

## Ordinary Meeting

**Meeting Date:** Tuesday, 27 April, 2021  
**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 - 23 March 2021
  - Extra Ordinary Meeting - 22 April 2021
6. **Declarations of Interest**
7. **Presentation of Petitions**
8. **Mayoral Minute**
9. **Deputations and Presentations**
10. **Notices of Motion / Questions on Notice**

### Notices of Motion / Questions on Notice

CL21.57	Rescission Motion - DE21.23 Notice of Motion - Biodiversity Conservation Act Exemption for Employment Lands.....	1
CL21.58	Rescission Motion - DE21.33 - Development Application - DA20/1494 - 25 Sunnymede Lane, Berry - Lot 3 DP 713138.....	2
CL21.59	Notice of Motion - DE21.33 - Development Application - DA20/1494 - 25 Sunnymede Lane, Berry - Lot 3 DP 713138.....	3
CL21.60	Rescission Motion - SA21.49 Draft Delivery Program Operational Plan and Budget 2021-2022 - Public Exhibition.....	4

CL21.61	Notice of Motion - SA21.49 Draft Delivery Program Operational Plan and Budget 2021-2022 - Public Exhibition.....	5
CL21.62	Notice of Motion - International Campaign to Abolish Nuclear Weapons Cities Appeal.....	6
CL21.63	Notice of Motion - Creating a Dementia Friendly Shoalhaven .....	7
CL21.64	Notice of Motion - Croobyar Road, Milton.....	9
CL21.65	Notice of Motion - Cost of installation of Fire Warning Sign for Cudmirrah Berrara .....	11
CL21.66	Notice of Motion - Assistance Wandandian Hall .....	12
CL21.67	Notice of Motion - Kioloa Basketball Courts - Refurbishment .....	13
CL21.68	Notice of Motion - Purchase of Private Land - National Parks .....	14
CL21.69	Notice of Motion - Amenities Block - Francis Ryan Reserve, Sanctuary Point.....	15
CL21.70	Question on Notice - Road Renewals & Building Maintenance .....	16

## 11. Committee Reports

CL21.71	<u>Report of the Strategy &amp; Assets Committee - 13 April 2021</u> .....	17
SA21.45	Notice of Motion - Thompson St Sporting Complex - Supply of Front Deck Mower	
SA21.53	2020/2021 Council Borrowings - Loan Agreement - Holiday Haven	
SA21.58	Proposed Licence - Council as Lessee from Wardens of the Anglican Parish of Ulladulla	
SA21.59	Appointment of Native Title Manager and Notification to Minister for Planning, Industry & Environment	
SA21.68	Feasibility Report - Provision of Sewer to Tomerong Village	
SA21.72	Payment of Dividend from Shoalhaven Water 2019-20	
CL21.72	<u>Report of the Shoalhaven Heads Estuary Taskforce - 3 December 2020</u> .....	19
SH20.2	River Road Foreshore Precinct Rehabilitation Project Progress Report	
CL21.73	<u>Report of the Shoalhaven Tourism Advisory Group - 24 March 2021</u> .....	20
TA21.10	Shoalhaven Tourism Advisory Group - Extension of Membership	
CL21.74	<u>Report of the Shoalhaven Traffic Committee - 13 April 2021</u> .....	21
TC21.21	Private Use of Public Parking - 13 Prince Alfred Street - Berry (PN 3645)	
TC21.22	Signage and Line Marking Plan - 320 Princes Highway Bomaderry - Lot 1 DP 1249319 (PN 3644)	
TC21.23	Traffic Signals - O'Keeffe Avenue - Nowra (PN 3650)	
TC21.24	Proposed Road Safety Improvements - BTU Road - Nowra Hill (PN 3646)	
TC21.25	Proposed One Way Restrictions - The Marina - Culburra Beach (PN 3648)	

TC21.26	Shared User Path and Parking Restrictions - Sussex Road - Sussex Inlet (PN 3643)	
TC21.27	Traffic Signals - Princes Highway and Wason Street - Milton - (PN 3649)	
TC21.28	Signage and Line Marking Plan - 25 Ilett Street Mollymook - Lot 61 DP 596244 (PN 3647)	
TC21.29	Proposed Raised Pedestrian Crossing - St Vincent St - Ulladulla (PN 3651)	

## 12. Reports

### City Performance

CL21.75	Draft Submission - Remote Attendance by Councillors at Council Meetings .....	38
CL21.76	Investment Report - March 2021 .....	42

### City Futures

CL21.77	Purchase of Vacant Land - Milton .....	48
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### City Services

CL21.78	Tenders - Comerong Island Ferry - Survey and Refurbishment, Approach Ramps and Rock Revetments.....	49
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### City Development

CL21.79	Variations to Development Standards - March Quarter 2021 .....	54
CL21.80	RD21/1000 – 15 Vallon Road Woollamia – Lot 3 DP 832984.....	56

### Shoalhaven Water

CL21.81	Creation of Easement on the Village Green - 132 Island Point Road St Georges Basin.....	79
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## 13. Confidential Reports

### Committee Reports

#### CCL21.2 Report of the Strategy & Assets Committee - 13 April 2021

CSA21.4	Land Acquisition Matters - Cambewarra Locality  <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>	
CSA21.8	Shoalhaven Entertainment Centre - Progress and Funding  <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.*

#### Reports

##### CCL21.3 Purchase of Vacant Land - Milton

*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.*

*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.*

##### CCL21.4 Tenders - Comerong Island Ferry - Survey and Refurbishment, Approach Ramps and Rock Revetments

*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.*

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

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

## CL21.57      Rescission Motion - DE21.23 Notice of Motion - Biodiversity Conservation Act Exemption for Employment Lands

**HPERM Ref:**      D21/134158

**Submitted by:**    Clr Amanda Findley  
                         Clr Kaye Gartner  
                         Clr John Levett

### **Purpose / Summary**

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

### **Recommendation**

That Council rescind the Motion relating to Item DE21.23 of the Development and Environment Committee meeting held Tuesday 6 April 2021.

### **Background**

The following resolution (MIN21.174) was adopted at the Development and Environment Committee held Tuesday 6 April 2021.

*That:*

1. *The CEO and other appropriate staff take part in a joint Deputation with representatives of affected owners in the South Nowra Industrial Lands to the Minister for the Environment The Hon. Matt Kean MP with a view to having the NSW Government introduce a general exemption from the biodiversity offset scheme for zoned employment lands.*
2. *The deputation be organised through the Member for South Coast the Hon. Shelley Hancock MP.*

CL21.57

## **CL21.58      Rescission Motion - DE21.33 - Development Application - DA20/1494 - 25 Sunnymede Lane, Berry - Lot 3 DP 713138**

**HPERM Ref:** D21/134086

**Submitted by:** Cllr Andrew Guile  
Cllr Patricia White  
Cllr John Wells

### **Purpose / Summary**

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

### **Recommendation**

That Council rescind the Motion relating to item DE21.33 of the Development and Environment Committee held on Tuesday 6 April 2021.

### **Background**

The following resolution (MIN21.172) was adopted at the Development and Environment Committee held Tuesday 6 April 2021.

*That Council determine Development Application DA20/1495 by way of approval subject to the conditions at attachment 10.*

CL21.58

**CL21.59 Notice of Motion - DE21.33 - Development Application - DA20/1494 - 25 Sunnymede Lane, Berry - Lot 3 DP 713138****HPERM Ref:** D21/134131**Submitted by:** Cllr Andrew Guile  
Cllr Patricia White  
Cllr John Wells**Purpose / Summary**

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

**Recommendation**

That Council determine Development Application DA20/1494 by way of refusal in the public interest.

**Note by the CEO**

This Notice of Motion will be dealt with if the preceding Rescission Motion is carried.

CL21.59

## CL21.60      Rescission Motion - SA21.49 Draft Delivery Program Operational Plan and Budget 2021-2022 - Public Exhibition

**HPERM Ref:** D21/147042

**Submitted by:** Cllr Mitchell Pakes  
Cllr Greg Watson  
Cllr Mark Kitchener

### Purpose / Summary

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

### Recommendation

That Council rescind the Motion relating to Item SA21.49 of the Strategy & Assets Committee meeting held Tuesday 13 April 2021.

### Background

The following resolution (MIN21.191) was adopted at the Strategy & Assets Committee held 13 April 2021.

*That Council:*

1. *Endorse the 2021/22 Draft Delivery Program and Operational Plan, Budget, Fees and Charges for the purpose of placing on public exhibition for a period of 28 days.*
2. *Approve the Ministers allowable limit of a 2.6% increase (2% rate peg plus 0.6% SRV catch-up) in 2021/22 to the notional yield as permitted by Section 511 of the Local Government Act 1993.*
3. *Maintain the 2020/21 rating structure, comprising both base and ad valorem amounts noting that the use of a base amount results in bringing the higher and lower values closer together and in effect spreads the burden across the board to all ratepayers – noting also that this is a commonly used rating structure that is considered to provide the fairest and most equitable distribution of the rate levy across the LGA.*
4. *In accordance with Section 566(3) of the Act, endorse the rate of interest payable on overdue rates and charges for the period 1 July 2021 to 30 June 2022 (inclusive) to be 1.5% per annum. It is noted that this is significantly lower than the 2020 OLG recommended maximum of 7%. Interest charges will continue to be waived for ratepayers that are experiencing financial hardship and apply for financial assistance under Council's Hardship Policy.*
5. *Note that the proposed Waste Fees and Charges for 2021/22 have been included in the Draft DPOP and are tabled to Council for endorsement in a separate report to this Strategy & Assets Committee Meeting.*
6. *Receive a report on feedback from the community on the Draft 2021/22 DPOP and Budget following the 28 days public exhibition period.*



## **CL21.61 Notice of Motion - SA21.49 Draft Delivery Program Operational Plan and Budget 2021-2022 - Public Exhibition**

**HPERM Ref:** D21/147353

**Submitted by:** Clr Mitchell Pakes  
Clr Greg Watson  
Clr 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 receive a report back on the Budget cuts required to only adopt the 2% rate peg.

### **Note by the CEO**

This Notice of Motion will be dealt with if the preceding Rescission Motion is carried.

CL21.61

## CL21.62 Notice of Motion - International Campaign to Abolish Nuclear Weapons Cities Appeal

HPERM Ref: D21/137282

Submitted by: Cllr Annette Alldrick  
Cllr Bob Proudfoot

### Purpose / Summary

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

### Recommendation

That Shoalhaven City Council:

1. Joins other Australian councils in endorsing the International Campaign to Abolish Nuclear Weapons Cities Appeal, which reads:

*Our city is deeply concerned about the grave threat that nuclear weapons pose to communities throughout the world. We firmly believe that our residents have the right to live in a world free from this threat. Any use of nuclear weapons, whether deliberate or accidental, would have catastrophic, far reaching and long-lasting consequences for people and the environment.*

*In doing so we welcome the entry into force of the UN Treaty on the Prohibition of Nuclear Weapons on 22 January, 2021.*

2. Writes to Prime Minister of Australia, The Hon Scott Morrison MP and the Minister for Foreign Affairs, The Hon Marise Payne MP, requesting that the Australian Government sign and ratify the Treaty without delay.

### Background

On 24 October 2020, the Treaty on the Prohibition of Nuclear Weapons received its 50th ratification, triggering its entry into force, banning nuclear weapons on 22 January 2021.

The nuclear ban treaty prohibits nations from developing, testing, producing, manufacturing, transferring, possessing, stockpiling, using or threatening to use nuclear weapons or allowing nuclear weapons to be stationed on their territory.

Australia has not yet joined the treaty, thus making it out of step with international law and an outlier in our Pacific Region.

The International Campaign to Abolish Nuclear Weapons Cities Appeal is the best way local governments can show their support for nuclear disarmament.

CL21.62

## CL21.63 Notice of Motion - Creating a Dementia Friendly Shoalhaven

HPERM Ref: D21/127978

Submitted by: Cllr Nina Digiglio

### Purpose / Summary

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

### Recommendation

That Shoalhaven City Council:

1. Implement the principles and recommendations in the *Alzheimer's Support Australia – Creating Dementia-Friendly Communities toolkit for Local Government* to make the Shoalhaven a "Dementia-Friendly Community" and enable best practice outcomes for those in our city living with dementia.
2. Acknowledge the Ageing population of the Shoalhaven deserve the values we uphold: Respect, Collaboration, Adaptability and Integrity.

### Background

There are more than 353,800 Australians living with dementia and a further estimated 1.2 million people in the care of a person with dementia. **Dementia is the second leading cause of death in Australia and there is no cure.** The number of people with dementia in this country is expected to be more than 400,000 in less than five years. The majority of people with dementia live directly in the community. This means that every council in Australia will come into contact with people who have dementia, their families or carers, whether these individuals are paying rates, having their rubbish collected, working in local business or using council services.

Dementia is set to become the third greatest source of health spending within two decades. There are many benefits for councils that take the lead on effective, targeted strategies to support all elements of the community in a sustainable way.

Proactive councils that review and build on existing policies and services, maximise strategic partnerships and work in collaboration with members of their community can help mitigate pressure on their services, stimulate new or better service systems, and embed universal design principles into longer term planning.

<https://www.dementia.org.au/sites/default/files/NATIONAL/documents/Dementia-friendly-communities-toolkit-for-local-government.pdf>

Councils will need to proactively implement strategic priorities and plans specific to their region that will shape how they respond to local needs. The sorts of initiatives that take priority will inevitably reflect:

- The needs or preferences identified by people living with dementia in a given community.
- The characteristics of the community itself (for instance, metropolitan; regional; range of cultures reflected; age demographic).

CL21.63

- The availability and nature of existing supports and services and the ways in which these could be improved or expanded. National and international experience shows us that successful dementia-friendly communities typically include some of the following key elements:
- Consultation with people with dementia as well as with the broader population of the local community, service providers, businesses and council staff.
- Targeted awareness training or education about dementia for council staff and/or the local community.
- Establishment of a local alliance of individuals willing to champion change.

<https://www.dementia.org.au/sites/default/files/NATIONAL/documents/Dementia-friendly-communities-toolkit-for-local-government>.

### **Note by the CEO**

It is suggested that if Council is of a mind to support the intent of the Notice of Motion, then it should resolve to request a report that clearly outlines the recommendations contained in the *Alzheimer's Support Australia – Creating Dementia-Friendly Communities toolkit for Local Government* and the implications, including any costs, associated with implementing any or all of those recommendations.

CL21.63

## CL21.64 Notice of Motion - Croobyar Road, Milton

HPERM Ref: D21/139661

Submitted by: Cllr Nina Digiglio

### Purpose / Summary

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

### Recommendation

That Council:

1. Rebuild Croobyar Road between Wilfords Lane and the Princes Highway to a standard suitable for carrying heavy vehicles, surfaced with a low-noise road pavement rather than by patching potholes or standard local road resurfacing.
2. Discourage speeding on Croobyar Road by:
  - a. Installing traffic calming devices, such as a pedestrian refuge just west of Drury Lane
  - b. Installing traffic speed measuring signage that displays vehicle speed and requests a "slow down"
3. Erect signs at the entrance to Milton town requiring truck drivers to avoid compression braking. This in fact is a Shoalhaven-wide issue which needs to be considered city-wide.

### Background

Traffic on Croobyar Road Milton, especially heavy truck traffic, has greatly increased in the past five years, causing great distress to Milton residents from noise, dust and safety concerns.

Poor road quality means that on top of the loud noise of truck engines, the rattling and banging of empty trailers and those with loose loads bouncing over the road deformations is deafening.

Residents on Croobyar Road in Milton have to live with their windows permanently closed, with no fresh air ventilation and increased reliance on air conditioning. It is impossible to use any front veranda or garden as the traffic is too loud to even shout over it.

Constant exposure to this level of noise pollution is causing emotional and physical distress to local residents. Traffic volumes and excess speed are also creating dangerous conditions for residents, pedestrians and tourists who visit the Heritage Bakery and Croobyar Road's other heritage-listed sites.

### Note by the CEO

A number of these initiatives are currently being actively investigated and designed following representations to Council staff from various residents.

Given the possible cost implications of such proposals it is staffs intention to report back to Council on these initiatives with a suggested priority and thus a way forward.

It is suggested that Councillors consider the following refinement to the proposed motion:

CL21.64

*That the CEO prepare a report to Council outlining options and a strategy to;*

- 1. Rebuild Croobyar Road between Wilfords Lane and the Princes Highway to a standard suitable for carrying heavy vehicles, surfaced with a low-noise road pavement rather than by patching potholes or standard local road resurfacing.*
- 2. Discourage speeding on Croobyar Road by:*
  - a. Installing traffic calming devices, such as a pedestrian refuge just west of Drury Lane*
  - b. Installing traffic speed measuring signage that displays vehicle speed and requests a "slow down"*
- 3. Erect signs at the entrance to Milton town requiring truck drivers to avoid compression braking. This in fact is a Shoalhaven-wide issue which needs to be considered city-wide.*

## **CL21.65 Notice of Motion - Cost of installation of Fire Warning Sign for Cudmirrah Berrara**

**HPERM Ref:** D21/155877

**Submitted by:** Cllr Patricia White

### **Purpose / Summary**

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

### **Recommendation**

That Council support the Cudmirrah Progress Association by allocating funds of \$2,200 to pay the Council invoice for the installation of the fire warning sign at Cudmirrah from the Unallocated Donations fund.

### **Background**

Representations have been made to Council from Cudmirrah Progress Association regarding the installation of the Fire Warning Sign installed by Council staff at Cudmirrah.

This Fire warning sign (electronic) was installed by Council staff, following Cudmirrah Progress Association procuring a grant through a NSW Community Building Partnership grant program for \$12,000. The original grant was to cover the cost of the sign and installation; however, problems arose when the sign ended up costing more than the original quote as the original business was bought out by another company. The new company also had a hefty freight bill to get it delivered which basically exhausted the Progress Association funding.

This Progress Association has no way of paying the Council account with only around \$800.00 in the bank. Membership fees are \$5.00 per person per year but with Covid no one has kept their fees paid up and most meetings were cancelled. The Progress Association is not a CCB of Council.

The sign is an asset to the community and functioning well. Residents of Cudmirrah/Berrara have been in the line of every major fire and the bush surrounding our villages has been impacted heavily by the recent 2019/20 fires. The sign is needed.

### **Note by the CEO**

The 2020/21 Unallocated Donations Budget currently has available funds of \$8,499.06.

CL21.65

## CL21.66 Notice of Motion - Assistance Wandandian Hall

HPERM Ref: D21/155938

Submitted by: Cllr Patricia White

### Purpose / Summary

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

### Recommendation

That Council provide a financial grant of \$5,000 to the Wandandian Hall Association to assist the Association with ongoing costs following lost revenue due to the Bush Fires and Covid-19, the funds to be provided from the Unallocated Donations fund.

### Background

I have received representations from the Wandandian Progress Association requesting financial assistance from Council in relation to lost revenue from the Hall and surrounding area due to the Bush Fires and Covid-19.

The Hall and surrounding area are owned by the Hall Association and not Council. Many, if not all, Councillors would have visited Wandandian Hall at some stage and will have seen the great work the Association and volunteers do to maintain this important community infrastructure for the small village of Wandandian.

In previous years the Hall Committee has been very financially self supporting with many events and activities. The majority of their annual income for each year would normally see them raise approximately \$10,000.00 from the Annual Community Expo / Wood-chop Event and Hall Hire which ensures the hall and grounds are maintained to a very high standard and all utilities paid.

Due to the Bush Fires and Covid-19 no income was received last year. The Association has ongoing expenses to meet including building and ground maintenance, insurances, electricity and the Annual Fire Safety Audit. This coupled with some drainage works has put a strain on the Association's finances.

They have requested that Council assist them by way of a grant of \$5,000 to help in covering these costs. This request is similar to the Tomerong Hall which was recently supported by Council due to the same circumstances.

### Note by the CEO

The 2020/21 Unallocated Donations Budget currently has available funds of \$8,499.06.

CL21.66



## CL21.67 Notice of Motion - Kioloa Basketball Courts - Refurbishment

**HPERM Ref:** D21/157067

**Submitted by:** Cllr Patricia White

### Purpose / Summary

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

### Recommendation

That Council:

1. Staff engage and meet with Kioloa Bawley Point Sports & Recreation Association's working committee, Richard Nesbitt, other stakeholders, and available Councillors on their proposal to refurbish the existing Basketball Court on Kioloa Reserve.
2. Assist the working group to apply for Grant funding (including letters of support) for the project once the proposal has been finalised and approved by Council staff.
3. Staff report to the Council on any issues that may arise during the course of refurbishment.

### Background

Kioloa Bawley Point Sports and Recreation Association has engaged Richard Nesbitt (previous Project Manager for Mollymook Reserve, Basketball Court installation) to assist them with the refurbishment of the existing Basketball Court on Kioloa Reserve.

Richard Nesbitt and the committee are seeking to engage with Council for support for the proposal that has been prepared by the committee.

The proposal has been prepared with preliminary costings and it is anticipated that the working group will apply for grant funding for the project, along similar ways the Mollymook project was undertaken. The working group will need letters of support from Council for any grant applications.

The project committee would welcome a meeting with Councillors and Council Staff to discuss the proposals to iron out any issues that may need to be addressed to enable progression of the proposal.

Recently, an elite Basketball player who is a local resident / member has taken up coaching young people and others in the sport of Basketball on the court which appears to be at end of life.

I seek all Councillors to support this community led project that will replace an Asset that requires major refurbishment and will be funded by community grants.

CL21.67

## **CL21.68 Notice of Motion - Purchase of Private Land - National Parks**

**HPERM Ref:** D21/157515

**Submitted by:** Cllr Bob Proudfoot

### **Purpose / Summary**

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

### **Recommendation**

That Shoalhaven City Council

1. Write to the State Minister For Planning and Public Spaces, Mr Rob Stokes, to once again affirm that this Council has no objection to the State Government purchasing any private land at Manyana that it deems necessary for inclusion as part of an adjacent National Park. Further, Shoalhaven City Council affirms that when a previous State Government re-zones land for residential purposes and then a future State Government expresses an intention to de-zone same land for environmental purposes, then the incumbent State Government acknowledges its responsibility in wholly financing the acquisition, as well as compensating Council for infrastructure monies expended in all good faith as a direct result of the original re-zoning.
2. Condemns any organised group or person or persons from Manyana who seek to misrepresent previous resolutions of Council regarding the State Government's stated desire to have said land at Manyana included as National Park, as a blatantly and a deceptive political attempt to divide the Council and to bring it into disrepute.

CL21.68

## **CL21.69 Notice of Motion - Amenities Block - Francis Ryan Reserve, Sanctuary Point**

**HPERM Ref:** D21/157633

**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:

1. A gymnasium space and CCTV security be included in the concept design for the new amenities block at Francis Ryan Reserve, Sanctuary Point.
2. Council staff assist with the best location for an electronic scoreboard at Francis Ryan Reserve, Sanctuary Point.

CL21.69

## **CL21.70 Question on Notice - Road Renewals & Building Maintenance**

**HPERM Ref:** D21/157188

**Submitted by:** Cllr Kaye Gartner

### **Question**

1. What are the implications of the recent survey results that show 34% of SCC's sealed road network is in Fair condition?
2. How does SCC's Road renewals budget for 2016-2020 compare with the previous Council, 2012-2016?
3. How does the building maintenance spend compare for the same period?
4. What is the impact on road renewals and building maintenance of the slowed uptake of the SRV approved by IPART in 2017?
5. What is the impact of grant funded community projects on Council's asset maintenance and renewal budget? Like a new BBQ for instance.
6. What is the impact of deferred renewal and maintenance spending on the lifecycle of Councils Assets?
7. How does the general fund asset renewal and maintenance budget compare with that of Shoalwater?

### **Response**

#### **CEO Note:**

A report will be provided in response to the Questions on Notice at the next Strategy and Assets Committee Meeting.

CL21.70

## CL21.71 Report of the Strategy & Assets Committee - 13 April 2021

HPERM Ref: D21/149328

### SA21.45 Notice of Motion - Thompson St Sporting Complex - Supply of Front Deck Mower

HPERM Ref:  
D21/122842

#### Recommendation

That:

1. Council supply a front deck mower, type to be determined by Director City Services, for the use of the Thompson Sporting Complex Committee in maintaining the grounds.
2. The funds for the acquisition to be sourced from the Plant Replacement Reserve or other source, as determined by the CEO.

### SA21.53 2020/2021 Council Borrowings - Loan Agreement - Holiday Haven

HPERM Ref:  
D21/128852

#### Recommendation

That Council:

1. Enter into a loan agreement with Commonwealth Bank of Australia for the amount of \$3,590,000 with a term of 10 years @ 1.94% to cover Holiday Haven's borrowing requirements that were included in the 2020/21 Operational Plan.
2. Execute the following documents:
  - a. Letter of offer.
  - b. Authorised officer's certificate.
  - c. Drawdown notice.

