

## Ordinary Meeting

**Meeting Date:** Monday, 07 February, 2022  
**Location:** Council Chambers, City Administrative Building, Bridge Road, Nowra  
**Time:** 5.30pm

**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 Country

### 2. Opening Prayer

### 3. Australian National Anthem

### 4. Apologies / Leave of Absence

### 5. Confirmation of Minutes

- Ordinary Meeting - 25 January 2022

### 6. Declarations of Interest

### 7. Presentation of Petitions

### 8. Mayoral Minute

#### Mayoral Minute

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#### Reports

##### CCL22.2 Tenders – Ulladulla Harbour Berthing Facility

*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.*

## **MM22.1      Mayoral Minute - Congratulations to NSW Australian of the Year Professor Veena Sahajwalla of UNSW**

**HPERM Ref:**      D21/494819

### **Recommendation**

That Council writes to Professor Veena Sahajwalla congratulating her on being named NSW Australian of the Year for 2022.

### **Details**

The Australian of the Year Awards are highly prestigious awards that recognise people who have made outstanding achievements and have had a profound positive impact in their chosen profession or vocation.

Professor Veena Sahajwalla has been named the NSW Australian of the year recognising and celebrating her achievements as a leading expert in the field of recycling science.

As a founding Director of the Centre for Sustainable Materials Research and Technology at UNSW, Professor Sahajwalla and UNSW have teamed up with Shoalhaven Waste Services to establish a micro factory at West Nowra recycling facility that converts glass and textile waste into amazing new building products such as floor and wall tiles.

Shoalhaven is proud to be working with Professor Sahajwalla and the UNSW team who are working on this exciting new technology to re-purpose our waste materials into quality everyday items.

Professor Sahajwalla is an inspiration to young women in science and technology. I sincerely hope that her recognition as NSW Australian of the Year will inspire many more young women to follow in her footsteps, leading the way in addressing significant environmental issues such as waste and help promote action on climate change.

Congratulations Professor Veena Sahajwalla for your ground-breaking efforts in science and on becoming NSW Australian of the Year.

MM22.1

## MM22.2 Mayoral Minute - 2022 Australia Day Honours

HPERM Ref: D22/40167

### Recommendation

That Council recognise and congratulate the following 2022 Australia Day Honours recipients; Leonie Fleming OAM, Ms Patricia Hall OAM, The Late Mr Allan McDonald OAM, Mr Raymond Pearson OAM, Ms Carmel Donnelly PSM, Mrs Jennifer Lawther AFSM, Lieutenant Commander Kate Carriage CSM RAN and Lieutenant Michael Loring CSM RAN.

### Details

#### The Order of Australia Medal in the General Division (OAM)

- **Mrs Leonie Fleming OAM** of Ulladulla for service to aged welfare and to education.
- **Ms Patricia Hall OAM** of St Georges Basin for service to the community of Liverpool.
- **The Late Mr Allan McDonald OAM** of Ulladulla for service to the community through a range of roles.
- **Mr Raymond Pearson OAM** of Basin View for the service to Veterans and their families.

#### Meritorious Awards – Public Service Medal (PSM)

- **Ms Carmel Donnelly PSM** of Lake Conjola for outstanding public service to regulatory reforms in New South Wales

#### Meritorious Awards – Australian Fire Service Medal (AFSM)

- **Mrs Jennifer Lawther AFSM** of Callala Beach.

#### Military Awards – Conspicuous Service Medal (CSM) including Order of Australia in the Military Division

- **Lieutenant Commander Kate Carriage CSM RAN** of South Nowra for meritorious devotion to duty as the Naval Aviation Systems Program Office Deputy Chief Engineer between January 2019 and December 2020.
- **Lieutenant Michael Loring CSM RAN** of Wrights Beach for meritorious devotion to duty as staff officer safety in Shore Force.

MM22.2

## CL22.40 Rescission Motion - CL22.7 - Ordinary Meeting - Order of Business

HPERM Ref: D22/32922

Submitted by: Cllr Paul Ell  
Cllr Serena Copley  
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 CL22.7 Ordinary Meeting – Order of Business of the Council Meeting held Tuesday 25 January 2022.

