8000
Ranger Environment	Transport etc waste to unlawful waste facility - class 1 officer - Individual	1	2000	2000
Ranger Environment	Transporter not ensure waste is covered during transportation - Individual	2	750	1500
Ranger Environment	Owner transport etc waste to unlawful facility - class 1 officer - Individual	2	2000	4000
Ranger Parking	Disobey motor bike parking sign	20	112	2240
Ranger Parking	Disobey no parking sign	16	112	1792
Ranger Parking	Disobey no parking sign (in school zone)	1	187	187
Ranger Parking	Disobey no stopping sign	155	263	40765
Ranger Parking	Disobey no stopping sign (in school zone)	4	337	1348
Ranger Parking	Disregard reasonable direction of traffic controller	1	553	553
Ranger Parking	Not angle park as on parking control sign/road marking	8	112	896
Ranger Parking	Not parallel park in direction of travel	96	263	25248
Ranger Parking	Not parallel park near left	1	112	112
Ranger Parking	Not park wholly within parking bay	25	112	2800
Ranger Parking	Not position front/rear of vehicle correct - 90 degree angle park	2	112	224
Ranger Parking	Not position rear of vehicle correctly-45 degree angle park	212	112	23744
Ranger Parking	Not stand vehicle in marked parking space	45	112	5040
Ranger Parking	Not stand vehicle wholly in marked parking space	15	112	1680
Ranger Parking	Obstruct access to ramp/path/passageway	2	263	526
Ranger Parking	Park continuously for longer than indicated	77	112	8624
Ranger Parking	Park so as to obstruct vehicles/pedestrians	1	112	112
Ranger Parking	Park vehicle for longer than maximum period allowed	360	112	40320
Ranger Parking	Stop at side of road with continuous yellow edge line	98	263	25774
Ranger Parking	Stop in bus zone (clearway or transit/bus lane)	1	263	263
Ranger Parking	Stop in bus zone (in school zone)	3	337	1011
Ranger Parking	Stop in bus zone (not clearway or transit/bus lane)	3	263	789



Ranger Parking	Stop in disabled parking area without current permit displayed	79	561	44319
Ranger Parking	Stop in loading zone	2	187	374
Ranger Parking	Stop in loading zone longer than 30 minutes	1	187	187
Ranger Parking	Stop in mail zone	2	112	224
Ranger Parking	Stop in taxi zone	18	187	3366
Ranger Parking	Stop on path/strip in built-up area	46	263	12098
Ranger Parking	Stop on/across driveway/other access to/from land	30	263	7890
Ranger Parking	Stop within 10 metres of an intersection (no traffic lights)	18	337	6066
SMF Team	Operate sewage management system without approval	1	330	330
SMF Team	Fail to comply with clean-up notice - class 1 officer - Individual	1	4000	4000
SMF Team	Fail to pay fee within time provided under section - Individual	1	500	500
	<b>TOTAL</b>	<b>1459</b>		<b>\$384,187</b>

#### Summary via Team

Team	Number Issued	Total Amount	% of fine amount
Compliance	9	\$36,500.00	9.5%
Compliance – Pools	5	\$2,750.00	0.7%
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Rangers – Environmental issues	24	\$18,570.00	4.8%
Parking	1,342	\$258,572.00	67.3%
Sewer Management Facility	3	\$4,830.00	1.3%
<b>Totals</b>	<b>1459</b>	<b>\$384,187.00</b>	<b>100%</b>

## CL19.51 Update on the Shoalhaven Animal Shelter

HPERM Ref: D19/13802

**Group:** Planning Environment & Development Group  
**Section:** Building & Compliance Services

### Purpose / Summary

At Council's Ordinary meeting on 22 May 2018, it was resolved that the Ranger Services Unit would temporarily manage and operate the Shoalhaven Animal Shelter to 1 August 2019. It was also resolved to seek tenders for the management and operation of the service in March 2019.

The RSPCA discontinued their animal service contract on 31 May 2018. In the 7 months of Council's temporary management and operation of the service, the Animal Shelter has achieved some great results and it is anticipated that the service will come in under budget.

This report recommends that Council opt to retain its management and operation of the Animal Shelter rather than seek tenders to outsource this service.

### Recommendation

That Council rescind MIN18.415C and resolve for the Ranger Services Unit to continue with the management and operation of the Shoalhaven Animal Shelter on a permanent basis.

### Options

1. Council approve the recommendation as submitted.

Implications: Council will retain the management and operation of the Shoalhaven Animal Shelter. This will allow for the permanent appointment of staff to the positions and the ability to seek out cost saving opportunities to further reduce the overall cost of the service to Council.

2. Council resolve to continue with the previous resolution in MIN18.415C and seek tenders for the management and operation of the Animal Shelter in March 2019.

Implications: Tenders would be called for the management and operation of the Shoalhaven Animal Shelter. The results of the tender process would then be reported back to Council once the tenders have been fully assessed.

### Background

At its Ordinary meeting of 22 May 2018, Council resolved to do the following (MIN18.415C):

1. *Postpone the appointment of a tender until 1 August 2019 as no suitable tender has been received.*
2. *Temporarily undertake the management and operations of the Shoalhaven Animal Shelter via the Ranger Services Unit until 1 August 2019 with an approved financial allocation of \$600,000 (net).*
3. *Seek new tenders to undertake the management and operations of the Shoalhaven Animal Shelter in March 2019. A report will be submitted back to Council shortly following this tender period regarding any tenders submitted or other available options.*

The Shoalhaven Animal Shelter has been managed and operated by the Ranger Services Unit since the RSPCA vacated the service on 31 May 2018. In the 7 months of operation from 1 July 2018 to 31 January 2019, the Ranger Services Unit has achieved great results and they would like to continue with this service on a permanent basis.