### SA21.58 Proposed Licence - Council as Lessee from Wardens of the Anglican Parish of Ulladulla

HPERM Ref:  
D21/77497

#### Recommendation

That Council:

1. Enter into a Licence agreement with Wardens of the Anglican Parish of Ulladulla for the carpark area of the Church grounds from 16 March 2021 to 14 February 2026 for an annual rent amount of \$3,000 + GST per annum;
2. Authorise the rent to be paid from Finance Project 101771 Southern Local Roads;
3. Authorise the Common Seal of the Council of the City of Shoalhaven to be affixed to any document required to be sealed and delegate to the Chief Executive Officer authority to sign any documentation necessary to give effect to this resolution.

CL21.71

**SA21.59 Appointment of Native Title Manager and Notification to Minister for Planning, Industry & Environment**

**HPERM Ref:  
D21/106791**

**Recommendation**

That Council:

1. Appoint Melissa Boundy – Senior Property Officer, Technical Services, City Services, as Shoalhaven City Council's Native Title Manager;
2. Reconfirm appointment of the following relieving Native Title Managers in the absence of the Senior Property Officer, Technical Services, City Services:
  - a. Property Officer – Amanda Walker; and
  - b. Property Officer – Michelle Deudney.
3. Advise the Minister for Planning, Industry & Environment as required by Section 8.8 of the Crown land Management Act 2016.

**SA21.68 Feasibility Report - Provision of Sewer to Tomerong Village**

**HPERM Ref:  
D21/85066**

**Recommendation**

That Council include \$7.3 million for the Tomerong Sewerage Scheme (as a pressure sewer scheme) in the Sewer Capital Works Program, for completion in the 2028/29 financial year based on the following:

4. Design of the scheme to commence in 2026/27 and construction commence in 2027/28,
5. Noting that the scheme is not currently funded, review the sewer availability charge as part of the 2022/23 DPOP preparation to ensure the project is accommodated in the Long Term Financial Plan,
6. The scheme also encompass any zoned land which has not been developed at this stage.
7. Shoalhaven Water to seek grant funding to assist with the financing of the scheme.

**SA21.72 Payment of Dividend from Shoalhaven Water 2019-20**

**HPERM Ref:  
D21/116211**

**Recommendation**

That Council:

1. Determines substantial compliance with the *Best Practice Management of Water Supply and Sewerage Guidelines* has been achieved and the dividend will be paid from the Sewer Fund as declared in 2019-20.
2. Make representation to DPIE (Water) for exemption under the Best Practice Management Guidelines to pay a dividend from the Water Fund, and if successful seek advice as to a methodology for calculation of such dividend.

CL21.71

## **CL21.72 Report of the Shoalhaven Heads Estuary Taskforce - 3 December 2020**

**HPERM Ref:** D21/120054

**SH20.2 River Road Foreshore Precinct Rehabilitation Project Progress Report**

**HPERM Ref:**  
**D20/524277**

### **Recommendation**

That the Taskforce

1. Receive the River Road Foreshore Precinct Rehabilitation Project Progress Report for information.
2. Request Council provide an explanatory letter to the Member for Kiama outlining the points of contact with the community, how the project has changed, the details of the final proposed project, and how the objectives of the original grant application to the State are being achieved.

CL21.72

## CL21.73 Report of the Shoalhaven Tourism Advisory Group - 24 March 2021

HPERM Ref: D21/120072

**TA21.10 Shoalhaven Tourism Advisory Group - Extension of Membership**

**HPERM Ref: D21/100240**

### Recommendation

That the Shoalhaven Tourism Advisory Group request that Council:

1. Endorse the recommendation to extend current memberships for the Shoalhaven Tourism Advisory Group
2. Extend the following members to October 2021:
  - a. James Lin
  - b. Brenda Sambrook
  - c. Juliet Barr
3. Extend the following members to October 2022:
  - a. Rob Crow
  - b. Mat Lock
  - c. Mark Thirwall
  - d. David Fleeting
  - e. Neil Rogers
4. Formally acknowledge the resignation of Kylie Pickett and thank Kylie for her service and commitment as a member of the Shoalhaven Advisory Group.
5. Move the upcoming STAG meeting on the 19 April 2021 to 10 May 2021 to allow time for confirmation of new memberships via Council's Ordinary meeting.

### Note by the CEO:

*Membership for the Shoalhaven Tourism Advisory Group (STAG) consists of a maximum of nine (9) industry members, with a quorum of five (5). Membership is for two (2) years and is staggered between two groups of members as to always keep quorum and continuity.*

*The expiration of Shoalhaven Tourism Advisory (STAG) membership was missed due to Bushfires and COVID-19 resulting in the cancellations of numerous 2020 meetings. In order to continue the function of the Shoalhaven Tourism Advisory Group (STAG) memberships must be resolved by Council. With the Local Government elections this year, recruiting new Shoalhaven Tourism Advisory Group (STAG) members before then is not preferable as a new Council may decide to make changes to committees. In an uncertain and changing tourism climate, an experienced industry group is important to guide Council and industry through this time and help to sustain jobs and economic growth. Council staff have spoken to existing members separately who have advised verbally they are happy to continue their positions on the industry group. Should the recommendation be endorsed, one (1) vacancy will be recruited on the Shoalhaven Tourism Advisory Group in April 2021.*

CL21.73



## CL21.74 Report of the Shoalhaven Traffic Committee - 13 April 2021

HPERM Ref: D21/151600

- Attachments:**
1. TC21.21 PN 3645 Plans [↓](#)
  2. TC21.22 PN 3644 Plans [↓](#)
  3. TC21.23 PN 3650 Plan [↓](#)
  4. TC21.24 PN 3646 Plans [↓](#)
  5. TC21.25 PN 3648 Plans [↓](#)
  6. TC21.26 PN 3643 Plans [↓](#)
  7. TC 21.27 PN 3649 Plans [↓](#)
  8. TC 21.28 PN 3647 Plans [↓](#)
  9. TC 21.29 PN 3651 Plan [↓](#)

*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 Councils for the regulation of traffic can be viewed at: [RMS Website](#)*

**TC21.21 Private Use of Public Parking - 13 Prince Alfred Street - Berry (PN 3645)**

**HPERM Ref:  
D21/128903**

### Recommendation

That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the temporary use of 4 parallel parking spaces on the western side of Prince Alfred Street, Berry for a period of 52 weeks during the works associated with the development at 13 Prince Alfred Street, Berry, as detailed in Plan No: D21/128911.

**TC21.22 Signage and Line Marking Plan - 320 Princes Highway Bomaderry - Lot 1 DP 1249319 (PN 3644)**

**HPERM Ref:  
D21/128876**

### Recommendation

That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed signage and line marking associated with the development at 320 Princes Highway, Bomaderry (per development consent condition 39(vii)), as per Plan No D21/128883.

CL21.74

**TC21.23 Traffic Signals - O'Keeffe Avenue - Nowra (PN 3650)**

**HPERM Ref:  
D21/130094**

**Recommendation**

That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed Traffic Signals at O'Keeffe Avenue, Nowra as per Plan No D21/130117, subject to:

- Supplementing the existing "No Stopping" signage with C3 linemarking on both eastern and western sides of O'Keeffe Avenue

**TC21.24 Proposed Road Safety Improvements - BTU Road - Nowra Hill (PN 3646)**

**HPERM Ref:  
D21/128967**

**Recommendation**

That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed road safety improvements along BTU Road, Nowra Hill, as per Plan No: D21/129000.

**TC21.25 Proposed One Way Restrictions - The Marina - Culburra Beach (PN 3648)**

**HPERM Ref:  
D21/129187**

**Recommendation**

That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed one-way restrictions along the Marina, between Mia Way and the Mall, Culburra Beach as per Plan No: D21/129192.

**TC21.26 Shared User Path and Parking Restrictions - Sussex Road - Sussex Inlet (PN 3643)**

**HPERM Ref:  
D21/128829**

**Recommendation**

That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed shared user path and associated parking restrictions along Sussex Road, Sussex Inlet, as per Plan No: D21/128838.

**TC21.27 Traffic Signals - Princes Highway and Wason Street - Milton - (PN 3649)**

**HPERM Ref:  
D21/130417**

**Recommendation**

That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed traffic signals and associated parking restrictions at the intersection of the Princes Highway and Wason Street, Milton as per Plan No: D21/130436, subject to:

1. Transport for NSW installing four G7-7 white on blue parking signs (with directional arrows) to help alleviate the loss of parking from the project, by guiding traffic towards the off-street Council carpark in Church Street. Signs are to be provided in both directions on the Princes Highway at Church Street, and in both directions at the access to the carpark in Church Street

CL21.74

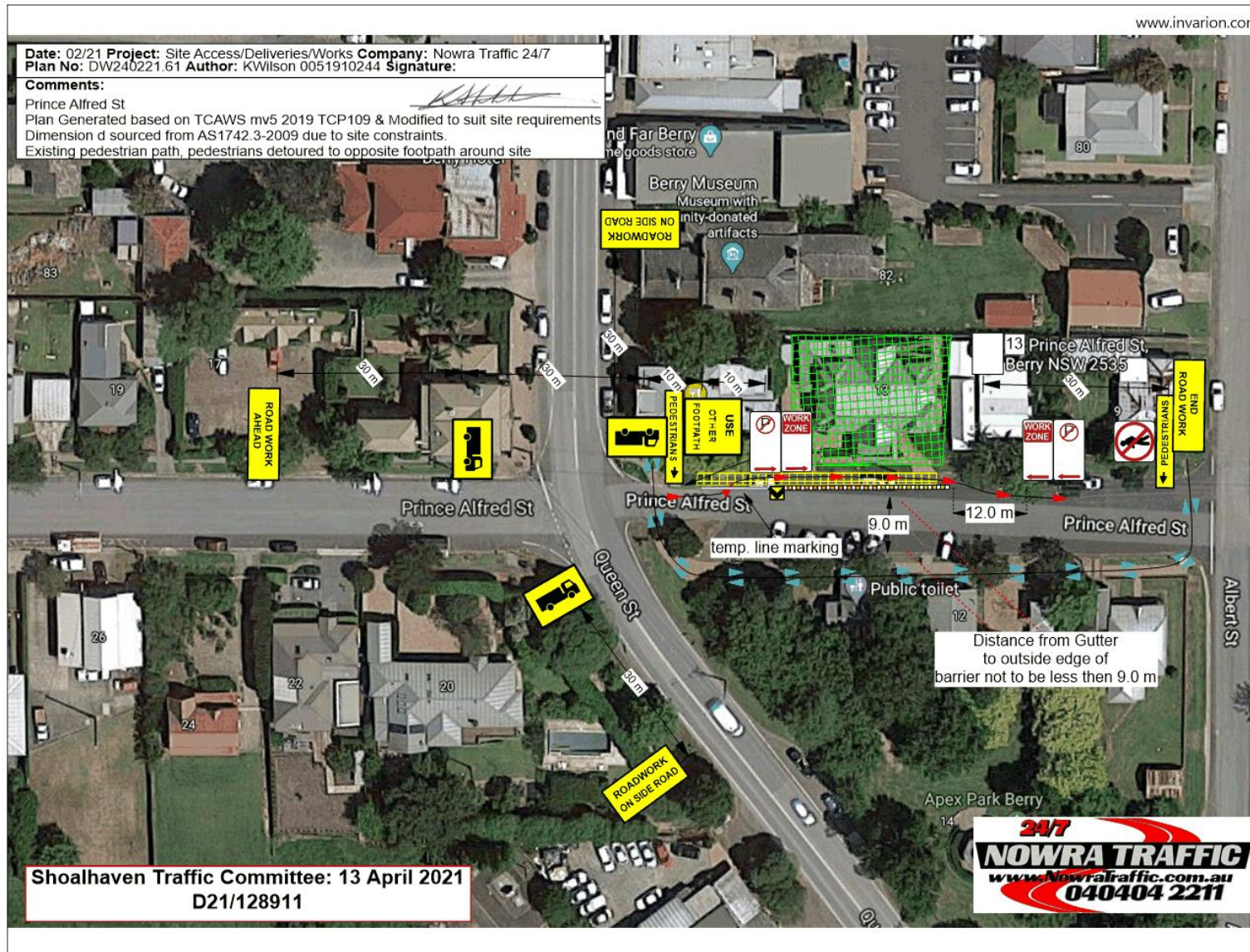
**TC21.28 Signage and Line Marking Plan - 25 Ilett Street  
Mollymook - Lot 61 DP 596244 (PN 3647)****HPERM Ref:  
D21/129077****Recommendation**

That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed signage and line marking associated with the development at 25 Ilett Street, Mollymook (per development consent condition 29), as per Plan No D21/129094, subject to:

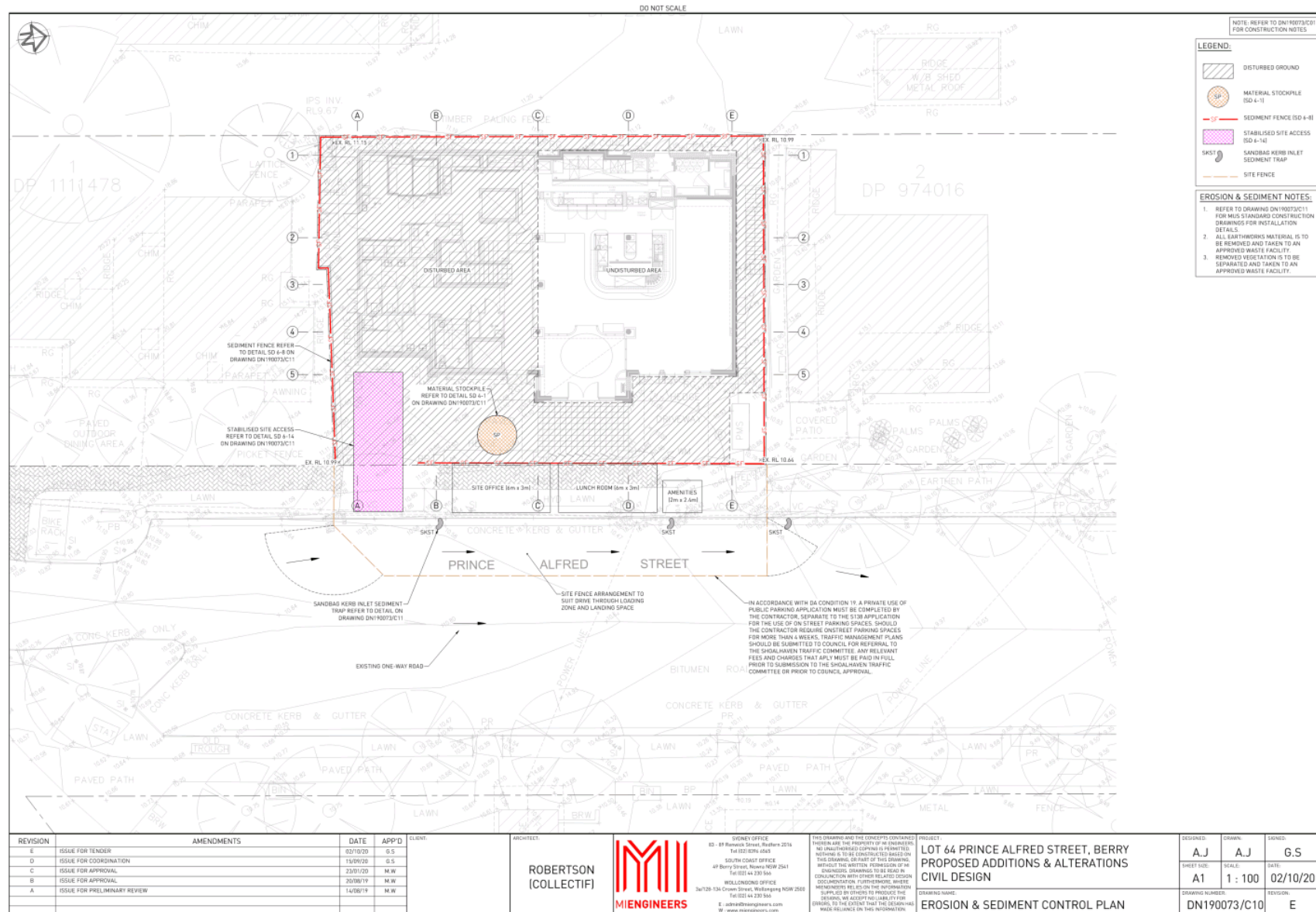
1. The raised threshold within the internal parking area to be upgraded to a raised pedestrian crossing, with associated signage and linemarking

**TC21.29 Proposed Raised Pedestrian Crossing - St Vincent  
St - Ulladulla (PN 3651)****HPERM Ref:  
D21/130843****Recommendation**

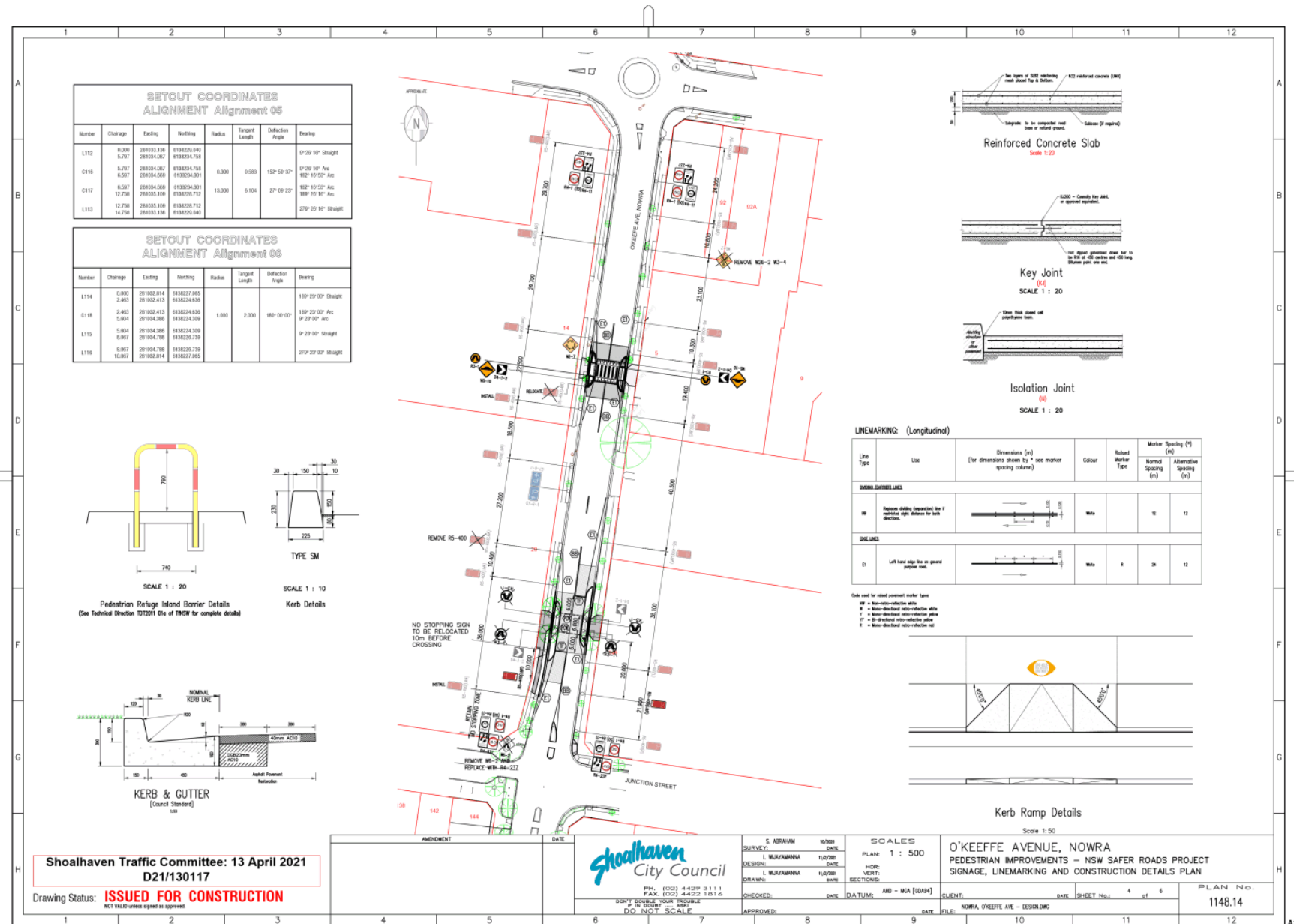
That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed raised pedestrian crossing at St Vincent St, Ulladulla as per Plan No D21/130851.