### Background

The following resolution was adopted at the Ordinary Meeting held 25 January 2022 (MIN22.10):

*That Council adopt the Order of Business, as follows, for the Ordinary Meetings of Council:*

1. *Acknowledgement of Country*
2. *Moment of Silence and Reflection*
3. *Australian National Anthem*
4. *Apologies/Leave of Absence*
5. *Confirmation of Minutes*
6. *Declarations of Interest*
7. *Presentation of Petitions*
8. *Mayoral Minutes*
9. *Deputations & Presentations*
10. *Call Over of the Business Paper*
11. *A Committee of the Whole (if necessary)*
12. *Report of Committees*
13. *Report of the Shoalhaven Traffic Committee (if required)*
14. *Officers Reports*
15. *Notices of Motion and Questions on Notice*
16. *Addendum Reports*
17. *Confidential Reports*

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

### Note by the CEO

If this Rescission Motion is carried Notice of Motion CL22.7 Ordinary Meeting - Order of Business will be dealt with.

CL22.40

## CL22.41 Notice of Motion - CL22.7 - Ordinary Meeting - Order of Business

**HPERM Ref:** D22/32951

**Submitted by:** Cllr Serena Copley  
Cllr Paul Ell  
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 adopt the Order of Business, as follows, for the Ordinary Meetings of Council:

1. Acknowledgement of Country
2. Opening Prayer
3. Australian National Anthem
4. Apologies/Leave of Absence
5. Confirmation of Minutes
6. Declarations of Interest
7. Presentation of Petitions
8. Mayoral Minutes
9. Deputations & Presentations
10. Call Over of the Business Paper
11. A Committee of the Whole (if necessary)
12. Report of Committees
13. Report of the Shoalhaven Traffic Committee (if required)
14. Officers Reports
15. Notices of Motion and Questions on Notice
16. Addendum Reports
17. Confidential Reports

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

### Background

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

CL22.41

## **CL22.42 Notice of Motion - Eastern Distributor Road (ENSA) - Grant Funding Opportunity**

**HPERM Ref:** D22/10513

**Submitted by:** Cllr Greg Watson

### **Purpose / Summary**

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

### **Recommendation**

That Council make urgent representations to TPFNSW requesting them to fund the construction of East Nowra Sub Arterial Road (ENSA). Council offer to make an application for grant funding from the Commonwealth Government to assist with the construction.

### **Note by the CEO**

A once in three year opportunity presents itself with Federal Election to seek urgent assistance to assist in the construction of this project.

CL22.42

## **CL22.43 Notice of Motion - Traffic Management - Comerong Island Road / Millbank Road**

**HPERM Ref:** D22/10433

**Submitted by:** Cllr Greg Watson

### **Purpose / Summary**

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

### **Recommendation**

That the CEO prepare a report on options to discourage Comerong Island Road and Millbank Road being used as a "rat run" by non residents. Such report to consider the possibility of the introduction of a Local Traffic Management Plan.

CL22.43

## **CL22.44 Notice of Motion - Call in DA21/1834 - 14 Jay Street Culburra Beach - Lot 7 DP 246986**

**HPERM Ref:** D22/36317

**Submitted by:** Cllr Greg Watson

### **Purpose / Summary**

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

### **Recommendation**

That DA21/1834 14 Jay Street Culburra Beach - Lot 7 DP 246986 be called in for determination by Council because of public interest.

CL22.44

## **CL22.45 Notice of Motion - 'Call In' of Development Applications - DA21/1991 31 Porter Cct, Milton - DA21/2348 36 Yarrawonga Dr, Mollymook - DA21/2359 32 Yarrawonga Dr, Mollymook**

**HPERM Ref:** D22/32142

**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 'call in' the following Development Applications for determination by the Council due to the public interest:

1. Development Application DA21/1991 for 31 Porter Cct Milton being Lot 319 DP1232292
2. Development Application DA21/2348 for 36 Yarrawonga Drive, Mollymook being Lot 304 DP 1234415
3. Development Application DA21/2359 for 32 Yarrawonga Drive Mollymook being Lot 211 DP 1043758

CL22.45

## CL22.46 Notice of Motion - Management of Mobile Food Vending on Council Owned or Managed Land

HPERM Ref: D22/39087

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. Provide a temporary Permit/License to Hello Huey Mobile Food Van for a period of 6 months to operate from Matron Porter Drive Reserve Narrawallee (opposite Bangalow Street).
2. Undertake a full review of the Mobile Food Vending Vehicles on Council Land or Managed Land Policy within the next 6 months.
3. A draft Review of the Policy be reported to Council prior to public exhibition.
4. The draft Policy Review be placed on public exhibition for a period of 28 days and reported back to Council following the exhibition.