### **Report**

The Animal Shelter was officially opened on 08 July 2018. This facility has 22 dog kennels, 24 cat enclosures, livestock yards and pocket pet and fowl enclosures. The Animal Shelter was purpose built and is identified as a state of the art facility.

The Animal Shelter is open 7 days per week and there are 9 staff members including: 1 Supervisor, 1 Administration Officer, 2 Animal Attendants, 2 part time Animal Attendants and 3 casual staff. There are also 15 to 20 volunteers at the shelter.

The temporary management and operation of the Animal Shelter has confirmed that these staff numbers are adequate, and no additional permanent staff are required.

All staff members are on a contract arrangement that will expire on 01/08/2019 to coincide with the potential for an acceptable tender.

### **Statistics**

On 1 July 2018, there were 25 animals in the shelter. From 1 July 2018 to 31 January 2019, the following statistics have been recorded:

- a) A total of 620 animals have entered the Animal Shelter.
- b) A total of 220 animals have been reclaimed or transferred to other rescue groups.
- c) A total of 304 animals have been adopted.
- d) No animals that could have been re-homed have been euthanised.

The only animals that have been euthanised have been 39 feral cats, 4 medically unfit animals and 22 dangerous or behaviour failure animals. There have also been 6 unassisted deaths (young and unexplained).

The Animal Shelter's zero euthanasia rate for fit and healthy re-homeable animals is the best result in the state. This has certainly removed the previous perception that a Council-run animal shelter would be nothing more than a "kill centre".

### **Media and advertising**

The Facebook page has over 4000 likes and followers. Some posts have reached nearly 30,000 people and the page is trending upwards. The majority of the posts promote animals for adoptions and the great result is testament to the effectiveness of this program.

The Animal Shelter also has a regular spot on local radio where the pets of the week are promoted for adoption. Staff have also used this opportunity to encourage people to come and visit the friendly staff at the shelter and see how it is run. Joint initiatives with Ranger Services such as "Paws and think" are likewise promoted.

Further community engagement has been used to share the message to the public. Staff have recently attended the Berry Show promoting the animals that are available for adoption. Staff similarly used this opportunity to provide free advice on responsible pet ownership.

The working of the Shoalhaven Animal Shelter is a positive news story for Council. It has been well received by the public and there has been no negative feedback to date.

### **Financial**

The report to the Ordinary meeting (CCL18.11 Tenders – Management & Operations of the Shoalhaven Animal Shelter) outlined the amount submitted by the sole tenderer. The Budget was set to a comparative figure.

The 2018-2019 budget for this service was set with a projected income of \$39,474 and expenditure of \$539,022 (Note: Council's minute was for 13 months and therefore the financial year is less than \$600,000). It was predicted that the overall cost for the financial year would be \$499,548 (i.e. \$539,022 - \$39,474 = \$499,548).

In the first 7 months of operation, the Animal Shelter had an income of \$61,356 and an expenditure of \$391,821. Based on these figures, it is expected that the final expenditure would be \$550,000 and an income of \$110,000. It is therefore estimated that the overall cost of the service will be in the order of \$440,000 (i.e. \$550,000 - \$110,000 = \$440,000).

It was expected that the initial start-up costs for the Animal Shelter would be expensive. This included the rental of a vehicle for animal transfers, computers, printers, telephones, office equipment and animal need items including bedding, bowls, blankets and the like. Taking this into account, it is possible that the final expenditure for 2018-2019 will be less than \$550,000 providing an even better result for Council.

### Opportunities

Staff have recognised there are several opportunities to further lower costs at the Animal Shelter and these include the following:

- Supporters of Shoalhaven Animal Shelter (SOSAS): if Council ran the shelter full time, SOSAS would be set up as a not for profit organisation. SOSAS would be modelled on a similar program currently run at Wingecarribee Council and it would be able to gain business sponsorship and arrange fund raising activities.

SOSAS would then release funds to the Animal Shelter to pay for services and other expenses. For example, they may be able to pay for the veterinary bills.

- Business sponsorship: It would be possible for business to sponsor a kennel, cat enclosure, stock yards, etc. This would be an annual fee and the name of the business would appear on the enclosure.
- Merchandising: The Animal Shelter could provide toys, bowls, bedding, dog and cat wash, flea and tick guard and food for sale at the office. These items could be sold to people adopting pets at a modest profit.
- Working with Nowra Correctional Centre: There is an opportunity to work with the Nowra Correctional Centre to allow pets to visit the residents. There may also be an opportunity for the residents to visit the Shelter and complete work release such as tidying the yards and cages and walking the animals.

### Conclusion

The first 7 months of the Animal Shelter has returned some great results for Council. It is a good news story, and this is mainly due to the dedicated staff and volunteers.

The increased income and projected expenditure is trending towards a significant reduction in overall operating costs to Council. It is expected that the overall costs of the Animal Shelter will be approximately \$440,000 in the 2018-2019 financial year and this will be under budget by about \$60,000. It is also well under the previous tender.

Given the current and projected savings for the Animal Shelter, it is considered reasonable for the Ranger Services Unit to permanently retain its management and operation of the service. This would allow for the permanent appointment of staff to the positions, for staff to seek out further opportunities to reduce overall operating costs and for the ongoing care and support for animals in the Shoalhaven.

## 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.