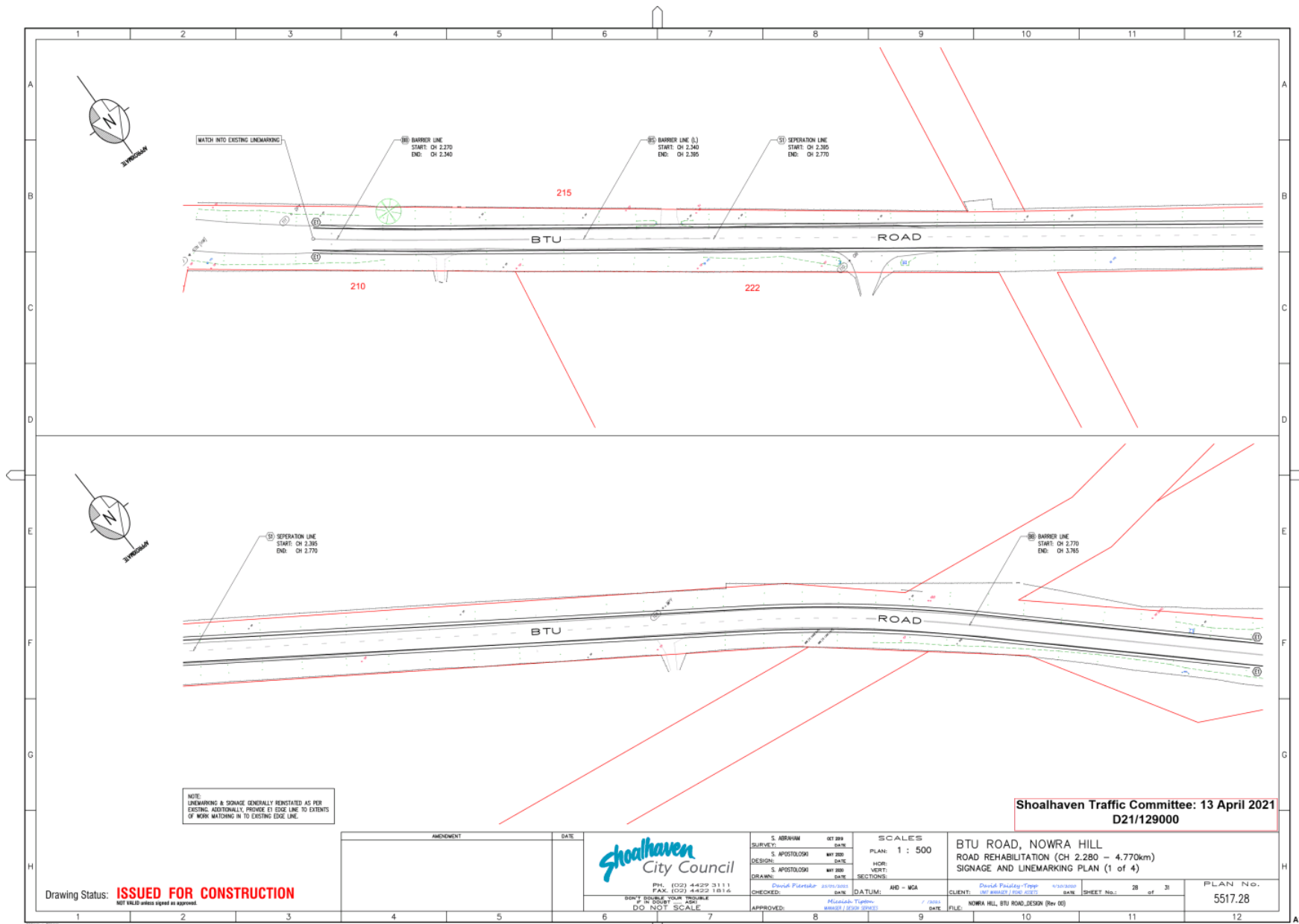




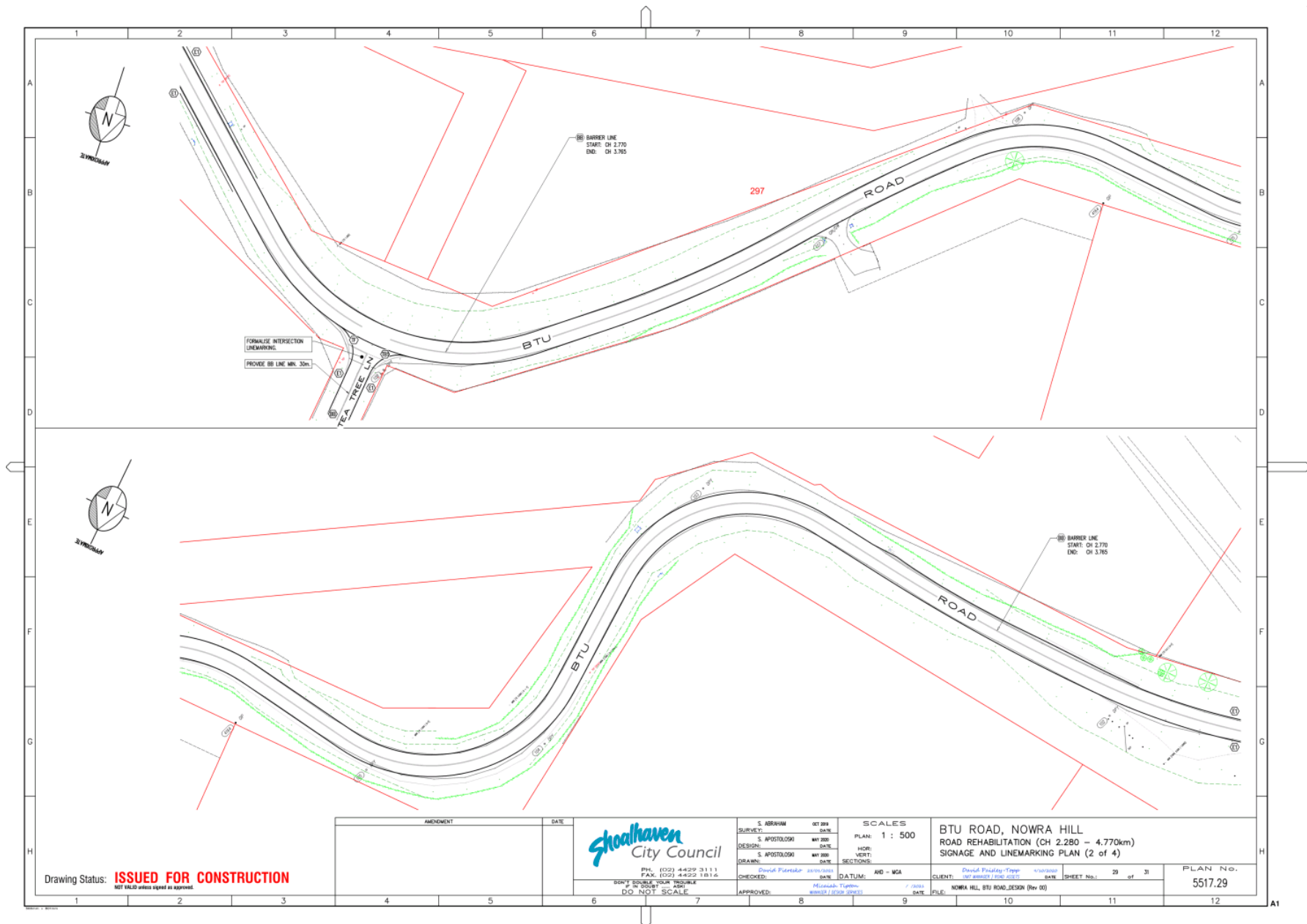


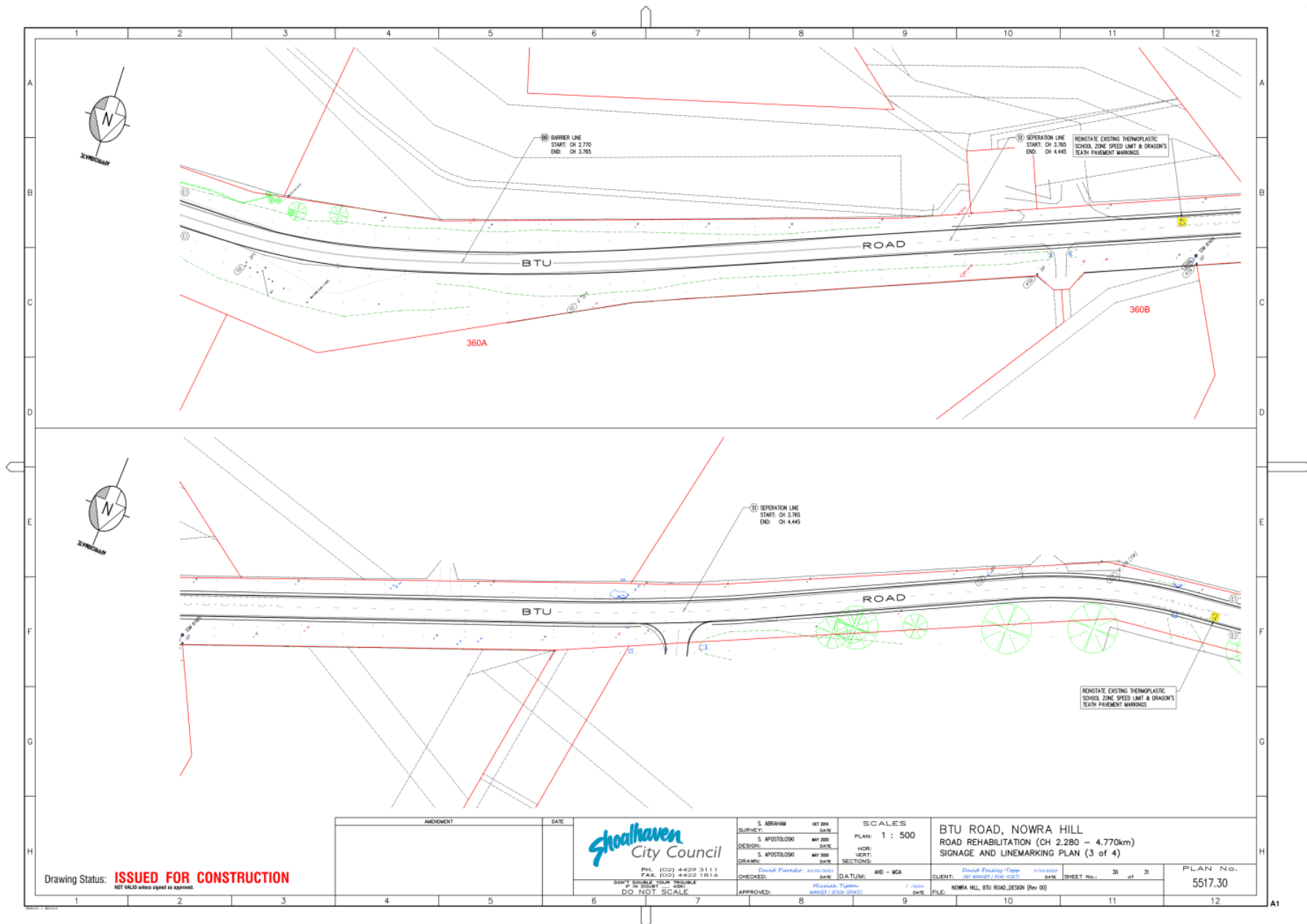


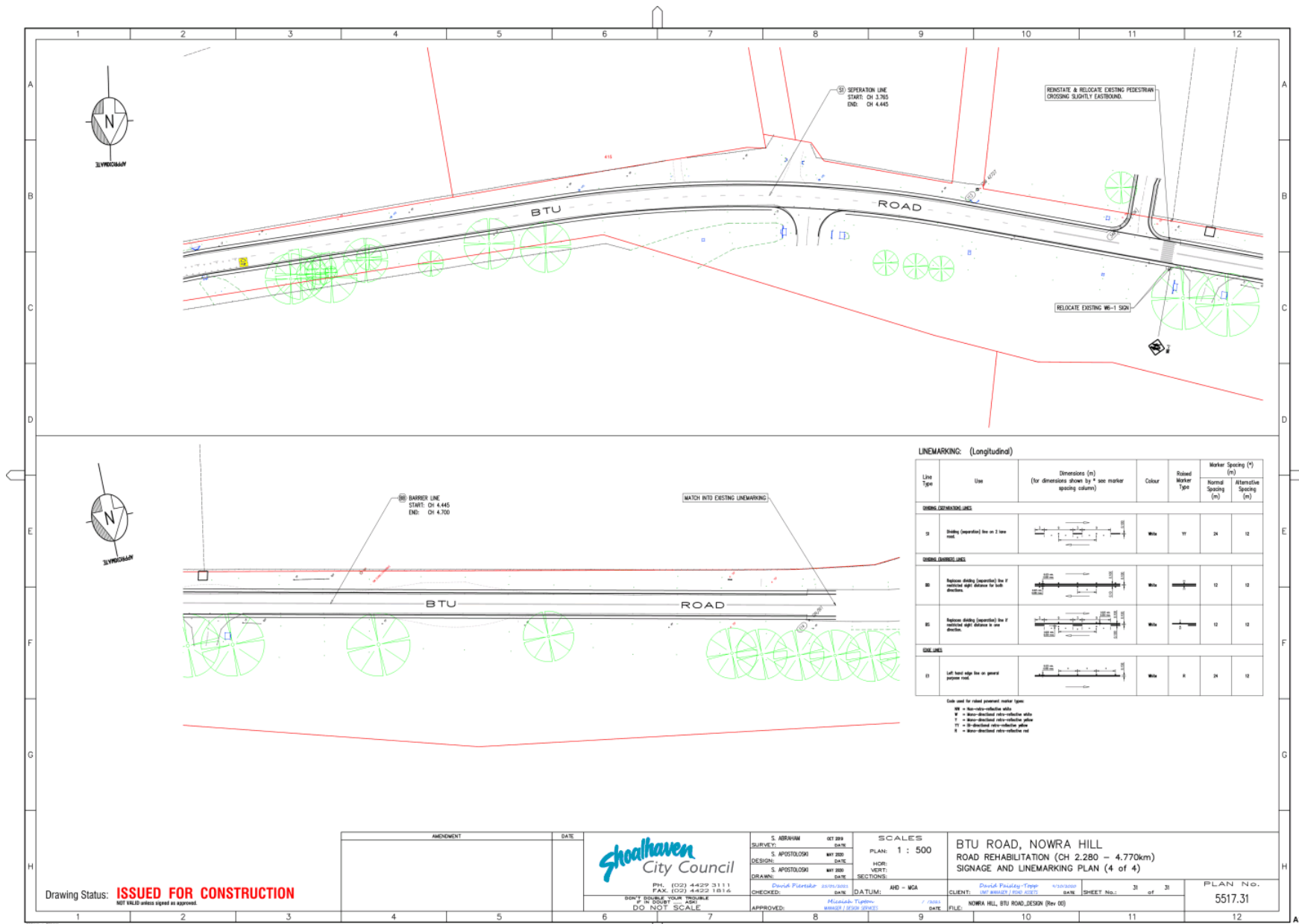


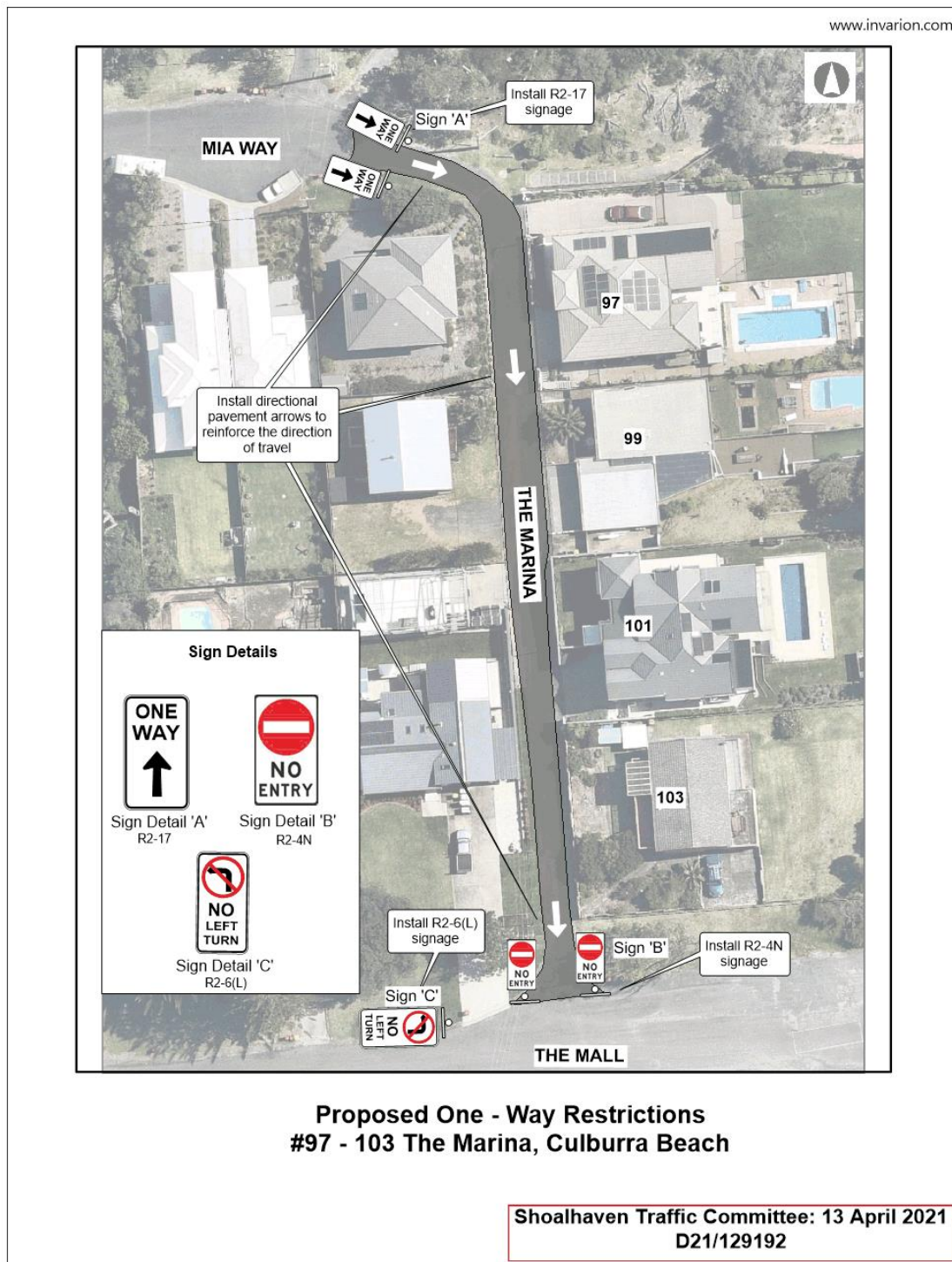




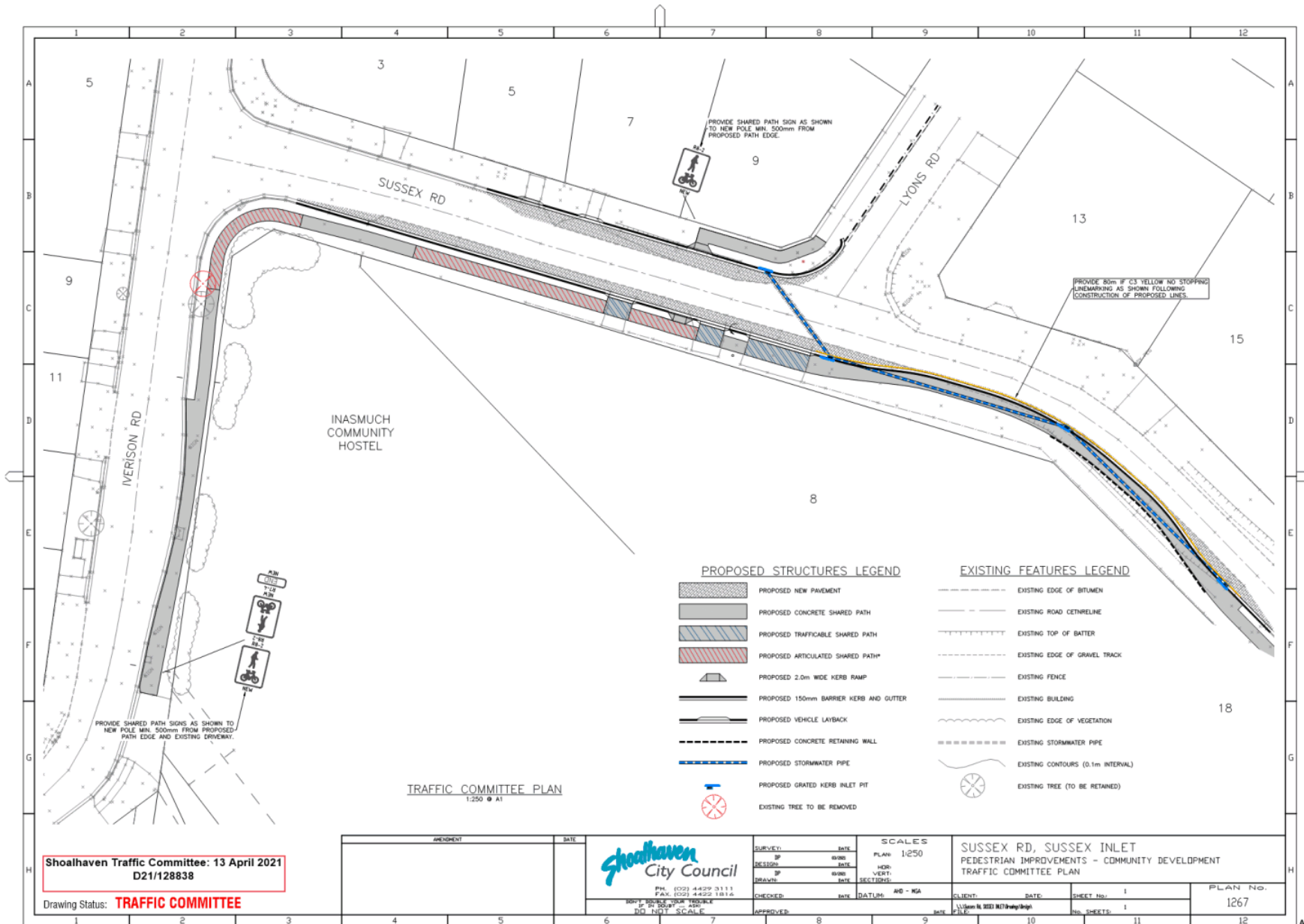


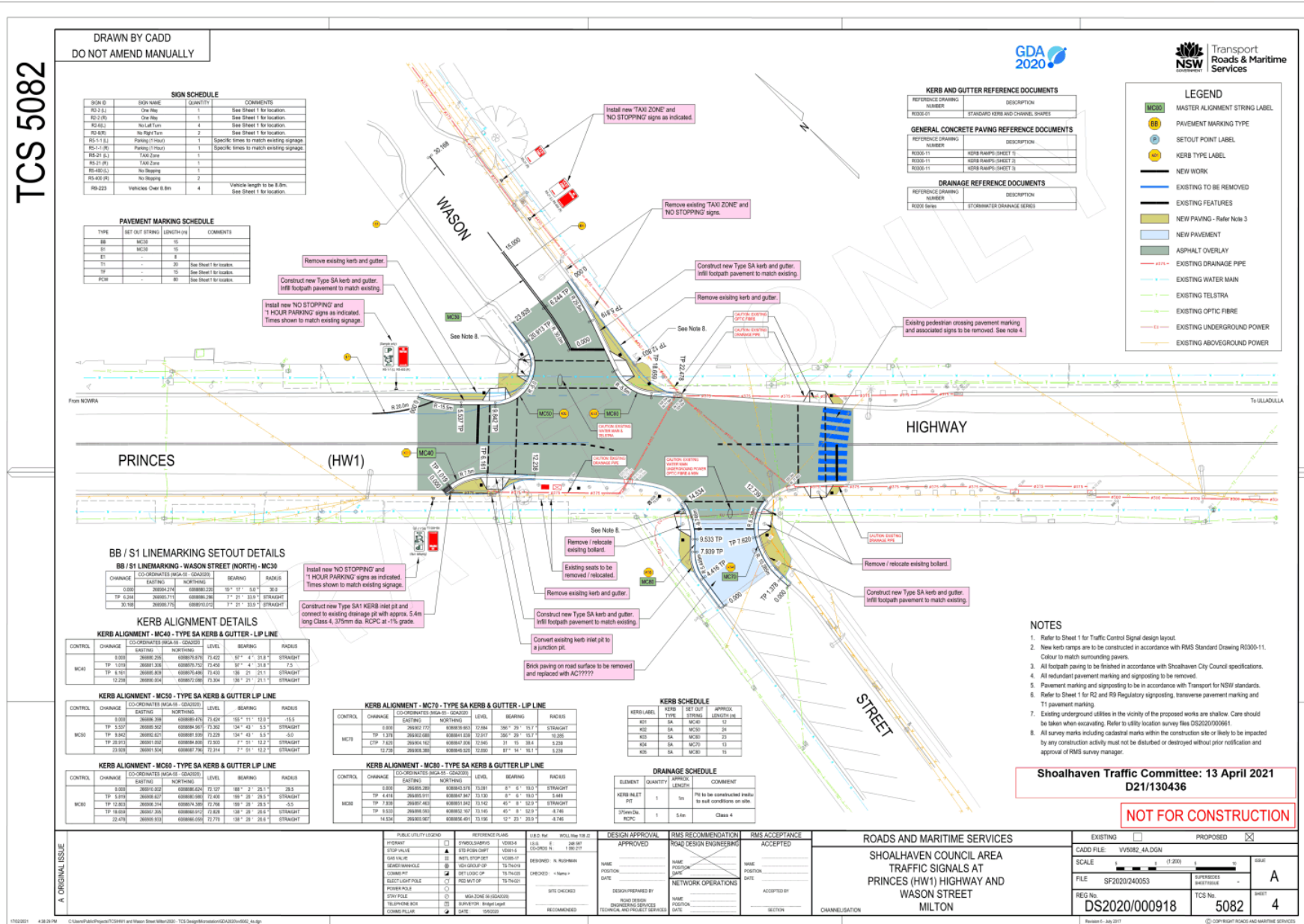


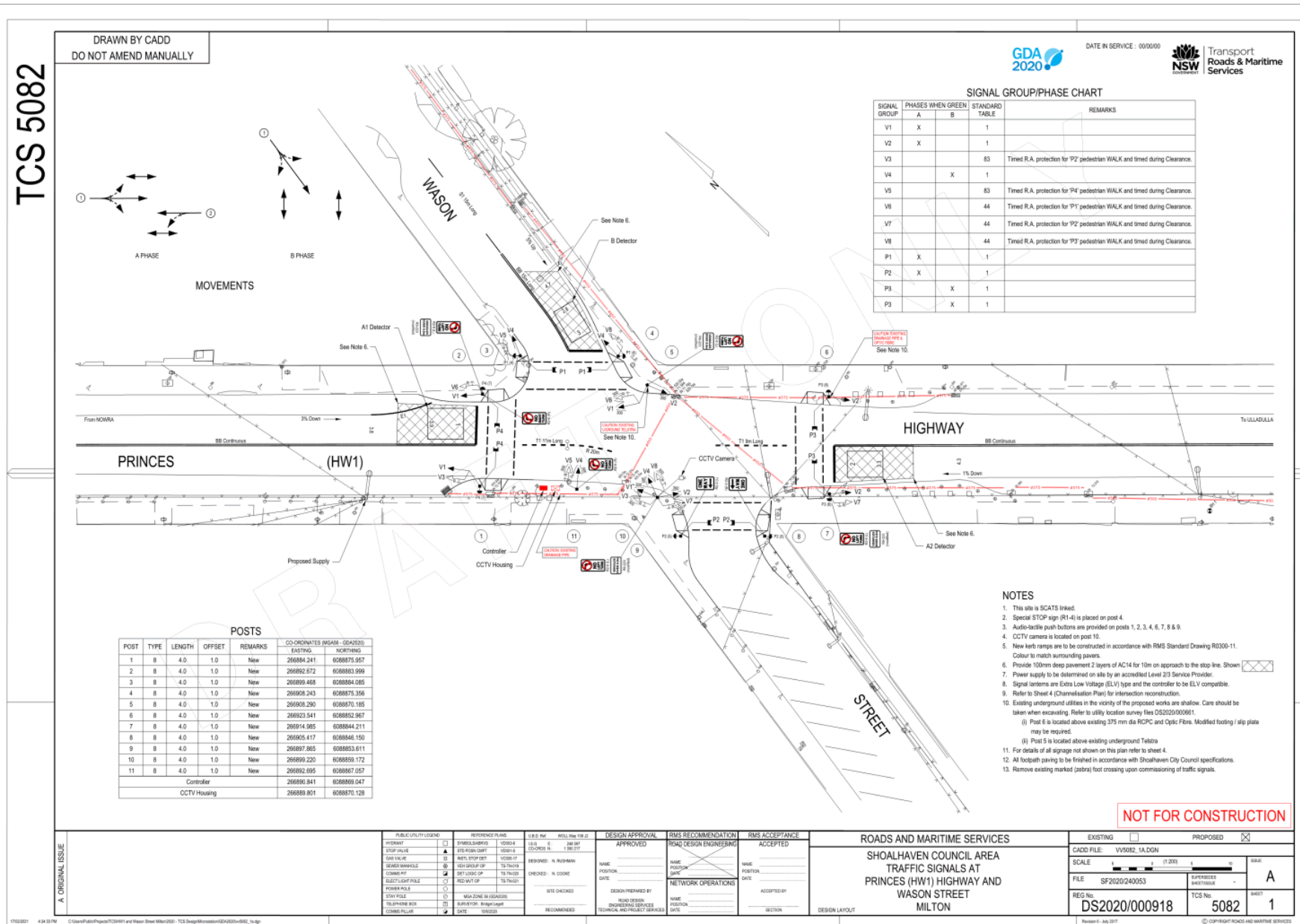


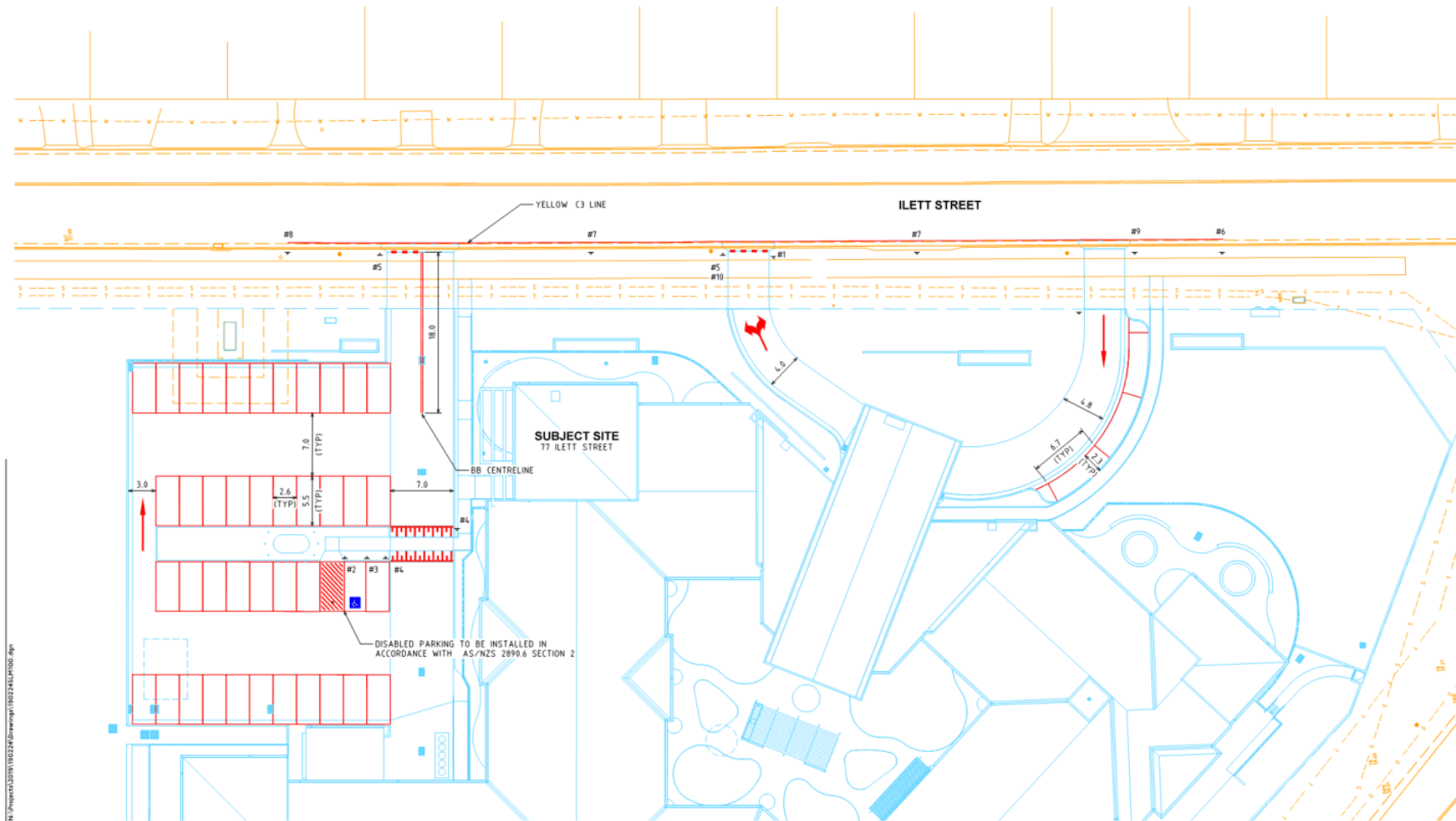












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Shoalhaven Traffic Committee: 13 April 2021  
D21/129094

GENERAL NOTES

1. ALL DIMENSIONS TO FACE OF KERB AND CHANNEL UNLESS NOTED.
2. LOCAL ROAD – ILETT STREET (SPEED ZONE 100KM/H)
3. SIGNS AND LINE MARKING TO BE INSTALLED IN ACCORDANCE WITH RMS SUPPLEMENT TO AS1742.2
4. CAR PARK LINE MARKING TO BE INSTALLED IN ACCORDANCE WITH AUSTRALIAN STANDARD AS 2896.1.
5. PARKING SIGNS TO BE INSTALLED IN ACCORDANCE WITH AUSTRALIAN STANDARD AS1742.11.
6. ADOPT ROADS AND MARKING SUPPLEMENT TO AUSTRALIAN STANDARDS AS REQUIRED.
7. REMOVE ALL REDUNDANT SIGNS AND LINE MARKING.
8. INSTALL TACTILE GROUND SURFACE INDICATORS IN ACCORDANCE WITH AS1428.4.1
9. PARKING SPACE DIMENSIONS TO BE 5.5m X 2.6m WITH A 7m AISLE.
10. DDA PARKING SPACE DIMENSIONS TO BE 5.5m X 2.6m WITH A 7m AISLE.

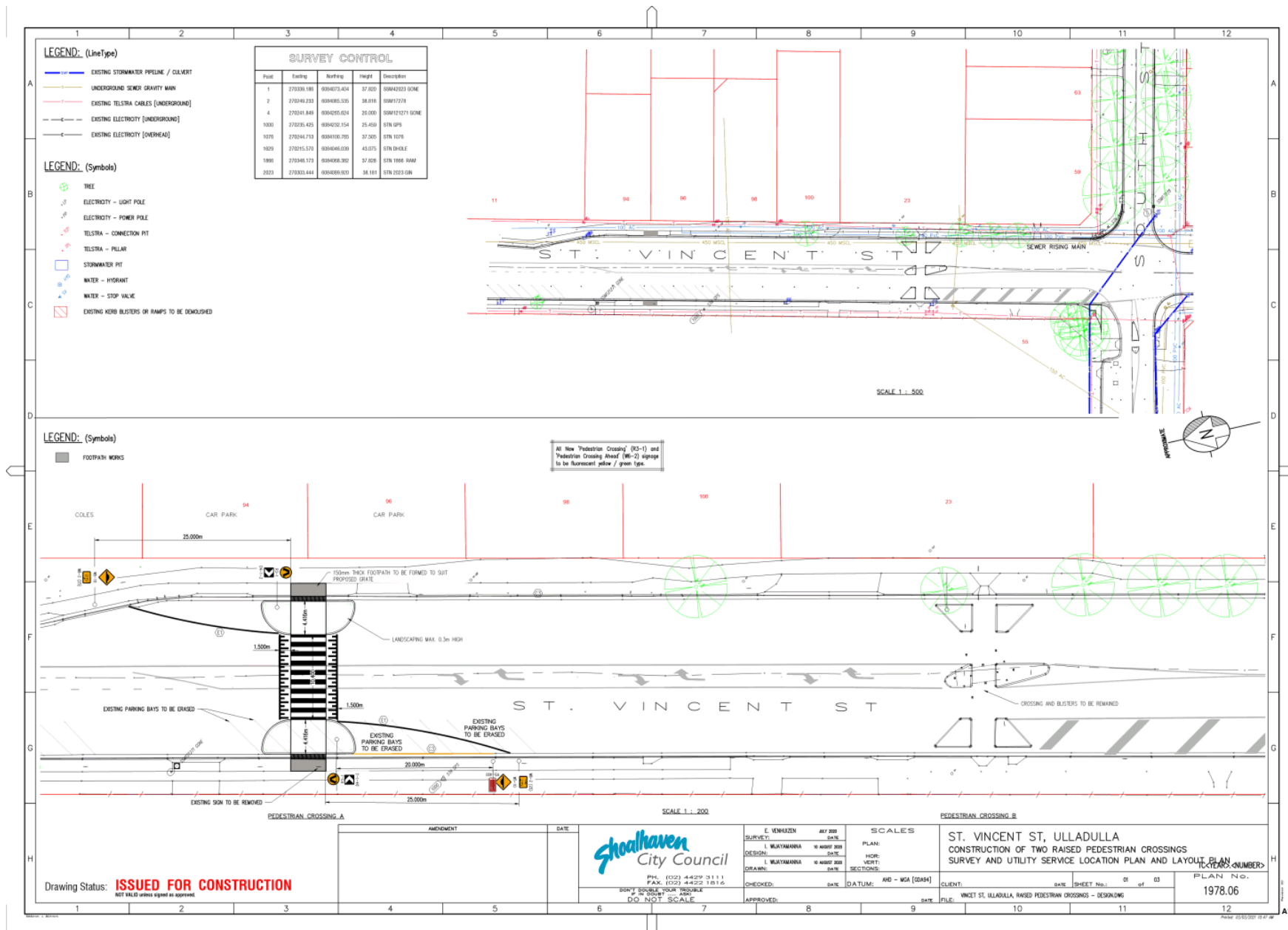
SIGN SCHEDULE



Scale  
1:400 @ A3

Drawing Title 77 ILETT STREET, MOLLYMOOK (N.S.W.) SITE LAYOUT SIGNAGE AND LINEMARKING		
Designed MOB	Approved RBH	Reviewed N/A
Project Number 190224	Drawing Number SLM100	Revision C





## CL21.75 Draft Submission - Remote Attendance by Councillors at Council Meetings

**HPERM Ref:** D21/117136

**Department:** Business Assurance & Risk

**Approver:** Kevin Voegt, Director - City Performance

**Attachments:** 1. Draft Letter of Submission [↓](#)

### Reason for Report

This report is being submitted directly to the Ordinary Meeting due to the requirement of meeting the 3 May 2021 deadline for submissions.

The report is seeking endorsement of Council's submission to the Office of Local Government's Consultation Paper on Remote Attendance at Council Meetings.

### Recommendation

That Council endorse the attached draft submission to the Office of Local Government's Consultation Paper on Remote Attendance at Council Meetings.

### Options

1. That Council endorse the submission provided as Attachment as recommended.

Implications: Council's submission to the Office of Local Government's Consultation Paper on Remote Attendance at Council Meeting will be made by the 3 May deadline.

2. Council makes other suggestions to be included in the submission.

Implications: Council's submission to the Office of Local Government's Consultation Paper on Remote Attendance at Council Meeting will still be made by the 3 May deadline.

### Background

As outlined to the Council in Report CL21.54 considered at the Ordinary Meeting on 23 March 2021, the Office of Local Government issued [Circular 21-01](#), "Transitioning back to in-person council and committee meetings and consultation on proposed changes allowing remote attendance at meetings".

The Council resolved (MIN21.164):

*"That Council make the following adjustments to meeting arrangements from 26 March 2021:*

1. *Provide for the return of the public to the gallery as required by the Office of Local Government with arrangements in place to comply with current NSW Health Orders as outlined in the report.*
2. *Receive deputations at Council and Core Committee meetings from 26 March 2021, in person, in accordance with the adopted Code of Meeting Practice and outlined in the report (reflecting our Pre-COVID-19 arrangements).*

3. *Provide comments and feedback to the CEO (Director City Performance) for submission to the Office of Local Government's Consultation Paper on Remote Attendance at Council Meetings (Attachment 2 to the report). “*

The required adjustments under Parts 1 and 2 of the resolution were put in place prior to the Development and Environment Committee meeting held on Tuesday 6 April 2021 and remain in place.

With respect to the feedback to the Office of Local Government on their Consultation Paper on Remote attendance (outlined in Part 3 of the resolution,) the comments provided by Councillors have been included in the letter provided as **Attachment 1** to this report for endorsement.

The letter of submission includes reference to those matters which Councillors highlighted in their debate on 23 March 2021.

### **Policy Implications**

Council's Code of Meeting Practice will be amended should the consultation result in changes to the Model Code being made after 31 December 2021.



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

**Address all correspondence to**  
The Chief Executive Officer, PO Box 42, Nowra NSW 2541 Australia  
council@shoalhaven.nsw.gov.au | DX5323 Nowra | Fax 02 4422 1816

[shoalhaven.nsw.gov.au](http://shoalhaven.nsw.gov.au)     

Council Reference: 3798E (D21/145512)

XXXXXXXX

Office of Local Government - Nowra  
Locked Bag 3015  
NOWRA NSW 2541

By email only: [olg@info.olg.nsw.gov.au](mailto:olg@info.olg.nsw.gov.au)

Dear Sir/Madam

#### **Submission - Remote Attendance by Councillors at Council Meetings**

On behalf of Council, I wish to advise that Councillors have considered the discussion paper on Remote Attendance by Councillors at Council Meetings released on 9 March 2021.

The Council has reflected positively on the ability to join meetings remotely during the past 12 months and feels that the proposed provisions do not reflect a model that would use available technologies to encourage and support broad and inclusive representation for our community.

The City of Shoalhaven covers an area of 4,567km<sup>2</sup> and stretches from Berry to North Durras, a distance of approximately 130km. Councillors are currently required to travel excessive distances several times a week to attend meetings, briefings and other functions. The excessive travel is time consuming and makes the prospect of becoming a Councillor prohibitive to those who have a disability, employment, children or other responsibilities.