### Background

Hello Huey (HH), has been operating in the Narrawallee/Ulladulla/Burrill Lake area since 2020 and for the last 7 months in the parking area at Matron Porter Reserve. Huey has a Council permit to operate.

Recently prior to Christmas a new General Store, Takeaway & Coffee premises was opened at Narrawallee Inlet Reserve which provides Coffee, Lunch and Dinner on selected days.

Complaints have been received by the Rangers regarding the operations for Hello Huey in the area that there is not the required distance between the two operations. Hello Huey, is approximately 800 metres away from the new premises. Hello Huey is unable to gain the required 1,000 metres as they are at the far end of the reserve area to the south. Currently Hello Huey is not operating at the reserve due to policy enforcement.

Following the complaints, a petition was taken up by residents and visitors in the area and has been presented tonight to Council with over 2,000 signatures. Additionally, many Councillors have received emails regarding this matter, all have been positive for Hello Huey to stay on the reserve area and requesting Council to change the policy especially the distance.

Narrawallee is a village that currently has one new shop however, Hello Huey was trading in their location and had approval prior to the new food business.

Hello Huey has tried to work with the owners of the new business who has a variety of food options and open during the day and evenings. Hello Huey only sells Coffee and cakes and has many regular customers who come every day for their 'coffee fix'.

Where the van was usually parked in Matron Porter Reserve it has created a thriving community hub where people enjoy going to meet with their kids, catching up with friends

CL22.46

and supporting a young local build her business. With the ever-growing population in Narrawallee and the new homes being built there is plenty of room for two businesses.

This community has rallied together in the last 2 years through Bush Fires, Floods, COVID and the community is supporting a young person and HH trying to have a go. The two businesses in Narrawallee offer a different experience and there is room for both. Hello Huey and their team have been there consistently when the other business was open then closed and then open again. Residents and visitors believe consistency is what Narrawallee deserves. HH have provided an important service during many months of difficult times for the community with the added motivation of many elderly vulnerable members finally able to meet in a covid safe space.

During what was a very stressful time for everyone, one experience that stood out as a highlight in Narrawallee/Ulladulla was the Hello Huey van. It became a beacon of community - a semblance of normality in a world gone crazy. The staff were always smiling beneath their masks. They religiously observed all the COVID protocols and yet simultaneously seemed to represent a local highlight, where people could still go to grab a coffee and a personal exchange with a fellow human being.

On the odd occasion when the van was not in its position, you would see walkers' approach and then appear crestfallen when they could not get their regular fix. HH is an integral part of the community who have been there for Narrawallee during the toughest of times. It has been horrible for residents to see them unable to reap some reward during the peak summer months. This is demonstrated by the Petition.

Any business that sells good coffee and provides efficient and friendly service will do well. As an example, the coffee shops and cafes in Milton or Ulladulla all seem to do well even though they are close to each other. They all have a point of difference in the food they sell as do the Narrawallee Inlet Cafe and the coffee van.

HH employs up to 7 young people and provides training in hospitality for many more. Currently, Councillors are aware of the shortage of trained staff in hospitality that is affecting other businesses with many trading with insufficient staff. Closure of HH maybe detrimental to the ongoing development and engagement of our local youth gaining training and employment opportunities.

Many Councils have changed their policies for Mobile Food Van since the introduction of the SEPP (2017) and COVID.

For Hello Huey to continue their operations at Matron Porter Reserve and for Council to undertake a review of the policy I am recommending a short-term permit/license from where Huey operates and a full review of Council's policy.

I am requesting support from all Councillors.

One resident has written to Council & Councillors stating:

*"Hello Huey, is a mobile coffee caravan that has been onsite in Narrawallee Reserve for some time. The van and its operators bring a ray of sunshine to the Narrawallee area. It has become part of the lifeblood of Narrawallee. In fact, tourists have identified Hello Huey as one of the most appealing attractions of Narrawallee!! Locals, visitors, walking groups, beachgoers, doggy folk.... all have embraced the benefits that Hello Huey has brought. Not to mention the great coffee, best muffins in the world, fresh flowers, always a smile....*

*And all located near the toilets, with bins, with shade, with tables (though we could do with more, but that's a matter for another day!!) ....*

*Yet all this has now been taken away from us. Apparently thanks to an outdated Shoalhaven City Council Policy, it would appear.*