The Council notes that the Minister for Local Government is very supportive of increased representation of females, indigenous and other important community members in Local Government and suggests the currently available technology of remote meetings as a key tool to assist in reaching those aims.

In particular, the Councillors have raised the following concerns with the discussion paper:

1. The proposed 5 days' notice for seeking Council's approval to attend a meeting remotely does not take into account, any emergencies and last-minute circumstances beyond a Councillor's control and therefore makes it impractical. It is suggested that an 'urgency' provision is required to deal with such emergencies.
2. Employment commitments should be included as a valid reason for seeking to participate remotely.
3. Under the Corporations Act, Directors are permitted to participate in meetings by telephone, the distinction between that approach and the proposed provisions is not considered warranted in the circumstances in relation to Local Government.

4. The proposed amendments should all be non-mandatory provisions, with the opportunity to retain Remote Meeting attendance for Councillors without application to or resolution by the Council.

Council is urging the Office to consider the above comments in drafting the amendments to the Model Code of Meeting Practice.

Further, the Council is of the view that the Local Government Act, and Model Code of Meeting Practice should reflect available technologies in a manner which supports an effective and efficient meeting process, including out of session 'e-voting'.

If you require further information about this matter, please contact Janice Cormie, City Performance on (02) 4429 3316. Please quote Council's reference 3798E (D21/145512).

Yours faithfully

**Kevin Voegt**  
**Director City Performance**

## CL21.76 Investment Report - March 2021

**HPERM Ref:** D21/145817

**Department:** Finance

**Approver:** Kevin Voegt, Director - City Performance

**Attachments:** 1. Shoalhaven City Council Monthly Investment Report - March 2021  
(under separate cover) [⇒](#)

### Reason for Report

This report is being submitted directly to the Ordinary Meeting due to the report from our investment advisors not being available in time for the Strategy and Assets Committee meeting.

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:

1. The report of the Chief Executive Officer (City Performance) on the Record of Investments for the period to 31 March 2021 be received for information.
2. Council note Council's Investment Portfolio returned 1.20% for the month of March 2021, exceeding the benchmark AusBond Bank Bill Index (0.02% pa) by 118 basis points (1.18%).

### Options

1. The report on the Record of Investments for the period to 31 March 2021 be received for information.

Implications: Nil

2. Further information regarding the Record of Investments for the period to 31 March 2021 be requested.

Implications: Nil

3. The report of the Record of Investments for the period to 31 March 2021 be received for information, with any changes requested for the Record of Investments to be reflected in the report for the period to 30 April 2021.

Implications: Nil

### Background

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

All investments are within the current Minister's Order. Investments are diversified across the eligible fixed interest universe and well spread across maturities. Available capacity exists in all terms, with medium term particularly relevant to new issues.

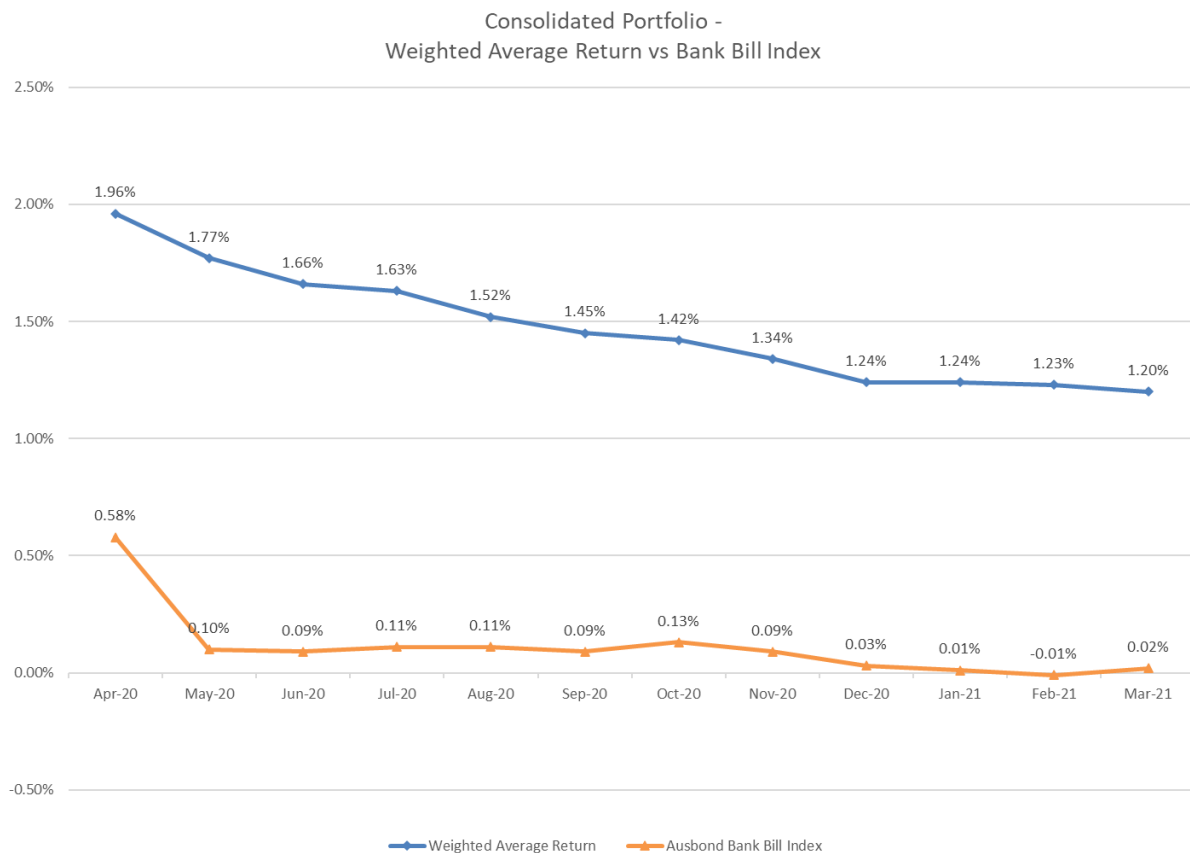
CL21.76

## Portfolio Return

Council's Investment Portfolio returned 1.20% for the month of March 2021, exceeding the benchmark AusBond Bank Bill Index (0.02% pa) by 118 basis points (1.18%).

Council's relative outperformance expanded through the falling rate cycle mainly due to longer dated deposits with yields around 1.4%, which is far above any available deposit. The outperformance of Council's Investment Portfolio continues to gradually decline as long-term investments mature and are replaced with low-interest deposits.

The following graph shows the performance of Council's Investment Portfolio against the benchmark on a rolling twelve (12) months basis. As can be seen, performance has consistently exceeded the benchmark due to the mix of Council's Investment Portfolio.



CL21.76

## Interest Earned – March 2021

The following table shows the interest earned for the month of March 2021. The interest earned for the month of March was \$182,643, which was \$70,198 below the current budget.

Fund	Monthly Budget	Actual Earned	Difference	Revised Budget	Revised Difference
General	\$198,825	\$98,673	(\$100,151)	\$162,304	(\$63,631)
Water	\$64,208	\$50,434	(\$13,774)	\$64,208	(\$13,774)
Sewer	\$30,519	\$33,536	\$3,017	\$26,329	\$7,207

<b>Total</b>	<b>\$293,552</b>	<b>\$182,643</b>	<b>(\$110,908)</b>	<b>\$252,841</b>	<b>(\$70,198)</b>
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### Interest Earned - Year to Date

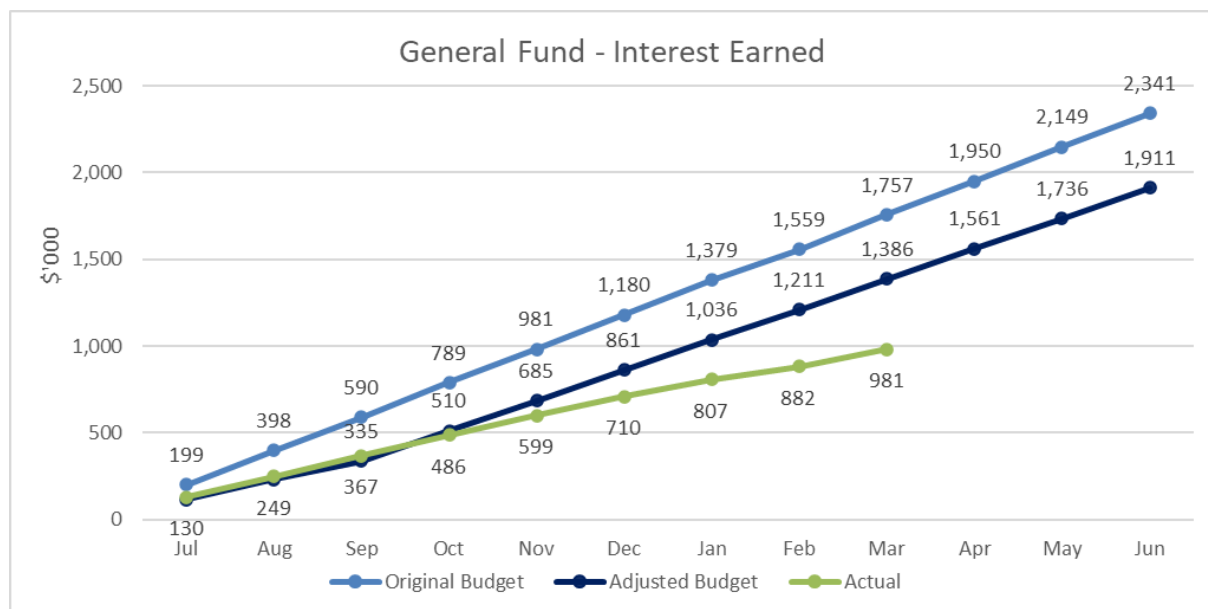
The COVID-19 pandemic has subsequently reduced Council's cash balance, which has resulted in a lower interest income than was budgeted for in the General Fund. In addition, the official cash rate is at a historic low of 0.1%.

The September and December Quarterly Budget Reviews resulted in a reduction in the interest income budget for the General Fund for the first and second quarters. The impact of these events on interest revenue continues to be monitored with necessary adjustments to be reported in future quarterly budget reviews.

The following table shows how the actual amount of interest earned year to date has performed against the total budget forecast with 75% of the year to date, the interest earned to the month of March was \$1,821,076, 61.17% of the current full year budget.

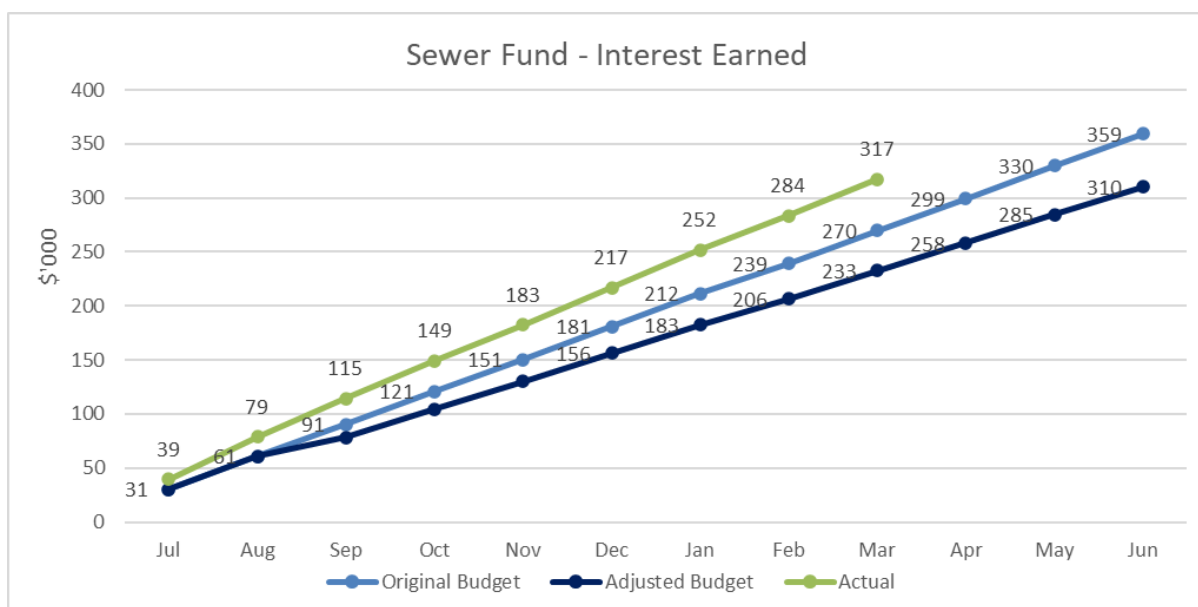
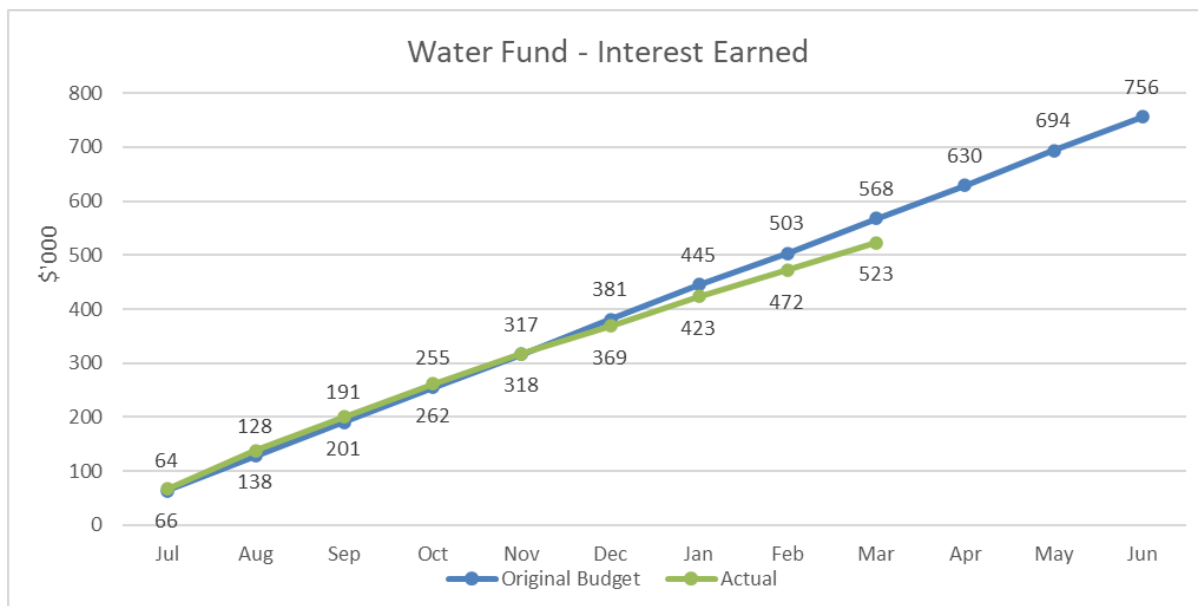
Fund	Original Total Annual Budget	Actual YTD	% Achieved	Revised Budget	Revised %
General	\$2,341,000	\$980,952	41.90%	\$1,911,000	51.33%
Water	\$756,000	\$522,869	69.16%	\$756,000	69.16%
Sewer	\$359,333	\$317,255	88.29%	\$310,000	102.34%
<b>Total</b>	<b>\$3,456,333</b>	<b>\$1,821,076</b>	<b>52.69%</b>	<b>\$2,977,000</b>	<b>61.17%</b>

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



CL21.76





CL21.76

## Cash and Restricted Assets

Record of Investments		
Cash and Investment Balances		
	March 2021	February 2021
<b>Cash and Investments Held</b>		
Cash at Bank - Transactional Account	\$6,455,369	\$7,827,535
Cash on Hand	\$28,191	\$28,890
Other Cash and Investments	\$176,842,131	\$174,537,438
	<b>\$183,325,691</b>	<b>\$182,393,863</b>
Fair Value Adjustment	\$519,491	\$623,525
Bank Reconciliation	\$570,820	\$2,275,465
	\$1,090,311	\$2,898,990
<b>Book Value of Cash and Investments</b>	<b>\$184,416,002</b>	<b>\$185,292,853</b>

### Less Cash & Investments Held In Relation To Restricted Assets

Employee Leave Entitlements	\$7,923,913	\$7,923,913
Land Decontamination	\$387,105	\$389,076
Critical Asset Compliance	\$1,374,158	\$1,403,730
North Nowra Link Road	-	\$28,273
Other Internal Reserves	\$4,557,547	\$4,666,349
Section 7.11 Matching Funds	\$311,169	\$311,169
Industrial Land Development Reserve	\$5,077,630	\$5,131,580
Plant Replacement	\$3,211,349	\$3,483,709
Section 7.11 Replacement	\$20,085,039	\$20,220,087
Commitment to Capital Works	\$1,925,448	\$2,014,335
Property Reserve	\$1,129,893	\$697,761
<b>Total Internally Restricted</b>	<b>\$45,983,250</b>	<b>\$46,269,982</b>
Self-Insurance Liability	\$2,219,087	\$1,724,818
Grant reserve	\$4,685,647	\$3,981,098
Section 7.11	\$16,034,960	\$15,683,586
Special Rate Variation	\$5,453,984	\$5,288,882
Storm Water Levy	\$1,048,207	\$1,051,813
Trust - Mayors Relief Fund	\$77,267	\$77,267
Trust - General Trust	\$2,984,986	\$2,998,273
Waste Disposal	\$13,438,160	\$14,003,777
Sewer Fund	\$30,786,250	\$32,354,104
Sewer Plant Fund	\$3,633,151	\$3,361,521
Section 64 Water	\$20,832,412	\$20,298,130
Water Fund	\$26,933,977	\$26,751,918
Water Communication Towers	\$2,350,603	\$2,360,425
Water Plant Fund	\$4,598,556	\$4,300,847
<b>Total Externally Restricted</b>	<b>\$135,077,252</b>	<b>\$134,236,459</b>
<b>Total Restricted</b>	<b>\$181,060,501</b>	<b>\$180,506,441</b>
<b>Unrestricted Cash and Investments</b>		
General Fund	\$3,355,500	\$4,786,412

\* Figures have been rounded up to the nearest dollar.

### Restricted Asset Movements

The table below lists the major movements in Restricted Assets:

Total Cash	-\$876,851	March was not a rates instalment month
Grant reserve	704,549	Contributions received incl. Far North Collector Rd.
Section 7.11	\$351,374	Contributions received incl Island Point Road & Old Southern Road subdivisions
Sewer Fund	-\$1,567,855	Expenditure on projects
Unrestricted cash	-\$1,430,912	March was not a rates instalment month

CL21.76

### Projects Funded from General Fund Balance

As at the end of March 2021, Council has a list of projects funded from General Funds cash balance and for which loans and grants have not as yet been fully received. The total amount of the projects funded from the General Fund balance was \$4.3 million. Below is the list of the Top 5 projects in this category.

Projects	Amount (\$)
Currarong Road - Blackspot Program	\$492,101
School Creek Bridge Disaster Assistance Rebuild	\$358,060
Boongaree - Building Better Regions	\$329,126
Woollamia Maritime Project – Boat Lift Facility	\$328,619
Woollamia Maritime - Boat Lift Facility (Trailer)	\$207,603

It is noted that the Council was successful in acquiring low interest loans from T-Corp with the loans being approved by the T-Corp Credit Committee. The offer of the loans is currently in progress and will be the subject of a report in May 2021 for Council approval. Upon acceptance of the Letter of Offer, Council will be able to draw down on the loans and replenish the General Fund Loans Reserve.

### COVID-19 Impact

As at 31 March 2021, 10.54% of properties (6,215) were in default compared to 14.12% as reported on 1 March 2021. The total overdue amount stands at \$8.4M. This is consistent with the trend in previous years.

Despite the negative impact of COVID-19, Council continues to maintain a sufficient level of working capital and management closely monitors the cash position of the Council.

### Financial Implications

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

### Statement by Responsible Accounting Officer

I hereby certify that the investments listed in the attached report have been made in accordance with Section 625 of the Local Government Act 1993, clause 212 of the Local Government (General) Regulations 2005 and Council's Investments Policy POL19/72.



Olena Tulubinska

Date: 19 April 2021

CL21.76

## CL21.77 Purchase of Vacant Land - Milton

**HPERM Ref:** D21/147655

**Approver:** Robert Domm, Director - City Futures

### Reason for Report

This report is being submitted directly to the Ordinary Meeting due to a desire to collapse the purchase period given strong market movement in the Milton locale. This will result in the vendor receiving payment early May rather than some two months later if the report was to go to the May Strategy & Assets Committee and Ordinary Meetings.

This report provides Council with the opportunity to consider a confidential report in relation to a property matter in Milton.

### Recommendation

That Council, in accordance with Section 10A(2)(c) of the Local Government Act 1993, consider a separate confidential report in relation to a property matter in Milton.

### Options

1. Proceed in accordance with the recommendation.

Implications: Council will be able to consider a separate confidential report on the purchase of a property in Milton.

2. Not adopt as recommended.

Implications: Council will not consider the confidential report.

CL21.77

## CL21.78 Tenders - Comerong Island Ferry - Survey and Refurbishment, Approach Ramps and Rock Revetments

**HPERM Ref:** D21/119733

**Department:** Commercial Services

**Approver:** Paul Keech, Director - City Services

### Reason for Report

This report is being submitted directly to the Ordinary Meeting due to enable consideration of additional funds to mitigate the risk of the Comerong Island approach ramps failure, facilitate completion of the approach ramps during the ferry out of water survey and expedite the works to minimise the impact on the residents.

### Recommendation

That Council, in accordance with Section 10A(2)(c) & Section 10A(2)(d)(i) of the Local Government Act 1993, consider a separate confidential report in relation to the Ferry approach ramp and rock revetment works and associated works and services.

### Options

1. Adopt the recommendation and eliminate the risk of approach ramp failure during the next 5 years.

Implications: Consider a separate confidential report for the provision of additional funds to mitigate the risk of the Comerong Island approach ramps failure, facilitate completion of the approach ramps during the ferry out of water survey and expedite the works to minimise the impact on the residents

2. Not adopt the recommendation

### Background

On 11 December 2018, a familiarisation tour was organised for Councillors. The familiarisation tour allowed staff to brief Councillors on the capacity of the existing ferry service to facilitate firefighting responses and inspect the assets (ferry, ramps, road etc) and thus this report is now provided.

At the Strategy and Assets Committee meeting 13 August 2019 the following was resolved under delegated authority as follows (MIN19.554):

1. Council notes that the key aspects of the current Comerong Island Ferry arrangements are as follows:
  - a. The service operates between 6am and 10pm, 7 days a week, with afterhours call out service available to residents on the island. This call out fee is \$120/hour, and this charge is not in Council's "Fees and Charges Document".
  - b. The Ferry has a design load limit of 36 tonnes but given its age, has been operating at a 20-tonne limit since 2010. This limit is sufficient to service the maintenance needs of Council, the response needs of the Rural Fire Service

(RFS) and general truck needs of residents (i.e., water delivery). Loads larger than 20 tonnes need to be broken down or special punt arrangements need to be made by the entity requiring the larger load.

- c. The current ferry is approaching the end of its life and is due for replacement, preferably before the next “out of water service” which is due in November 2020.
- d. The service is operated via a contract with Tono Group Pty Ltd which commenced on 19 July 2017 and will conclude on the 30 June 2022. The cost to operate and maintain the Ferry is approximately \$420,000 per year (including depreciation).
- e. The residents, their visitors and contractors travel at no cost. For other visitors to the island, the cost of a return ticket is \$10, payable by EFTPOS only.
- f. The income generated from the return ticket arrangement is approximately \$19,000 (exc. GST) per year.
- g. The residential property which used to be available to the operator at no cost is now available at “market rates”, and if the operator wants to utilise the residence, they were required to build that into their costing structure.
- h. Council endorse the current Comerong Island Ferry operating arrangements (described by the contract with Tono Group Pty Ltd) as being the preferred arrangements to operate the ferry and that the Chief Executive Officer (Director Assets and Works) take the necessary steps to replace the existing Comerong Island Ferry with a vessel that has a load limit of 20t and dimensions capable of carrying at least two passenger vehicles or a council grader, or a tipper truck or a 13 tonne fire truck, prior to November 2020.
- i. The CEO (Director Assets and Works) look to make savings by reviewing the operating times and usage costs and report back to Council.

Experts from the RMS were consulted to assist Council prepare the specification for the provision of a new ferry (pursuant to MIN19.554). In order to specify a new ferry, the inspections and maintenance history of the exiting ferry were analysed in detail. Council engaged a Naval Architect in November 2019 to complete an assessment of the hull thickness, structural integrity and current condition and determine options moving forward.

The project was impacted by the flooding of the Shoalhaven River and subsequent debris in February 2020. This caused significant damage to the drive cables, bearings and wheelhouse, leading to the ferry being out of service while Council mechanics undertook the urgent repairs.

In March 2020, Councillors were briefed on the structural integrity report and cost analysis which supported the upgrade and refurbishment of the *Cormorant* and rather than the option to replace the ferry. The “life” of the *Cormorant* would be extended by at least 20 years with the upgrade and refurbishment when combined with the 5 yearly maintenance and survey regime.

Pursuant to MIN19.554 Part 2, and in an endeavour to gain sufficient information to determine a way forward, Council engaged Marine Survey and Design Pty Ltd to:

Assess the cost of a new ferry.

- Review and inspect the Ulmarra ferry.
- Provide preliminary estimates on towing costs, steel replacement work, blasting and painting, new engine, hydraulics, and view RMS spare ramps.
- Collate information including building a specification for an easy to maintain ferry including cable brakes and suppliers’ details.

CL21.78

Three options have been considered:

1. Purchase of new ferry to meet specifications.
  - This is not preferred due to the significant costs involved and the construction period extending beyond the November “out of water” maintenance and survey. A new ferry was estimated to have a cost of approximately \$3.5 million.
2. Purchase of second-hand vessel – Ulmarra ferry.
  - With the new Grafton bridge and freeway bypass opening on the north coast, Council was advised of the potential for the RMS owned ferry based at Ulmarra may come offline and be available for purchase. The estimated cost was approximately \$1 million. Subsequent discussions with the RMS advised that there are currently no plans for this retirement.
3. Refurbish and upgrade the Cormorant. This would involve refurbishing the exiting hull and rebuilding the other components of the ferry (i.e., motor, wheelhouse decking etc).
  - Marine Survey and Design Pty Ltd’s hull integrity test determined that Option 3, the overhaul, and upgrade of our current vessel is the most viable option. Subject to existing hull integrity these works would enable a further 20 years of service with the 5 yearly major maintenance cycle.

Council staff worked with the RMS and Marine Survey and Design Pty Ltd to finalise the specifications, General Arrangement requirements and a suitable layout has been determined that will meet Council’s requirement as per MIN19.554.

Site visits have been conducted to discuss works with qualified contractors capable of carrying out a refurbishment and blasting project of this size, but overall timing of this project has been impacted due to bushfires, the ferry damage caused due to flooding in February and restrictions due to the current COVID 19 environment.

The specifications informed the design requirements for the approach ramps and associated road works. The gradient of the approach ramps is a critical factor in the capability of the road being used as the future maintenance platform.

On 12 May 2020, Council resolved to maintain the ferry service to Comerong Island and to call for tenders for the refurbishment of the ‘Cormorant’ (MIN20.335).

## Tenders

In February 2021 following a significantly covid impacted specification and documentation process, two separate tenders were called for the continuity of the ‘Cormorant’ ferry service:

- ‘Comerong Island Ferry Repairs and Refit’
- ‘Comerong Island Ferry Ramps Upgrade’

The tender for the Ferry Repairs and Refit has been assessed and a preferred tender selected.

The tender for the approach ramp and rock revetment works closed on Tuesday 23<sup>rd</sup> March and are at the stage of the appointment of a preferred tenderer. However a significant funding shortfall has been identified.

## Project Status

Tenders were called for the ferry survey and refurbishment works. In accordance with delegated authorities, the CEO has approved the progression of these works to contract. The

survey and refurbishment works are non-discretionary if Council is to maintain the AMSA approval to operate the ferry.

The preferred tenderer has been flood impacted and is able to decommission the ferry and commence works in mid/late May.

The works to enable both approach ramps to become construction zones is scheduled. The eastern and western pedestrian ferry service access sites identified and landings, ramps and walkways designed. The western pedestrian access and pontoon will be tested during April. The requirement to remove the cables from the construction zone has created an additional complexity which extends to the recommissioning of the ferry.

The pedestrian ferry service has been organised with the survey vessel hire pending the funding, finalisation of contracts and subsequent negotiation of the commencement date of the two contracts.

The approach ramps and rock revetment works are a once in 25 year reconstruction/refurbishment project that offers the potential for significant ferry service disruption ( > 16 weeks). The deconstruction of the tender works will enable a reduction to 14 weeks, including two weeks lost time. Residents and farmers on Comerong Island will not have vehicular access to their properties for almost 4 months if the works are completed concurrently.

Tenders have closed for the approach ramps and revetment works with three tenders received. A preferred tenderer has been identified and progression will be recommended if funds are approved.

### Community Engagement

Comerong Island residents are being engaged on an ongoing basis. There is considerable concern at the length of service closure, emergency service access, power supply integrity and operation of businesses including farms.

It is critical that the contracts for the ferry survey and the approach ramps be aligned to minimise community impact.

Additionally, National Parks and Wildlife and Emergency Services have been engaged. Council's LEMO and RFS representatives are meeting with residents on April 30.

### Financial Implications

Council's 2020/2021 capital budgets have allocated \$1.351m for the ferry upgrade and refurbishment, approach ramps and road works. Council needs to vote an additional \$360,000 to fund the complete project. Funding options for this are being considered as part of the March Quarterly Budget Review.

### Risk Implications

The potential for catastrophic failure of the approach ramps will result in significant increase in costs and an undetermined closure period for the ferry service.

*Mitigation:* The completion of the reconstruction and refurbishment works now should eliminate the potential for this failure for the next 25 years.

The ferry survey may identify additional works required to be completed during drydocking of the vessel which could increase the cost.

*Mitigation:* The hull integrity testing has been conducted to assess the exposure. Marine Survey and Design Pty Ltd's have been engaged to ensure legislative compliance and vessel integrity as well as oversight of the refurbishment works.



COVID-19 and natural disaster impacts on the successful contractors are unable to be assessed and may impact timelines.

*Mitigation:* Covid Plans will be implemented by the contractor for the duration of the pedestrian service. The deconstruction of the approach ramps and rock revetment tender will enable deferral of some works without impacting the ferry service following completion of the ramps and recommissioning of the ferry.

## CL21.79 Variations to Development Standards - March Quarter 2021

**HPERM Ref:** D21/85126

**Department:** Development Services

**Approver:** Phil Costello, Director - City Development

### Reason for Report

This report is being submitted directly to the Ordinary Meeting due to requirement that the information contained in the report is to be reported to the full elected Council and to the Department of Planning, Industry and Environment.

Council is required to consider variations to development standards (contained in an environmental planning instrument such as the Shoalhaven Local Environmental Plan) which exceed 10%, with lesser variations able to be dealt with by staff, under delegation.

Council is also required to publish the variations, report the variations to the full Council and the Department of Planning, Industry and Environment.

### Recommendation

That Council receive the Variations to Development Standards –March Quarter Report 2021 for information.

### Options

1. Receive the report for information.

Implications: Council will be complying with the reporting provisions as detailed in *Circular PS20-002 Variations to development standards*.

2. Resolve an alternative and provide details to staff.

Implications: Depending on what is resolved, the Council would need to ensure compliance observing that the Department undertakes periodic audits.

### Background

SEPP 1 and clause 4.6 have allowed flexibility in the application of development standards by allowing the consideration of development proposals that meet the objective of a development standard but not its stated value.

On 5 May 2020, the Department of Planning, Industry and Environment issued a new circular (PS20-002) which replaced PS18-003 and issued assumed concurrence, governance, and reporting requirements for consent authorities. It also advised that council reports are to come through the Planning Portal and the repeal of SEPP 1. The concurrence is conditional containing limitations on lot sizes for dwellings in rural areas and for contraventions over 10% (which must be reported to Council).

Link to Circular:

<https://www.planning.nsw.gov.au/-/media/Files/DPE/Circulars/planning-circular-20-002-variations-to-development-standards-2020-05.pdf?la=en>

## Procedural and reporting requirements

To ensure transparency and integrity in the planning framework, the Department requires monitoring and reporting measures.

- A written application must be made to support a variation.
- An online register of all variations to be maintained.
- A report must be submitted through the Portal.
- A report of all variations from a Council must be provided to a meeting of the Council at least once a quarter.

## Audit

The Department will continue to carry out random audits to ensure the above monitoring and reporting measures are complied with. The Department and the NSW Independent Commission Against Corruption will continue to review and refine the audit strategy.

Should ongoing non-compliance be identified with one or more consent authorities, the Secretary will consider revoking the notice allowing concurrence to be assumed, either generally for a consent authority or for a specific type of development.

## Conclusion

The repeal of SEPP 1 came into effect from 1 February 2020 as part of the SEPP Review Program to update and simplify the NSW Planning system.

The variations are provided to the Department in the form of a spreadsheet as soon as possible after the quarter has ended.

The table below is based on the spreadsheet but is simplified for easier reading. The spreadsheets are viewable on Council's webpage and are published quarterly as soon as possible after the last day of the month.

**1. Table – Variations March Quarter 2021**

DA	Lot	DP	Street #	Street Name	Suburb	Post Code	Description	Standard Varied	Extent of Variation	Decision	Date
SF10859	831	12278	14	Penguins Head Rd	Culburra Beach	2540	Subdivision of land	Lot size	2.32%	Conditional Approval	30/3/21
DA20/21 19	1	59102 1	215	Moss Vale Rd	Kangaroo Valley	2577	Tourist – Amenities Building	Height	9.64%	Conditional Approval	22/2/21

**CL21.80 RD21/1000 – 15 Vallon Road Woollamia – Lot 3  
DP 832984****DA. No:** RD21/1000/4**HPERM Ref:** D21/136413**Department:** Development Services**Approver:** Phil Costello, Director - City Development**Attachments:** 1. Draft Determination Notice - Approval (under separate cover) [⇒](#)  
2. Section 8.2 Review Assessment Report (under separate cover) [⇒](#)**Description of Development:** Primitive camping ground with six (6) sites and associated amenities.**Owner:** 15 Vallon Road Wollamia Pty Ltd**Applicant:** I Architecture**Notification Dates:** 17 March 2021 to 16 April 2021.**No. of Submissions:** Three (3) submissions by way of objection.**Purpose / Reason for consideration by Council**

This report is being submitted directly to the Ordinary Meeting given the legal requirement for a decision of Council to be reviewed by Council and not a delegate of Council.

On 27 October 2020, Council resolved (MIN 20.770) to refuse "*Development Application No. DA19/2165 for Primitive camping ground with six (6) sites and associated amenities*".

The applicant lodged a section 8.2 Review of the Determination by Council to refuse to grant development consent. Therefore, the review of the determination must be reviewed by Council and not by a delegate of Council.

**Recommendation**

That Council support the application for review under section 8.2 of the EP&A Act and approve Development Application No. DA19/2165 for construction of six (6) primitive camping sites "glamping" and associated site amenities buildings, fire refuge building, car parking and landscaping in accordance with the draft Notice of Determination (Attachment 1) to this report.

**Options**

1. Support the application for Review.

Implications: This will enable a development consent to be issued.

2. Not support the Review.

Implications: The refusal as originally issued would stand.

CL21.80

3. Alternative recommendation.

Implications: Council will need to specify an alternative recommendation and advise staff accordingly.

**Location Map**



Figure 1- Location map.