*A petition signed by 2,048 people (to date) is requesting SCC return Hello Huey to Narrawallee Reserve.... So, it is apparent that the community wants HH there. But it hasn't yet happened.*

*It is my understanding that current Council policy restricts trading for mobile food outlets on Council property within 1km of a retail outlet. Yet, just down the road, Mollymook Beach's four retail cafes have embraced Swell mobile coffee van on Mitchell Pde, and all operate successfully.*

*Can't Narrawallee manage just two? Sure, it can – one to the north at the Inlet, one to the south at the Reserve. In essence a similar product but catering to different markets and different locations. Both ideally situated for individual success.*

*Council needs to amend its policy to allow two / or more food outlets – mobile and retail - to operate within a closer radius than 1km throughout the Shoalhaven.*

*I implore you to vote with the community: CHANGE THE POLICY / EFFECTIVE IMMEDIATELY. And request Council get a wriggle on to reinstate Hello Huey to the Narrawallee Reserve location.*

*It is imperative that Council allows free enterprise to operate as it should and not be party to the restriction of trade of hardworking business owners".*

CL22.46

## CL22.47 Notice of Motion - North Durras & Depot Beach – Access Pathway & Waste

HPERM Ref: D22/39133

Submitted by: Cllr Patricia White  
Cllr Mark Kitchener

### Purpose / Summary

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

### Recommendation

That Council:

1. Investigate with residents the construction of a shared pathway between North Durras and Depot Beach along the existing road and transmission lines easement.
2. Consider the funding of the pathway in the 2022/23 or 2023/24 budgets.
3. Arrange a meeting with local businesses of North Durras & Depot Beach to the address the issues with waste collection.
4. Provide a further report to Council.

### Background

Cllr Kitchener and Cllr White recently met with residents of North Durras & Depot Beach on several occasions to discuss issues of the two villages which included pathways and waste.

The two small villages have grown in recent years due to the COVID with residents taking up permanent residency. There is a need to Council staff to meet with residents to discuss their needs which include:

1. A shared pathway between the two villages. Currently, residents must walk on the road which is quite dangerous with many vehicles driving fast and the poor sight distances. Additionally, the footpaths/road reserves are overgrown with vegetation and maybe a possibility of extending the road reserve with white poles to solve issues as has been done in other areas.
2. Waste collection from the local shop and tourist parks. There are issues with waste collection as there is no commercial service available either from Batemans Bay or Nowra due to Environmental levies and distance.

The two villages until recent times were small however, this is changing with more residents choosing to move into the village permanently.

Additionally, tourism numbers are growing with many more tourists visiting the area. Recently, this area was named in the top ten beaches of Australia.

It is imperative that Council review the current infrastructure and pathways to ensure that they meet the needs of residents and tourists and prevent the issues previously experienced at Hyams Beach and ensure they are not transferred to this beautiful part of the Shoalhaven.

CL22.47

## CL22.48 Report of the Aboriginal Advisory Committee - 25 October 2021

HPERM Ref: D21/484286

**Attachments:** 1. Copy of Report to AAC [↓](#)  
2. Amended Terms of Reference [↓](#)

**AA21.16 Aboriginal Advisory Committee Terms of Reference  
Review**

**HPERM Ref:  
D21/386045**

### RECOMMENDATION

That Aboriginal Advisory Committee accept the proposed amendments to the Aboriginal Advisory Committee Terms of Reference and submit to Council for adoption.

#### Note by the CEO:

The Aboriginal Advisory Committee (AAC) review workshop was held on Monday, 6 September 2021. Four members of the AAC attended the workshop to review the Terms of Reference (TOR) and have suggested the below amendments for the group to review and endorse. Following the TOR workshop, Governance were consulted to review the proposal and some adjustments have been suggested which are outlined in the attachments.

CL22.48

## AA21.16 Aboriginal Advisory Committee Terms of Reference Review

**HPERM Ref:** D21/386045

**Department:** Community Connections  
**Approver:** Jane Lewis, Director - City Lifestyles

**Attachments:** 1. Aboriginal Advisory Committee - Terms of Reference - Review September 2021

### Reason for Report

To provide the Aboriginal Advisory Committee with proposed amendments to the Terms of Reference for endorsement.

### Recommendation

That Aboriginal Advisory Committee accept the proposed amendments to the Aboriginal Advisory Committee Terms of Reference and submit to Council for adoption.