**Background**

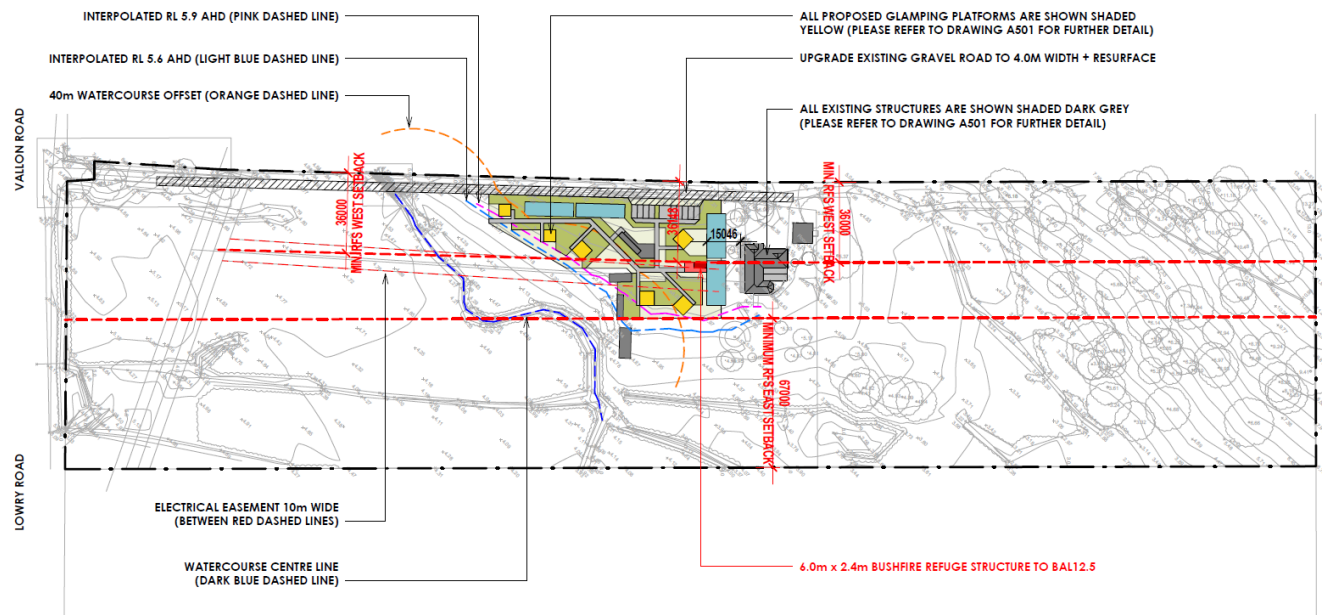
Proposed Development

The applicant proposes the construction of six (6) primitive camping sites "glamping" and associated site amenities buildings, fire refuge building, car parking and landscaping. This application is a review of the determination of DA19/2165 which was refused at Council's Ordinary Meeting on 27 October 2020.

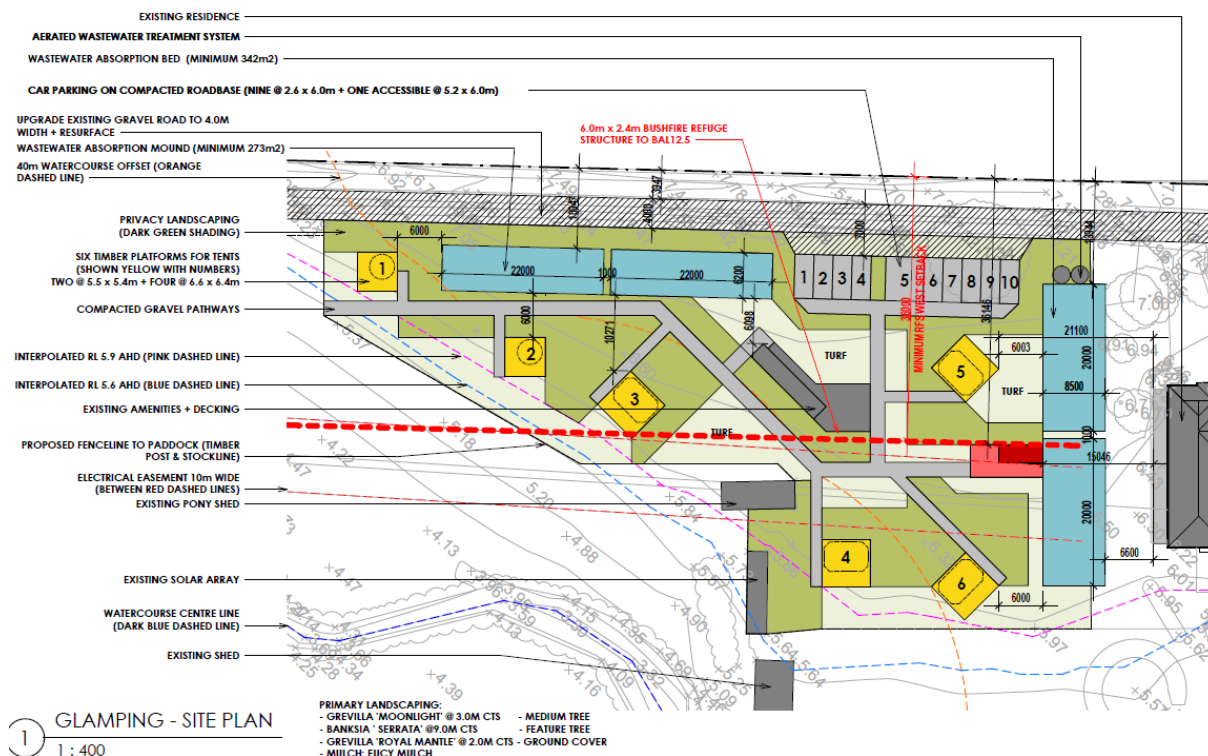
Prior complying development consent (CD19/1474) has been achieved for the cabana on the site which is proposed to provide primitive camping ground amenities (i.e. toilets, showers, hand basins, storage, BBQ area, etc).

CL21.80





PROPOSED GLAMPING FACILITY  
PLEASE REFER TO DETAILED PLAN ON DRAWING A501  
*Figure 2- Extract of the proposed site plan.*



*Figure 3 - Extract of part site plan showing the location of the proposed camping development.*

### Subject Land

The site is located on the northern side of Vallon Road, 130m east of the intersection with Jervis Bay Road. The land is known as 15 Vallon Road, Woollamia and is legally identified as Lot 3 DP 832984. The site is a regular shaped allotment of approximately 7.3ha in area (560m long by 30m wide). Vallon Road is not a thru-road, with the road ending in front of the subject site.

The site has been partially cleared with scattered vegetation to the Vallon Road Frontage and existing native vegetation to the rear of the property. The site is mapped as containing biodiversity – habitat corridor under the provisions of *Shoalhaven Local Environmental Plan*

CL21

2014. A number of unnamed drainage depressions traverse the site, which eventually drain into Currumbene Creek further to the north.

The site has been developed for residential purposes, with a single storey brick and tile roof dwelling being centrally located on the site. Works have been completed within the existing dwelling house without prior planning approval. The works are associated with the fit out and use of the dwelling for additional bedrooms. These works are the subject of a building information certificate (BC19/1091).

The land surrounding the site is primarily characterised by small rural use lots (land zoned RU2 – Rural Landscape) with Large Lot Residential zoned land to the rear of the site. The surrounding land is used primarily for residential purposes with limited use for hobby farming and low scale agriculture.

The site is mapped with bushfire prone land and within a flood planning area subject to flooding.

#### Application History

- On 27 November 2019, Development Application No. DA19/2165 was lodged with Council for *Construction of six (6) primitive camping sites "glamping" and associated site amenities buildings, car parking and landscaping*.
- On 3 December 2019, additional information was requested from the applicant, including confirmation that the application was not nominated integrated development for the purposes of Section 91 of the *Water Management Act 2000*.
- On 24 January 2020, the application was notified in accordance with the Council's Community Consultation Policy. A total of four (4) submissions were received objecting to the application during the initial notification period. An additional two (2) submissions were received prior to the finalisation of the assessment.
- On 11 August 2020, the Strategy & Assets Committee resolved in relation to Item No. SA20.136 *"[t]hat the following Development Applications be called in for determination by Council on the basis of public interest:*
  1. *DA19/2165 - 15 Vallon Road Woollamia - Lot 3 DP 832984 (MIN20.548)*
- On 6 October 2020, the application was considered at the Development & Environment Committee (DE20.115). The following resolution (MIN20.730) was adopted at the Development & Environment Committee held Tuesday 6 October 2020.
 

*"That Development Application DA19/2165 for the construction of six (6) primitive camping sites "glamping" and associated site amenities buildings, car parking and landscaping at 15 Vallon Road, Woollamia - Lot 3 DP 832984 be approved subject to the recommended conditions of consent contained in Attachment 2 of this report, with the following amendments:*

  1. *Condition 46(e) be removed.*
  2. *Condition 46(f), be amended to remove reference to events (the last 8 words)*
  3. *The inclusion of additional compensatory planting which screens the rear of the block, that is compliant with the Rural Fire Services report for replacement planting.*
  4. *That the following be noted as guidance for final consent conditions:*
    - a. *A DA condition needs to be imposed requiring internal driveway sign-posting and enforcement of traffic restrictions, including maximum 10km / hour speed limit.*

- b. *A DA condition needs to be imposed requiring the applicant to incur costs for signage on the public roadway of Vallon Road, to restrict vehicular speeds.*
  - c. *A DA condition needs to be imposed obligating the owners of no. 15 to maintain the driveway so as not to create undue dust emissions or undue nuisances from the increased traffic movements.*
  - d. *A DA condition needs to be imposed requiring the complaints register to include information not less than date and type of complaint, details of complainer and timing and outcome of response actions. This information, at a minimum, must be prescribed for inclusion in the required register."*
- A Recission Motion was submitted for Council's consideration at the Ordinary Meeting on 27 October 2020.
- On 27 October 2020 resolution of the Ordinary Meeting of Council– MIN20.770 resolved to determine the development application by way of refusal for the following reasons:
  1. *"General community concern about the application being out of character with the local area.*
  2. *The application is located adjacent to two flood ways and becomes isolated during heavy rain.*
  3. *The intersection with Vallon Rd and Jervis Bay Road does not provide contemporary standards of intersection design and will be particularly dangerous for visitors and patrons visiting the site.*
  4. *The proposal is in a high hazard bushfire corridor.*
  5. *The proposal will have a highly disruptive impact on the quite residential amenity of area.*
  6. *The application does not comply with the SLEP definition of a 'camping ground' – "an area of land on which tents or similar portable, lightweight temporary shelters are placed" as it proposes very large permanent timber platform structures for the 6 'tent' sites.*
  7. *The proposed luxury accommodation and extensive facilities provided close to neighbouring properties and only a few minutes' drive from Huskisson do not align with the nature of a 'primitive camping ground' (PCG) as listed under Subdivision 9 of Part 3, Division 3 of the Local Government (Caravan Parks and Camping Grounds) Regulation 2005.*
  8. *Being within 10kms of Huskisson, a major town centre in the Bay and Basin Area, the development is not commensurate with DPIE guidelines which state Primitive Camping Grounds 'are generally remote from urban areas with only a limited range of facilities."*
- On 5 March 2021, the subject Section 8.2 Review was lodged with Council. The application was notified and advertised from 17 March 2021 to 16 April 2021. In response three (3) submissions were received by way of objection

CL21.80

## Issues

### Planning Assessment of Original Application

The attached section 8.2 report (Attachment 2) provides a review of the planning assessment of the application, and a review of the reasons for refusal and the applicant's submission in relation to the application.



This review concludes that the application is supportable on its merits and that the planning assessment under the original application (DA19/2165) was accurate in its recommendation.

The review found that the original section 4.15 assessment did not undertake an assessment against State Environmental Planning Policy 21 – Caravan Parks (SEPP 21) or Chapter G10 Caravan Parks in Flood Prone Areas of Council's Development Control Plan (DCP) 2014. The environmental planning instrument (SEPP) and DCP are applicable due to the definitions and advisory notes within these documents.

SEPP 21 Clause 6 of SEPP 21 defines caravan park as "land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed", while under Part 1 of Chapter G10 of the DCP it states as an Advisory Note: "Manufactured home estates, caravan parks and camping grounds will all be referred to as caravan parks from here on". Accordingly, an assessment against these planning requirements was warranted.

Despite this however, the further assessment of the SEPP and DCP did not raise any matters of concern or reasons to warrant the refusal of the application.

#### Shoalhaven Local Environmental Plan (SLEP) 2014 Characterisation and Permissibility

The proposal is best characterised as *camping ground* under the SLEP 2014. The proposal is permitted within the zone with the consent of Council.

A *camping ground* is defined in the Dictionary to SLEP 2014 as follows:

*'camping ground means an area of **land** that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.'* (**emphasis added**)

The proposal involves the temporary erection of tents on permanent wooden platforms, with access to communal amenities.

*Land* is defined under the EP&A Act (section 1.4) as:

*land includes—*

- (a) *the sea or an arm of the sea,*
- (b) *a bay, inlet, lagoon, lake, or body of water, whether inland or not and whether tidal or non-tidal, and*
- (c) *a river, stream, or watercourse, whether tidal or non-tidal, and*
- (d) **a building erected on the land.** (**emphasis added**)

*Building* is defined under the EP&A Act (section 1.4) as:

***building includes part of a building, and also includes any structure or part of a structure (including any temporary structure or part of a temporary structure), but does not include a manufactured home, moveable dwelling or associated structure within the meaning of the Local Government Act 1993.*** (**emphasis added**)

Accordingly, while the tents are to be erected on structures, these proposed structures are considered to be both:

- Defined as 'land' for the purpose of the definition of camping ground; and
- Ancillary to the proposed use.

The definition of a 'camping ground' when referring to 'an area of land' includes the proposed structure and that by erecting tents on the structure does not cause the use to be contrary to the definition.

The *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* (Caravan and Camping Grounds Reg) defines a *primitive Camping Ground* as follows:

CL21.80

*'primitive camping ground means a camping ground that is specified in its approval as being a primitive camping ground.'*

This definition however is not relevant for the purpose of characterisation of the use under the EP&A Act and the subject Part 4 development application. It is considered appropriate for future section 68 Approvals and the requirements under the *Local Government Act 1993* and associated Regulations.

## Section 8.2 Review

A section 8.2 application allows an applicant to request a consent authority to review a determination or decision made by them. After conducting its review, the consent authority (in this instance Council) may confirm or change the determination or decision.

### Reasons for Review of Development Consent No. DA19/2165

The applicant has provided the following response to support their request for review of the refusal and reasons for the refusal (D20/415316) as follows:

#### **1. General community concern about the application being out of character with the local area.**

##### Applicant's response:

*Objections from three immediate neighbours do not constitute "general community concern" and the concern about being out of character are not accepted by the Applicant.*

*In Salvation Army v Newcastle CC [2000] NSWLEC 36, Pearlman CJ in the Land and Environment Court said:*

*55. I mean no disrespect to them when I summarise their concerns rather than setting them out individually, but I do so because they had common themes. They all felt that the proposed development would be likely to result in the following adverse impacts:*

- a decrease in the quality of life of the neighbouring residents.*
- an increase in anti-social behaviour in the community perpetrated by participants in the rehabilitation programme.*
- an increase in criminal activity in the community (such as break-ins), also perpetrated by the participants in the rehabilitation programme. In this connection, they were particularly concerned that some participants would be undergoing the programme voluntarily in lieu of receiving a gaol sentence, and some participants would have already served time in gaol.*
- a decrease in property values by reason of proximity of the proposed development.*
- a threat to the safety of the elderly and young children (this being, in particular, a community of retirees and young families).*
- a development which would be out of character with the area, particularly because the surrounding development is residential; and*
- a development which would itself provide a danger to its participants by reason of its proximity to hotels and clubs.*

*56. I can understand these concerns, and I accept them as being genuine and real. I do not accept that these concerns show extreme prejudice or simply a "NIMBY" syndrome. The persons who gave this evidence all did so in a rational and*

*reasonable way, except Mr Roberts, who, I thought, made exaggerated and unjustified claims, although I accept that his concerns were fundamentally genuine and real.*

*57. I would, however, not be prepared to refuse the development application solely on the grounds which have been put forward by these residents. Their concerns are not borne out by the evidence. In particular, many of their concerns relate to a fear of the consequences of participants in the programme circulating generally in their community, but the evidence is that participants are not free to come and go as they please but are likely only to leave the site only in pursuance of particular appointments or obligations, or en route to their homes after being discharged from the programme. Furthermore, there is no evidence to show that the crime rate or incidents of anti-social behaviour will increase. The evidence put forward by the applicant is to the contrary and I would accept it.*

Assessing Officer's response:

**Community Concern & Submissions to DA**

In reviewing *Salvation Army v Newcastle City Council* [2000] NSWLEC 36 it is assumed that the applicant referenced this case for the purpose of highlighting paragraph 57, being that the submissions received in relation to that case, were "not borne out by the evidence" and that The Court would "not be prepared to refuse the development application solely on the grounds which have been put forward by these residents".

The assessment report of DA19/2165 (D19/419932) reviewed each of the submissions received to the development application. Concerns relating to being "out of character with the local area" were not issues raised to the development application or the deputations received to Council's Development & Environment Committee Meeting on 27 October 2020.

With regard to being 'borne out of evidence', no information has been submitted in the objections relating to what the existing character of the area is, nor how the proposed development will impact it. A total of six (6) objections were received to the original application from four (4) households. The subject application (s8.2 Review - RD21/1000) has received three (3) submissions, one being from the Berry Forum and two from neighbouring owners. The grounds put forward in the submissions are generally not considered reasons to *solely* refuse the application, with many of the concerns addressed in this section 8.2 review including flooding, bushfire, amenity impacts, and definition and characterisation of the use.

**Local Character**

The "Local Character and Place Guideline" prepared by the Department of Planning and Environment (February 2019) defines *local character* as:

*"Character is what makes a neighbourhood distinctive and is the identity of a place. It encompasses the way it looks and feels. It is created by a combination of land, people, the built environment, history, culture, and tradition including Aboriginal and non-Aboriginal, and looks at how they interact to make a distinctive character of an area.*

*Local character is distinctive, it differentiates one area apart from another. It includes the sense of belonging a person feels to that place, the way people respond to the atmosphere, how it impacts their mood, their emotional response to that place and the stories that come out of peoples' relationship with that place" (p.7).*

As outlined in the original assessment report (D19/419932):

*"The proposed structures are of a scale and density that is reflective of the rural character of the area with only partial views capable from adjoining properties. It is noted that additional landscaping down the western boundary of the site/driveway will provide an additional landscape screening result in restricted views to the camp sites".*

Further, “The camping ground accommodates six (6) sites and a total of 12 people, restrictions on amplified music and the requirement for on-site management of the camping will limit the potential noise impacts on adjoining properties”.

It is considered the scale of the development is such that any impact will be imperceptible from Vallon Rd (refer Figures 4 & 5) and have little or no impact on the way in which the ‘neighbourhood’ ‘looks and feels’. The photographs provided at Figures 5 – 8 show the site and neighbouring properties from Vallon Rd. The low scale nature of the development will mean that from the street there will be limited, if any, direct views of the camping area, noting that 15 Vallon Road is the last property in the no-thru traffic street meaning no passing traffic would see the development. Further as shown in the site imagery at Figure 4, potential visibility of the use from neighbouring properties will be mitigated through existing and proposed landscaping (shown in dark green shading in the plans).

In particular it is noted that no new buildings are proposed to be constructed. Proposed works are limited to minor works to the existing amenities building, the proposed timber structures (shown as yellow squares on the plans), ancillary compacted gravel pathways, wastewater absorption mounds (shown as light blue rectangles on the plans) and carparking on compacted road base. The erection of tents will be on a temporary basis only when guests are occupying the site. In this manner the proposed development as viewed from neighbouring properties will be minimal and not cause impact to the overall character of the area.

The site is zoned ‘RU2 Rural Landscape’ under SLEP 2014 in which ‘camping grounds’ are permissible and which has the objectives ‘To maintain the rural landscape character of the land’ and ‘To provide for a range of compatible land uses, including extensive agriculture’. The proposed development is consistent with these objectives in that the rural landscape character will not be impacted. The low scale simple nature of the development will have minimal impacts on the surrounding area.

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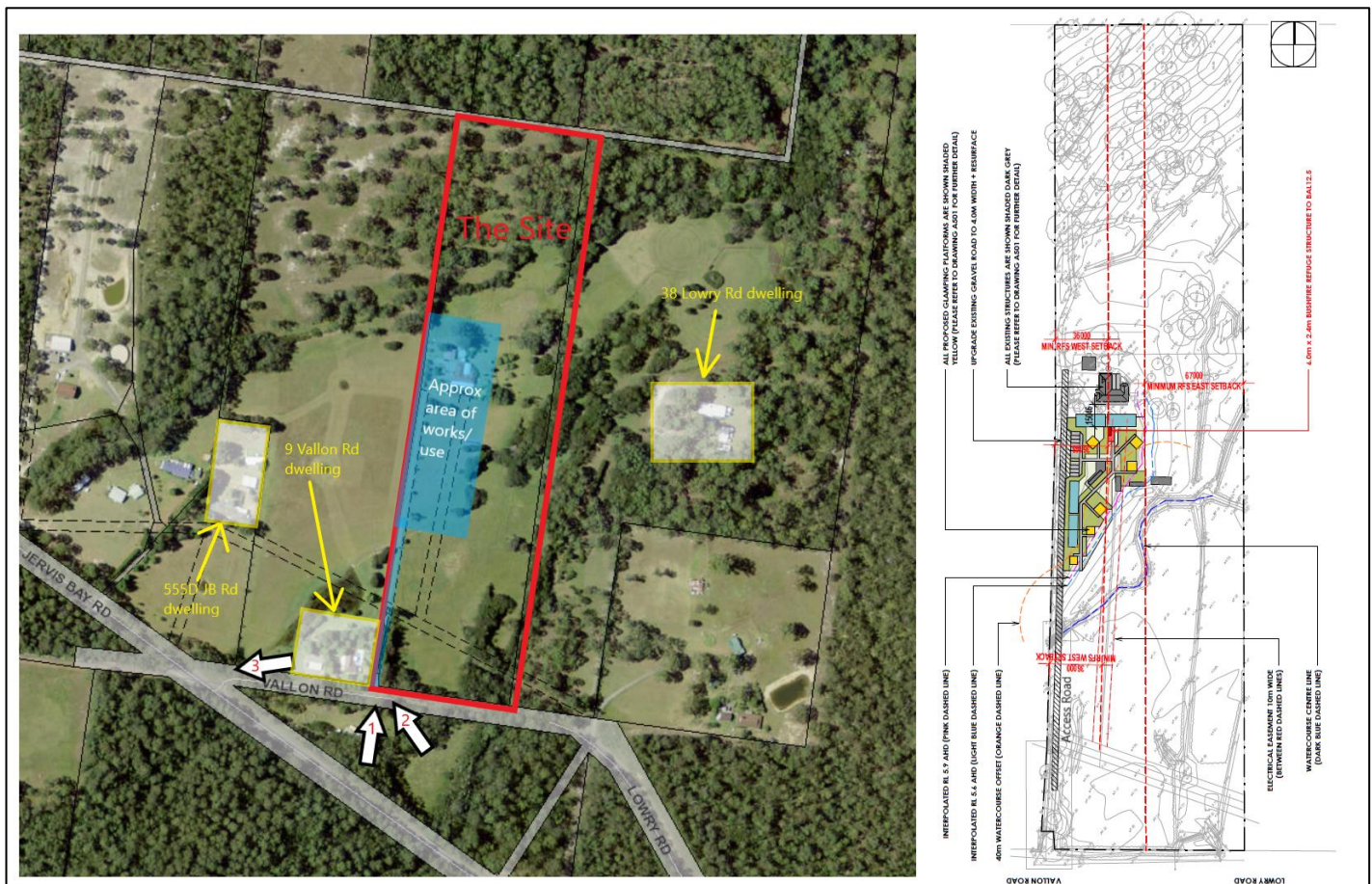




Figure 4- Aerial photograph of site with Site Plan indicating location of works, direction of photographs (Figures 5-8) and location of neighbouring dwellings



Figure 5- Photograph of site entrance – 15 Vallon Road Woollamia (Photo #1 in Figure 4)



Figure 6- Close up of site entrance and access road – 15 Vallon Road Woollamia (Photo #1 in Fig. 4)

CL21.80





*Figure 7 - Photograph of neighbouring property at 9 Vallon Road Woollamia from in front of the subject site on Vallon Street looking north west (Photo #2 in Fig. 4)*



*Figure 8 - Photograph of Vallon Road and Jervis Bay road intersection from Vallon Road looking west (Photo #3 in Fig. 4)*

### **Approved Tourist & Visitor Accommodation in the area**

With regard to other camping facilities within the area, there are two other approved sites within Woollamia (refer Figure 8 below) within 2.5km of the site. While rural/residential/environmental protection may be the zoning of the surrounding land, the presence of other approved tourist and visitor accommodation within Woollamia shows that the use is not 'out of character' but will instead contribute towards the existing character of the area which supports a range of existing and future permissible uses.

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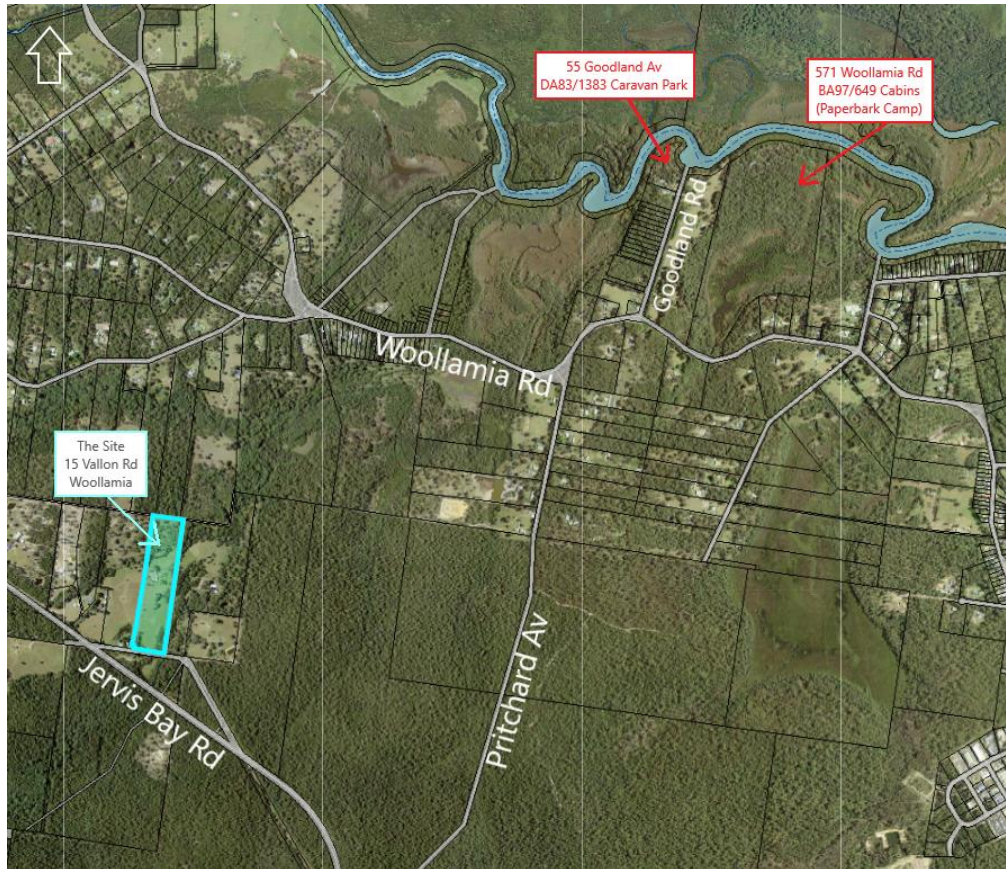


Figure 9 - Aerial image of the subject site and other approved sites in Woollamia.

Accordingly, it is not considered that three submissions are significant community concern about the application being out of character with the local area to form a reason of refusal, nor is it considered that the proposed use will be out of character with the local area.

**2. The application is located adjacent to two flood ways and becomes isolated during heavy rain.**

Applicant's response:

*In the Response to neighbours' objections" dated April 2020 and filed with the Portal (the Response) at 2.5 it was noted.*

*"None of the objectors are professional consultants experienced in these two fields nor have they made available or submitted an alternate report by another professional consultant in these fields, to substantiate their views....The owner has engaged suitable consultants with professional expertise in their nominated field, and who have significant local knowledge, to provide relevant reports for this site and the application for short term holiday use."*

Assessing Officer's response:

The assessment of the development application contained in D19/419932 provided the following statement in relation to clause 7.3 of SLEP 2014 which is based on the assessment provided by Council's Natural Resource & Floodplain Section:

*The flood assessment report (D19/419351) has been reviewed and is found satisfactory. It is noted that the proposed development is on flood free portion of the site, however access to the site is restricted in an event of a flood. A flood evacuation plan is to be prepared for this development (conditioned recommended) in line with the recommendations of the flood assessment report (D19/419351).*

CL21.80

The recommended condition required:

*“That permanent, fail-safe, maintenance-free measures are incorporated in the development to ensure that the timely, orderly and safe evacuation of people is possible from the area and that it will not add significant cost and disruption to the community or the SES”.*

Flooding was assessed by the applicant's flood engineers (APS, Ref; N27544, dated September 2019) and Council engineers as not being of concern with regard to the proposed development.

The flood emergency management plan required by recommended condition 44 requires the arrangements to evacuate the site in the event of a possible flood, in addition to advising advance bookings that the site is to be closed. The proposal includes up to a maximum of 12 guests, with an onsite manager available 24 hours a day. In light of this, it is considered that the low risk, temporary nature of the proposal is capable of being managed with regard to flooding and should not form a reason for the refusal of the application.

**3. The intersection with Vallon Rd and Jervis Bay Road does not provide contemporary standards of intersection design and will be particularly dangerous for visitors and patrons visiting the site.**

Applicant's response:

*In the response, at 2.6 it was stated: “The safety of all local traffic has improved since the lodging of this DA with the speed limit of Jervis Bay Road in the site vicinity being lowered to 90 km/h. This will assist in the sight line safety where Vallon Road enters Jervis Bay Road.”*

Assessing Officer's response:

The Traffic Impact Statement submitted by the applicant (APS, Ref. N27544, Rev 0, dated September 2019) stated *“The existing intersection onto Jervis Bay Road is deficient in one direction for SISD. All other aspects are compliant.”* This assessment was undertaken with the previous speed limit on Jervis Bay Road of 100km/hr, which has since been reduced to 90km/hr as identified in the applicant's submission. This reduction in speed further reduces the extent to which the intersection is ‘noncompliant’.

Further to this it is importantly noted that the site is for 12 guests, which the APS Traffic Impact Statement identifies the “estimated traffic generated by the development is 18 vehicles per day or 2.4 vehicles per peak hour”, equating to a 0.6% increase in traffic in peak periods. This increase in traffic is not considered to provide significant impacts on the intersection, and importantly does not draw a nexus between a full upgrade of the intersection and the proposed development.

No further information has been submitted with the application to enable additional engineering assessment of the proposal. The assessment provided in the original assessment report stated the following which is considered to remain valid under this review.

*The submissions have raised concerns with the potential traffic impacts associated with the use and safety of the Vallon Road and Jervis Bay Road intersection despite the reduction in the speed limit to 90kph.*

*The application is supported by a Traffic Impact Statement prepared by Allen Price and Scarratts Pty Ltd (N27544-SK01) Revision P1 (D19/419337) and additional Sight Distances Layout Plan prepared by Allen Price and Scarratts and supporting email (D20/316164).*



SDCP 2014 does not provide estimated daily movement rates for camping grounds, however, the RMS Guide to Traffic Generating Developments provides traffic generation averages for motels (most appropriate comparative use) as:

- Evening peak hour vehicle trips = 0.4 per unit total for 6 camp sites = 2.4 vph
- Daily vehicle trips = 3 per unit; total for 6 camp sites = 18 vpd

The anticipated traffic movements are considered to be satisfactory and will not result in an unreasonable impact on either Vallon Road or Jervis Bay Road.

The operation of the intersection of Vallon and Jervis Bay Road has been considered for efficiency and safe intersection sight distance (SISD). Waiting times to turn right onto Jervis Bay Road is unlikely to exceed 1 minute and a SISD is achieved for the right turn in and right turn out at the intersection of Vallon Road/Jervis Bay Road.

Council's Traffic Engineers have reviewed the submitted information and deem that the traffic impacts are satisfactory and no additional upgrade works are required at the Vallon Road and Jervis Bay Road intersection.

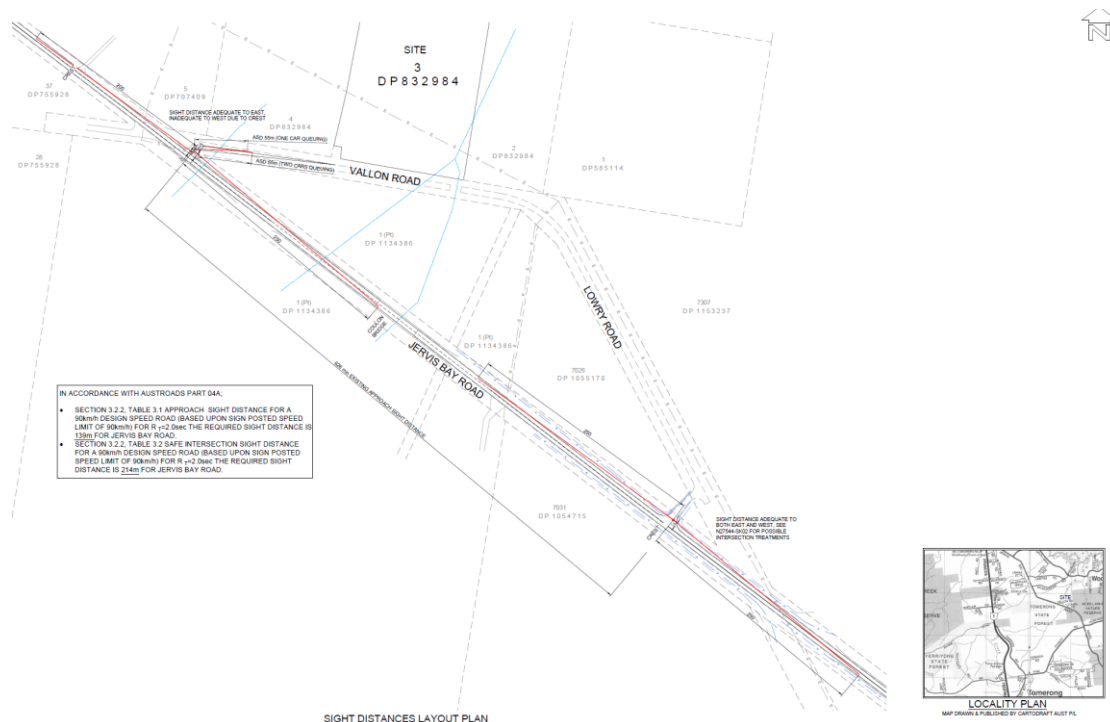


Figure 10 - Sight Distances Layout Plan prepared by Allen Price and Scarratts

Importantly Council's Traffic Engineers have not raised any concern with regard to the safety of the intersection that would warrant the refusal of the application.

#### 4. The proposal is in a high hazard bushfire corridor.

##### Applicant's response:

*In the response, at 2.8 it was stated: "Again, this report has been prepared by a professional consultant, experienced in their field, and familiar with the requirements of the relevant authorities that have jurisdiction over Bushfire matters.*

*It is therefore considered the concerns raised are personal opinion only and not verified by any alternate professional consultant report offered by the objector".*

CL21.80

Assessing Officer's response:

The application is supported by the Rural Fire Service who have issued General Terms of Approval for the proposed development (dated 19 August 2020). Accordingly, the site constraint of being a bushfire prone site is not considered reason to refuse the development application given the responsible State agency for bushfire planning assessment has given its approval to the DA.

**5. The proposal will have a highly disruptive impact on the quite residential amenity of area.**Applicant's response:

*In the response, at 4.0, (it is assumed the word "quite" should be "quiet"). "It has been designed to complement the existing uses on the site and with all reasonable precautions taken will minimise any detrimental effects on existing and future development nearby."*

Assessing Officer's response:

The site is zoned RU2 Rural Landscape. The objectives of this zone are:

**1 Objectives of zone**

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*

The site is within a rural zone which has key objectives to support primary industry production and extensive agriculture. While home occupation and residential uses are permissible with consent, the overarching objectives are agricultural focused and not residential.

With that in mind, the Department of Planning Environment and Industry define amenity as: *"the pleasantness, attractiveness, desirability or utility of a place, facility, building or feature"* (<https://www.planningportal.nsw.gov.au/major-projects/assessment/policies-and-guidelines/key-guidance/amenity>). Impacts on amenity, as opposed to character, relate to aspects such as odour, noise, dominance or obtrusiveness of a building within neighbouring view lines or appearance from a public place, and the enjoyment of living and being in a space.

As assessed under the section 4.15 Heads of Consideration' with regard to Built Environment:

*"The proposed structures are of a scale and density that is reflective of the rural character of the area with only partial views capable from adjoining properties. It is noted that additional landscaping down the western boundary of the site/driveway will provide an additional landscape screening result in restricted views to the camp sites".*

View lines and visibility are further addressed earlier in this section regarding character (refer Figure 3).

Aspects such as noise and odour are manageable under the Site Management Plan and conditions of consent, and the scale of the development being for a maximum of 12 guests is such that any potential impacts on 'amenity' are reasonably managed by onsite management.

**6. The application does not comply with the SLEP definition of a ‘camping ground’ – “an area of land on which tents or similar portable, lightweight temporary shelters are placed” as it proposes very large permanent timber platform structures for the 6 ‘tent’ sites.**

Applicant’s response:

*The definition of “camping ground” in the Shoalhaven Local Environmental Plan is not as stated by the council but in fact is:*

*“camping ground” means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected, or placed for short term use, but does not include a caravan park. The “Very large permanent timber platform structures for the 6 ‘tent’ sites: are merely timber platforms on the ground that identify where a tent can be erected so they do fit within the definition of “camping ground”.*

Assessing Officer’s response:

Council staff have obtained legal advice on another similar matter regarding the characterisation of camping grounds. This advice has not been attached as it may affect legal privilege and the matter is still in progress. Upon review of this advice, it is considered the approach taken by staff concerning characterisation is sound.

There are two factors to consider in this regard, the permissibility of the proposed development, and the definition of the use as a ‘camping ground’.

In summary, with regard to permissibility, the first question is not whether the proposed use meets the definition of ‘camping ground’, but whether the use falls within any permissible use within the RU2 Rural Landscape zone. Clause 2.3 of SLEP 2014 and the Land Use Table outlines the respective land uses permitted without consent, permitted with consent, or prohibited.

Accordingly, in the RU2 Rural Landscape zone, if the development cannot be characterised as a land use identified as “*development that may be carried out without development consent*”, or “*development that may be carried out with development consent*” land uses, the development will be prohibited, being “*Any other development not specified in item 2 or 3*”.

Review of permissible uses that may be applicable to the proposed use include camping grounds, caravan park, eco tourist facility and tourist and visitor accommodation. The best characterisation of the use is considered to be ‘camping ground’, however, more broadly, it is also noted that the ‘group’ or ‘parent’ term of *tourist and visitor accommodation* is also a permissible use. Accordingly, all terms within the ‘group term’ definition in the SLEP 2014 Dictionary are permissible, with the exception of any ‘child term’ listed as prohibited in the Land Use Table. The definition for tourist and visitor accommodation is produced below:

***tourist and visitor accommodation*** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—

- (a) *backpackers’ accommodation,*
- (b) *bed and breakfast accommodation,*
- (c) *farm stay accommodation,*
- (d) *hotel or motel accommodation,*
- (e) *serviced apartments,*

***but does not include—***

- (f) *camping grounds, or*
- (g) *caravan parks, or*
- (h) *eco-tourist facilities.*

The proposal could accordingly also be considered a ‘Tourist and Visitor accommodation’ being “*a building or place that provides temporary or short-term accommodation on a commercial basis*” (noting the use does not have to exactly fit within any of the ‘included’

CL21.80

child terms listed at (a) to (e) to fit the definition). The only prohibited 'child' terms of tourist and visitor accommodation in the RU2 Rural Landscape zone are hotel or motel accommodation and serviced apartments, which the proposed development is not.

Accordingly, it is considered the proposal is a permissible use, and the use could properly be characterised as tourist and visitor accommodation or camping ground, however that camping ground is still considered the best characterisation of the use as outlined below.

### **Definition of camping ground**

The proposal seeks to construction of six (6) primitive camping sites "glamping" and associated site amenities buildings, fire refuge building, car parking and landscaping.

The proposed structures are ancillary to the erection of tents and the core use as a 'camping ground'. On their own they serve no purpose.

The definition for **Camping Ground** under Shoalhaven Local Environmental Plan 2014 is:

**camping ground** means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected, or placed for short term use, but does not include a caravan park.

In the first instance, as discussed under the SLEP 2014 assessment earlier in this report, it is noted that the term 'land' as defined under the EP&A Act is "*a building erected on the land*" (Section 1.4).

The Act also defines 'building' to include "*any structure or part of a structure*" (Section 1.4). From this it is deduced that 'land' includes a building erected on the land, and therefore a structure.

The definition of a 'camping ground' when referring to 'an area of land' can include the proposed structures and that by erecting tents on the structure does not cause the use to be contrary to the definition.

Further, in establishing the characterisation of a proposed use, Council notes Planning Circular PS 13-001 '*How to characterise development*' which provides:

- *if a component serves the dominant purpose, it is ancillary to that dominant purpose.*
- *if a component serves its own purpose, it is not a component of the dominant purpose but an independent use on the same land. It is a dominant use in its own right. In such circumstances, the development could be described as a mixed-use development.*

It is therefore considered that the proposed use of the site as a camping ground is the dominant purpose of the site. That is, the structures do not require separate/individual categorisation as they are integral to the proposed use as a camping ground, and furthermore do not undermine the definition and characterisation of the use as a camping ground.

### **Conclusion – permissibility**

The reason for refusal states that "*The application does not comply with the SLEP definition of a 'camping ground' – "an area of land on which tents or similar portable, lightweight temporary shelters are placed" as it proposes very large permanent timber platform structures for the 6 'tent' sites*".

Based on the review above, it is first considered that the proposed development is a permissible use as a tourist and visitor accommodation or a camping ground, with camping ground still considered to be the best characterisation of the use as requested by the applicant. Further to that, the construction of structures on which to erect tents does not affect the ability for the proposed use to be defined as a camping ground.

- 7. The proposed luxury accommodation and extensive facilities provided close to neighbouring properties and only a few minutes' drive from Huskisson do not align with the nature of a 'primitive camping ground' (PCG) as listed under Subdivision 9 of Part 3, Division 3 of the Local Government (Caravan Parks and Camping Grounds) Regulation 2005.**

Applicant's response:

*The Local Government (Caravan Parks and Camping Grounds) Regulation 2005 has been repealed.*

*It has been replaced by the "Local Government (Manufactured home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005".*

*That contains Reg 132 Primitive camping grounds, which has similar provisions to the repealed regulation, but there are differences. The new regulation does not have a definition of "camping ground" but it does define "camp site" to mean: "an area of land within a camping ground on which a campervan, tent or caravan may be installed, and that is designated as a camp site by the approval for the camping ground."*

Assessing Officer's response:

As stated above, Council staff have obtained legal advice on another similar matter which also reviews the relevance of the Caravan and Camping Grounds Reg relating to "primitive camping grounds". This advice has not been attached as it may affect legal privilege and the matter is still in progress. Upon review of this advice, it is considered the approach taken by staff concerning characterisation is sound.

The development application is made under Part 4 of the EP&A Act. The proposal, for the purpose of permissibility of land use, is assessed under the provisions of the EP&A Act 1979 and relevant environmental planning instruments including SLEP 2014. "Camping ground" is defined under SLEP 2014. "Primitive camping grounds" are not a term defined under SLEP 2014 or the EP&A Act.

The Caravan and Camping Grounds Reg. is a regulation under the *Local Government Act 1993*. SEPP 21 Clause 10(f) requires the assessing authority to consider the Caravan Parks Regulation in the development assessment of an application. However, this is for the purpose of establishing that the proposed meet the standards set in Subdivision 9 of Division 3 of Part 3 of the Caravan Parks Regulation, not for permissibility. It is noted in this regard the assessment of the application under SEPP 21 has not identified any reasons for the refusal of the application or inconsistencies with the Caravan Parks Regulation that would inhibit a future application under that instrument (refer assessment report at Attachment 2).

- 8. Being within 10kms of Huskisson, a major town centre in the Bay and Basin Area, the development is not commensurate with DPIE guidelines which state Primitive Camping Grounds 'are generally remote from urban areas with only a limited range of facilities'.**

Applicant's response:

*This is also not a valid reason to not approve this application.*

*In the Development & Environment Committee Planning Report of 06 October 2020 there was a detailed assessment at pages 505 to 516 which had a similar result to the Response referred to above and it justified the recommendation at page 516:*

*"This application has been assessed having regard for section 4.15 (Matters for consideration) under the Environmental Planning and Assessment Act 1979. As such, it is recommended that Development Application No. DA19/2165 be approved subject to appropriate conditions of consent."*

*The Draft Notice of Determination granting approval with conditions is contained at pages 476-494.*

*The Applicant submits that in the circumstances here the appropriate review is to grant approval in accordance with that draft Notice of Determination.*

#### Assessing Officer's response:

It is inferred that this relates to Circular PS06-001 Issued 10 January 2006. This Circular states:

#### ***What are primitive camping grounds?***

*Primitive camping grounds (PCGs) are one type of camping ground covered by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 (the new Regulation). PCGs are lower key than conventional camping grounds. The new Regulation does not require PCGs to have, for example, sealed roads, hot water, or laundries. There are about 50 PCGs in NSW — ranging in size from approximately 0.5 hectares to over 600 hectares. They are often in scenic locations such as in bushland, near rivers or on the coast.*

The proposed camping ground is in a scenic location in bushland and not far from the coast. This circular goes onto to state:

*“Some ways in which camp sites might be delineated ‘on-the-ground’ are by signs, pegs or perimeter logs. It is desirable that the location of camp sites allows campers easy access to the camping ground’s water supply, toilet and rubbish disposal facilities.”*

The designation of camp sites is in a formal manner with the timber structures delineating the location of tents and allowing for the management and mitigating the impact of surrounding areas of the site. This is not considered to be a reason for refusal in that the land is zoned for camping grounds, and the type of campground as a ‘primitive campground’ is a *Local Government Act 1993* consideration and is not a land use consideration for the purposes of development application assessment under the EP&A Act.

The original Council assessment report to the 06 October 2020 Development and Environment Committee meeting outlined that all site constraints and planning considerations including flooding, effluent disposal, bushfire, noise, traffic, campground management, past illegal uses of the site were satisfactorily addressed, and conditions of consent would adequately mitigate potential impacts of the development.

#### **Planning Assessment**

The DA was previously assessed under s4.15 and found to be capable of support. Council at its meeting on 27 October 2020 resolved to refuse the DA.

The applicant has requested a review of the determination under Section 8.2 of the EP&A Act. This review has found that the applicant has satisfactorily addressed the reasons for refusal. Accordingly, the proposal is capable of support.

#### **Consultation and Community Engagement**

Notification was undertaken in accordance with Council's Community Consultation Policy with letters being sent within a 100m buffer of the site, during the period 24 January and 10 February 2020 for the original application and 17 March 2021 to 16 April 2021 for the Section 8.2 Review of Determination.

Six (6) public objections from four (4) households were received in relation to Council's notification during the assessment of the original DA. Three (3) public objections were

received to the section 8.2 application notification period by the Berry Forum and the owners of two (2) neighbouring properties which are addressed below.

## 1. Permissibility & Characterisation

- The DA is not permissible in the zone.
- Primitive camping is the opposite of what is being proposed for the luxury glamping sites.
- The proposal is not in a remote area, but very close to neighbouring properties. The site is just 8 minutes' drive from Huskisson.
- The characterisation as 'primitive camping ground' is for the purpose of exempting the development from compliance with the requirements under the Local Government (Caravan Parks and Camping Grounds) Regulation 2005.

### Assessing Officer's response:

The assessment of the application considers the use permissible as either 'tourist and visitor accommodation' or 'camping ground', with 'camping ground' considered the best fit for the definition of the proposed use.

As discussed earlier in this report, the term 'primitive camping grounds' is not a land use term defined under the EP&A Act or SLEP 2014 and is not a suitable term in which to categorise development for the purpose of a development application. The categorisation of the use as 'primitive camping ground' is a consideration under a future section 68 application under the Local Government Act 1993 and Local Government (Caravan Parks and Camping Grounds) Regulation 2005, and not for the purpose of the subject DA and permissibility of the use.

Camping grounds are a permissible use in the site's RU2 Rural Landscape zone and the proposed development is considered to be consistent with the Objectives of the zone under SLEP 2014. The site is considered suitable for the proposed development under section 4.15(c) of the EP&A Act, with potential impacts addressed in the assessment and design of the development or capable of being conditioned.

It is further noted that the term "glamping" is not a term defined in the relevant planning instruments or planning guideline documents. However, if the premises are approved for use as a camping ground, with subsequent approvals under the Local Government (Caravan Parks and Camping Grounds) Regulation 2005 for a 'primitive camping ground', the operations of the business will be required to comply with the requirements of those approvals regardless of the style, rate, and manner in which primitive camping occurs.

## 2. Characterisation and competition with other camping ground and caravan parks

- *"The Forum Committee has no issue with genuine applications for glamping sites and supports the establishment of micro-business ventures. Glamping sites compete with existing camping sites and caravan parks, but owners are able to charge premium rates of around \$400 a night".*

### Assessing Officer's response:

The specific amounts charged by an owner/operator for operation of any commercial venture is not a consideration under section 4.15 of the Act or any applicable planning controls. In particular, no Departmental guidance or State or local planning controls relating to camping grounds link the categorisation or description of the land use against the potential future rate charged to guests.

It is noted that it is not considered the proposed development will compete with other camping sites and caravan parks in the area, with each site offering a different product for different customers. Regardless, commercial competition is not a planning consideration.

### 3. Compliance with Local Government (Caravan Parks and Camping Grounds) Regulation 2005 for Primitive Camping Grounds

- Council must ensure that a proposal for camping complies with the Caravan Parks and Camping Grounds Regulation.
- The Department of Planning Guide on primitive camping grounds states -
  - o “A PCG is generally remote from urban areas, with only a limited range of facilities.
  - o PCGs are lower key than conventional camping grounds and are not required to have, for example, sealed roads, hot water or laundries”.
- The proposal is not a true primitive camping ground because it will charge more than the typical overnight rate for primitive camping grounds in NSW, which “is either free or around just \$10”.
- Primitive camping activity should leave the site in its natural state and have no impact on the surrounding area due to the basic nature in remote locations.

#### Assessing Officer's response:

The specific amounts charged by an owner/operator for operation of any commercial venture is not a consideration under section 4.15 of the EP&A Act or any applicable planning controls. In particular, no Departmental guidance or State or local planning controls relating to camping grounds link the categorisation of the land use against the potential future rate charged to guests.

The proposed works proposed are minimal with physical works limited to pathways, wastewater absorption mounds and compacted gravel/road base roads and parking areas. These are all small-scale ancillary works to facilitate the temporary erection of tents within specified areas on the site.

An assessment of the proposal under the applicable sections of the Caravan Park and Camping Ground Regulations was undertaken in the original section 4.15 assessment report for the application which found no reason to refuse the application.

### 4. The Applicant & Existing use of the site

- *“The applicant is Canaan Capital, a China-based investment company aiming to maximise the capital return from the land use.*
- *The property is currently being promoted with accommodation for 'four to five families', a separate 'fun house' with an additional 7 double beds, and 'parties and events allowed’.*

#### Assessing Officer's response:

The ownership of the site is not a matter for consideration under this application with regard to land use or intent. For clarity it is noted Council's records show the owner of the site to be '15 Vallon Road Wollamia Pty Ltd'.

The existing dwelling house on the site will be used as the accommodation for the existing manager who is to be available on site at all times while the camping ground is operating per recommended Condition 45(n) (refer Attachment 1). Accordingly, if the camping ground use is in operation, the dwelling would be required to be occupied by the manager and not leased out separately.

It is further noted for the purposes of the *current* use of the site, that SLEP 2014 clause 7.13 permits that residential accommodation may be used as tourist and visitor accommodation for short-term rental accommodation for a maximum period of 45 consecutive days in any 12-month period. No information has been provided to suggest the site at present is not operating in compliance with this clause. For the purpose of the DA however these matters are irrelevant for the assessment of the *proposed future use*.



## 5. Impacts of the development.

- Concern is raised regarding antisocial behaviour and impact on surrounding properties from guests staying.
- There have been a number of incidents of antisocial behaviour, trespassing, noise impacts, large fires by guests of the existing residents while it is being rented for short term accommodation.

### Assessing Officer's response:

The existing use of the site for short term accommodation is a separate matter to the future proposed use of the site as a camping ground being assessed under this application.

Matters of compliance, noise impacts and trespassing are issues that should be reported to Council's Compliance Section and/or the NSW Police to investigate.

The proposed use as a camping ground will be managed in accordance with a Site Management Plan and conditions of consent. In this manner a development consent indicates clear standards in which the use of the property must operate and comply. It is considered the existing operations and management of the premises are not reflective of the proposed use as a camping ground given, they are two distinctly different and separate uses.

## 6. Status of applicant's consultant reports

- Concern is raised that the submitted expert reports were prepared prior to the 2019/2020 Bushfires and recent major flooding events.

### Assessing Officer's response:

The subject section 8.2 Review is a review of the application as lodged and determined to establish if the original reasons for the determination are warranted and if the new information submitted changes that determination. The applicant is not required to update the information submitted with the development application; however, they are able to do so to support their application.

The submitted consultants' reports were prepared against the current bushfire planning and flood controls available and applicable at the time of the preparation of the DA. Both Council's flooding engineers and the NSW Rural Fire Service (RFS) support the proposal and have not raised any concerns that would warrant the refusal of the application.

## 7. Traffic safety concerns

- There is a risk of collision due to increased traffic.

### Assessing Officer's response:

The matter of traffic safety is addressed earlier in this report. Council's traffic engineers have reviewed the subject application and do not raise any matters of concern that would warrant the refusal of the application.

## 8. Real estate listing of property

- The subject property is currently listed for sale stating, "*currently in the process of being approved for luxury camping and cabins*".

### Assessing Officer's response:

Real estate listings are not considered to be relevant for the assessment of the subject application.

### **Financial Implications**

There are potential cost implications for Council in the event of a refusal of the application. Such costs would be associated with defending an appeal in the Land and Environment Court of NSW.

### **Legal Implications**

An applicant who is dissatisfied with the determination of the original determination to refuse the Development Application or any determination of the section 8.2 Review of Determination by the Council may also appeal to the Court against the determination pursuant to Section 8.7 of the EP&A Act. Applicants can choose to do both, setting aside the Appeal pending resolution of the review, noting there are time limitations with respect to lodging an appeal.

### **Summary and Conclusion**

Having regard to the section 8.2 Review of Determination, the proposal is recommended for approval, subject to the conditions set out in the draft Notice of Determination (**Attachment 1**) to this report.

CL21.80

## CL21.81      Creation of Easement on the Village Green - 132 Island Point Road St Georges Basin

**HPERM Ref:**      D21/152971

**Department:**      Development Services

**Approver:**      Robert Horner, Executive Manager Shoalhaven Water

### Reason for Report

Council's Strategy and Assets Committee on 13 April 2021 resolved:

*"That at the first available meeting the CEO (Shoalhaven Water) provides a report on the situation of the location of the easement (132 Island Point Road, St Georges Basin) and if it can be relocated to a different location so it doesn't interfere with the mature trees on the Village Green at St Georges Basin."*[MIN21.215]

This report is being submitted directly to the Ordinary Meeting as the first available meeting.

### Recommendation

That Council note the status of the tree situation on the Village Green at St Georges Basin as requested by MIN21.215.

### Options

1. The report be received for information.

Implications: Nil

2. Further information regarding the proposed location of a drainage easement and the subdivision development at Island Point Road St Georges Basin (SF9847) be requested

Implications: A further report would be prepared for the next available meeting.

CL21.81

## Location Plan



Figure 1. Aerial image of site, showing Council owned Lot 10 "Village Green" Lot 10 DP1143842 in green

## Background

### 132 Island Point Road, St Georges Basin – "Village Green"

The Village Green land (Lot 10 DP 1143842, 132 Island Point Road) was compulsorily acquired by Council on 9 December 2009 and is currently a landscaped open space area which provides east-west pedestrian links for existing and future development in the area. The community space upgrades were completed in 2015.

### Development Consent

On 14 August 2007 Deferred Development Consent SF9847 was granted for an 11 lot subdivision of Lot 4 DP785956 and Lots 68 and 69 DP25550, Island Point Road, St Georges Basin – located to the east of the Village Green.

Each of the created lots are to be the subject of future development applications (DAs) for higher density development. The consent was made operational under DS08/1318 dated 22 July 2008. There have been multiple modifications to the original consent relating to site layout and supporting approval documents since the initial approval of the DA.

The most recent approved section 4.55 modification application is DS20/1117 approved on 30 October 2020 (refer Figure 2).

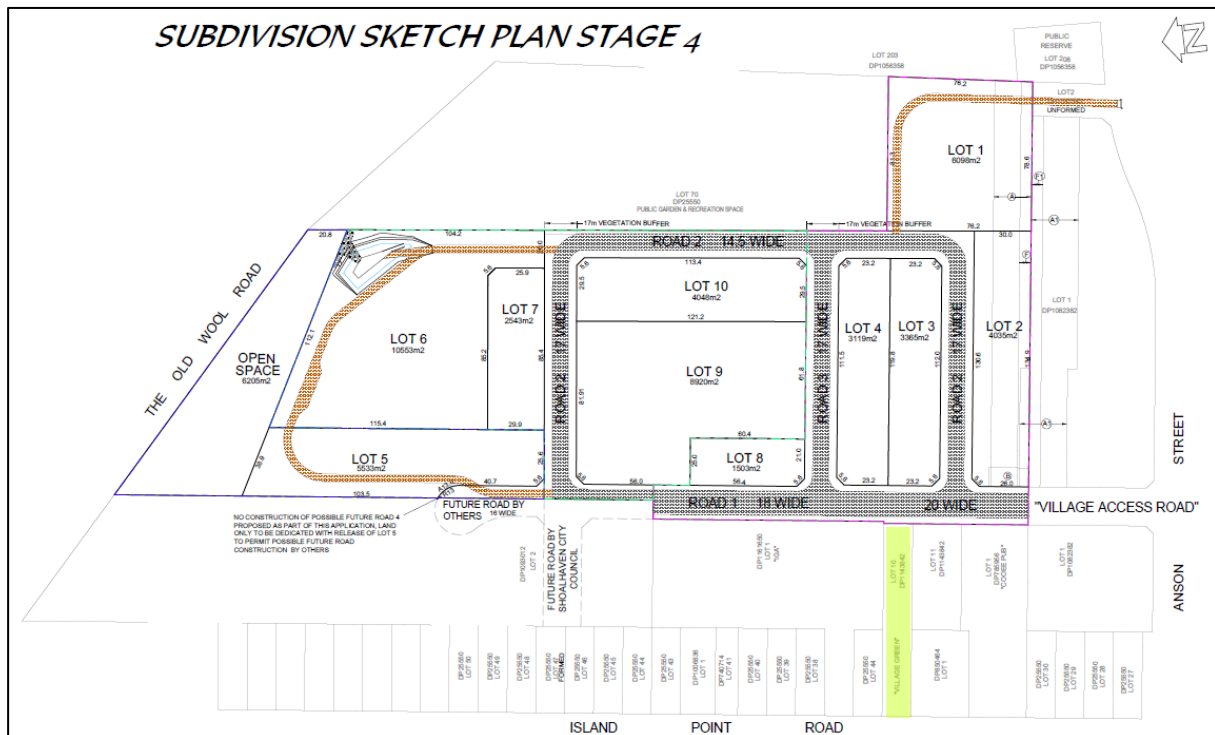


Figure 2. DS20/1117 Approved Stage 4 Subdivision Plan - showing the outline of the site in purple, and the location of the "Village Green" Lot 10 DP1143842 in green (APS, Dwg No. N27792-04 Sheet 3 of 3, Rev 0, dated August 2020)

The development consent applies only to Lot 4 DP785956 and Lots 68 and 69 DP25550, Island Point Road, St Georges Basin, and does not give approval for any works, including tree removal, on Council owned Lot 10 DP1143842 "Village Green".

#### Subdivision Works Certificate (SWC)

The SWC was issued on 3 February 2021 under CC20/2002 relating to Stage 1 Clearing works required to undertake the subdivision. Approved works are limited to the site boundaries as shown at Figure 3.

The SWC does not give approval for any works, including tree removal, on Council owned Lot 10 DP1143842 "Village Green".

The SWC approved a Soil and Water Management Layout Plan which also identified the location of the "Village Green" Lot 10 DP1143842 (APS, Dwg No. N27792-103 Sheet 3 of 26, Rev 3, dated 1/2/2021) (excerpt at Figure 4). This plan showed the trees that would be required to be removed to undertake the works. However, importantly, the scope of the subdivision works approval is limited by the approved development consent site under SF9847 (refer Figure 2) and is also further delineated under the specific SWC approved site plan (refer Figure 3).

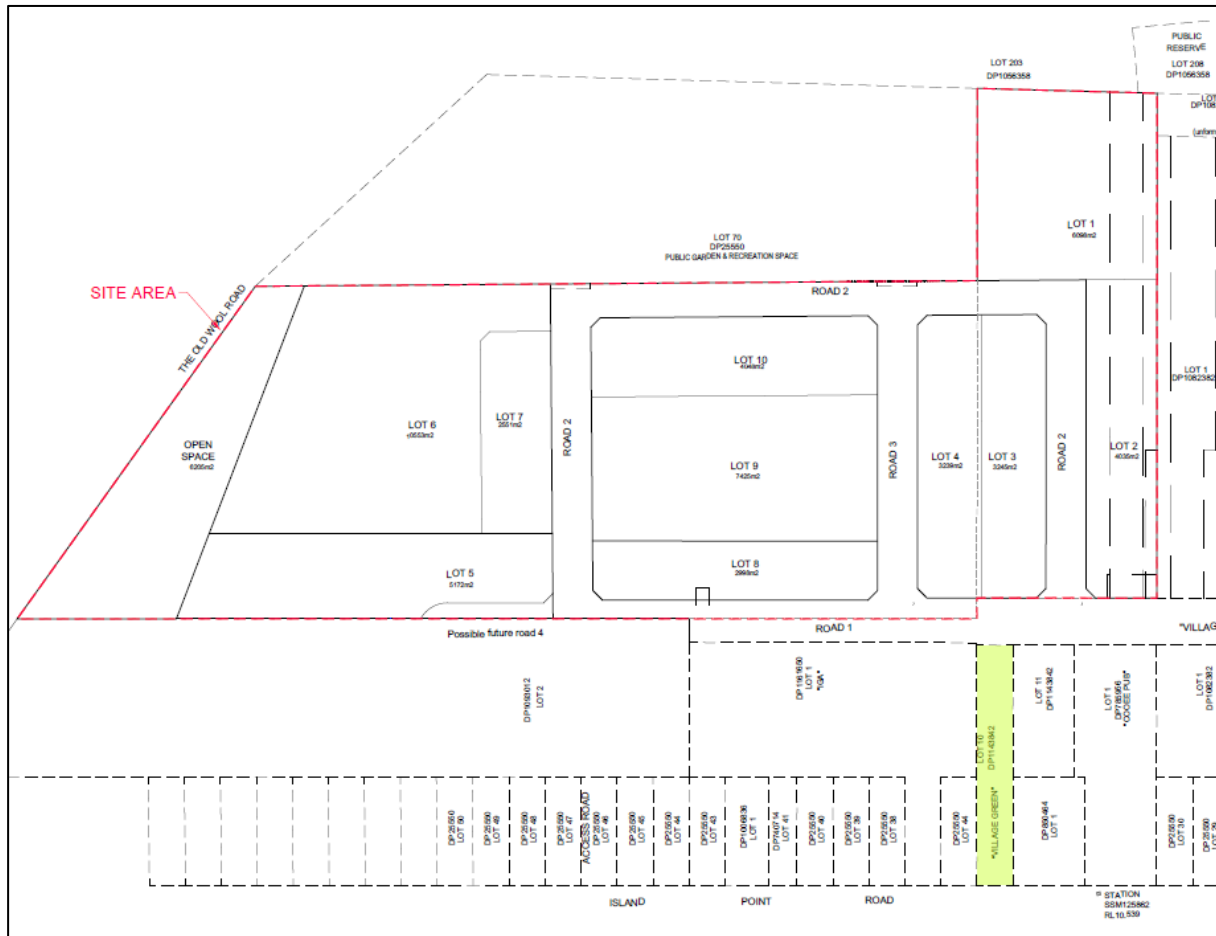
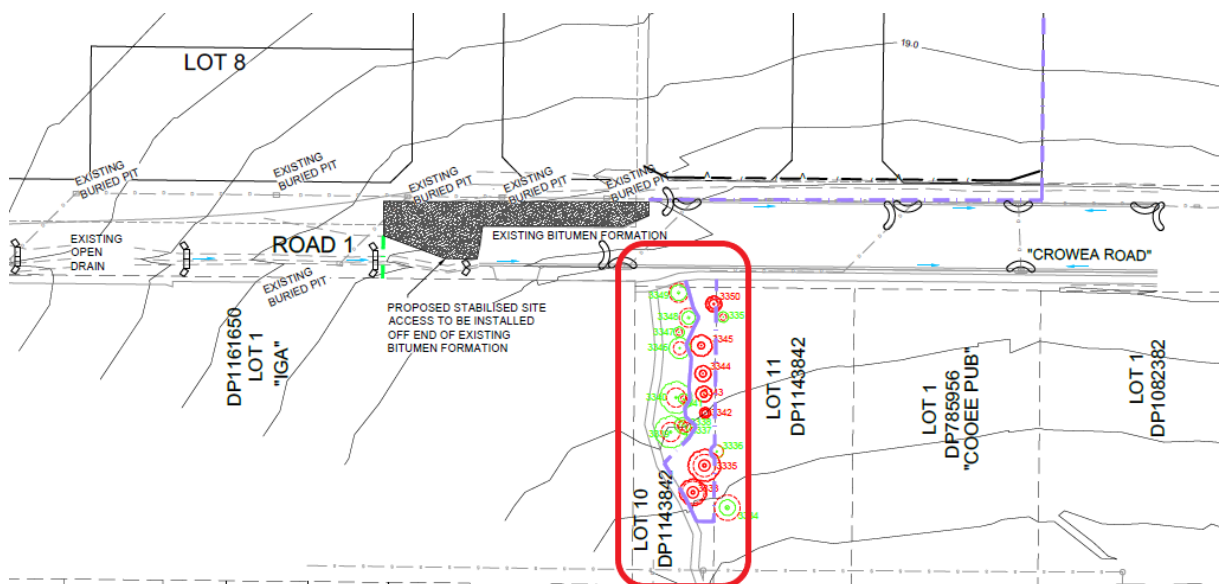


Figure 3. Subdivision Works Certificate approved Site Layout Plan - showing the outline of the site in red, and the location of the "Village Green" Lot 10 DP1143842 in green (APS, Dwg No.N27792-101, Rev 0, dated June 2020)





design plan by Allen Price & Scarratts drawing N27792-201, 202 and 203, Rev 1 dated 4/11/2020.

These design plans approved a sewer reticulation line through Lot 10 DP1143842 "Village Green" to connect to the existing sewer manhole located within Council's lot. These design plans did not show trees in the location of the proposed sewer line (refer Figure 5).

Condition (c) of the approval letter stated:

*"(c) **Details of any trees** which are located in the vicinity of the proposed sewer main/s or works (including on-site and in any adjoining properties), are to be lodged with Shoalhaven Water. Where there are trees that may be impacted by the proposed sewer main construction works, an arborist's report detailing the likely impact upon such trees and specifying precautions to be observed during construction works and/or the need for tree removal, together with necessary written approval/s from respective property owner/s and Shoalhaven City Council (in accordance with Council's Tree Management Policy), are to be lodged with Shoalhaven Water."*

No such application has been lodged with Council.

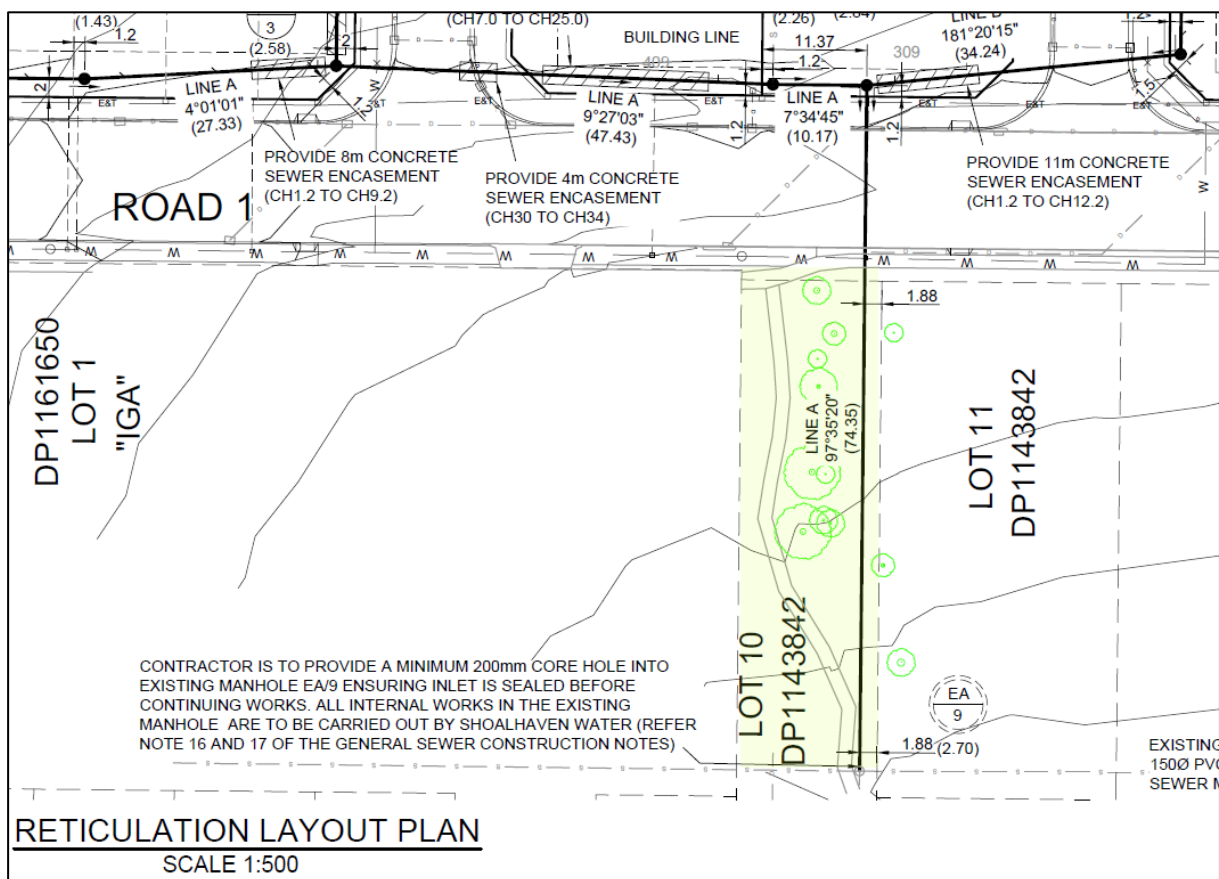


Figure 5. Excerpt of approved Reticulation Layout Plan - showing the location of the "Village Green" Lot 10 DP1143842 in green (APS, Dwg No. N27792-202, Rev 1, dated 4/11/2020))

#### Correspondence with applicant

On 15 April 2021 Council wrote to the applicant's consultant engineers, Allen Price & Scarratts Pty Ltd (APS), confirming that it is Council's position that the development consent, subdivision works certificate and sewer reticulation approvals do not give approval for undertaking any removal of trees on Lot 10 DP1143842 "Village Green".

This email advised of the following:

CL21.81

*“Accordingly, it appears there are (but not necessarily limited to) 3 options available for sewer servicing alignments through Lot 10 DP1143842 and addressing the location of the trees:*

- 1. Lodge a DA to remove the trees. This will be publicly notified with an unknown date for determination given the considerable public interest. Existing approvals for a sewer servicing line to go through the area of the trees is not justification for removal trees particularly as alternate options are available.*
- 2. Relocate the sewer toward the northern boundary of the Village Green to avoid the trees. This will require new plans to be approved by Shoalwater, keeping in mind repair of any damage to the new park infrastructure. All plans are to be drafted in accordance with the WSAA Sewer Codes and Shoalhaven Water’s Supplement to that code and Shoalhaven Water design requirements.*
- 3. Under bore the trees which would require an amended plan approved by Shoalwater. This will also need an Arborists report including potential root mapping and geotechnical reports regarding soil strata for the sewer line.*

*Any works and approvals undertaken by the developer to service their development is to be borne by the developer. This is to facilitate their development, and the trees are on Council’s land and are Council’s asset. Protection of Council’s assets due to private development is not something Council takes financial liability for”.*

APS responded on 16 April 2021 that, *“our client has instructed us to investigate an alternative sewer alignment that is clear of the existing trees”*. This email included an alternative possible sewer alignment being explored along the northern boundary of Lot 10 DP1143842 “Village Green”, clear of any significant trees on the site.

A further email from the applicant dated 19 April 2021 confirms that the applicant is seeking a re-design of the sewer infrastructure with their consultant to ensure sufficient clearance from the trees.

## **Conclusion**

No approval for tree removal on “Village Green” Lot 10 DP1143842 has been granted under the development consent for subdivision under SF9847, or any subsequent approvals issued by Council to facilitate the development’s sewer reticulation lines.

The applicant has indicated they are exploring an alternate alignment for connection into Council’s sewer manhole on Lot 10 DP1143842, that will be clear of existing trees on the site. Council staff will undertake a rigorous assessment of this alternative sewer design prior to approval.

Any removal of trees on Lot 10 DP1143842 will require assessment and approval by Council. No such application has been lodged or considered by Council at the time of writing this Report.

CL21.81



## 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.