### Options

1. The recommendation is adopted as written:  
Implications: The Terms of Reference (TOR) will be updated and provide the Aboriginal Advisory (AAC) an agreed way forward as detailed in this report.
2. The recommendation is not adopted, and an alternative recommendation is provided.  
Implications: The proposed TOR will not be updated and the AAC will be required to provide an alternative proposal.

### Background

The Aboriginal Advisory Committee (AAC) review workshop was held on Monday, 6 September 2021. Four members of the AAC attended the workshop to review the Terms of Reference (TOR) and have suggested the below amendments for the group to review and endorse. Following the TOR workshop, Governance were consulted to review the proposal and some adjustments have been suggested which are outlined below.

AAC proposed amendments are as follows:General

- Update Council staff titles reflecting the organisational restructure.
- Update Council's Community Strategic Plan to reflect most recent from 2023 to 2027

#### 1. Purpose

- Include reference to Council's endorsement of the Uluru Statement of the Heart 2020.

#### 4.2 Role of the Advisory Committee

- Addition 'Provide specialist advice to others of Council'.

#### 4.3 Membership

- Suggested amendment *'Five (5) members being a representative from each Local Aboriginal Land Council which include Nowra, Jerrinja, Ulladulla, Illawarra and Batemans Bay'*

This currently reads that membership covers delegates from three Local Aboriginal Land Councils (LALCs) Nowra, Jerrinja and Ulladulla. It is proposed that this be amended to extend to the five Local Aboriginal Land Councils (LALCs) and include Illawarra and Batemans Bay as these LALCs overlap the land footprint of the Shoalhaven LGA.

- Remove organisation / agency list to broaden out and include all Aboriginal organisations and agencies in the Shoalhaven which the AAC can approach to provide professional guidance.

AAC members indicated that 13 local Aboriginal community representatives are sufficient to provide representation of the community if these members are active and participate in the group regularly. Governance have advised that in instances where a member is absent for three consecutive meetings of the AAC without an apology, on request of the AAC or Community Capacity Builder Aboriginal, they provide formal correspondence from the Council to confirm the members intention regarding their membership. To date this has not occurred.

Combine '4.4 Community Member Appointments' and '4.5 Term of Office' into one section to remove duplication (outlined below).

#### 4.4 Community Member Appointments

- Amended title to 'Membership Appointments'
- Set out the process for new member appointments. *'An interview panel will consist of a Council staff member, the Chair of the Aboriginal Advisory Committee and one (1) Aboriginal Committee representative to assess the applications against the agreed criteria for the Committee. Appointment recommendations of AAC to be submitted to Council at the next Ordinary Meeting for endorsement'*.
- Addition *'This process does not apply to Government/Non-Government agencies/organisation such as NPWS representative or LALCs delegates who will be nominated by the representing organisation/agency'*.

Governance advised to amend *'Councillor membership will be renewed at following normal Council elections'* to *'Councillor membership will be re-affirmed at the Call Meeting in September of each year'*.

#### 4.5 Term of Office

- Dot points removed and combined with 4.4 to avoid duplication.

#### 4.6 Meeting practices and procedures

- Amendment *'The Chair of the Committee will be appointed from the Aboriginal Members of the Committee; a Chair can be either a community member or nominated LALC representative on the AAC membership'*.
- Addition *'In instances where the Chair is not present to perform their duties the Committee will appoint an Acting Chair for the meeting'*.
- Addition *'Chair of Committee may make representation to Council on recommendations from the Aboriginal Advisory Committee through the formal Deputation process'*.

Advice has been taken from Governance on the process and wording for making representation to Council on recommendations made by the Committee and the Deputation process and as such has proposed amendments and additions as outlined above.

Governance has advised that the format for Committee meetings is determined by the Office of Local Government guidance and is legislated in the Local Government Act 1993. The provisions for remote meetings in the Act are currently being reviewed, and for this reason, it is not possible to include 'include video conferencing' as an amendment in the TOR at this time.

- Amendment *'If a quorum is not present within 30 minutes of the time appointed for the commencement of the Advisory Committee meeting, the meeting will be adjourned or re-scheduled to a time and date set by the CEO'*
- Amendment *'Items in the minutes which are recommendations to Council will be submitted to the next available meeting. AAC Meeting minutes will be confirmed at the next AAC meeting'*.

Governance have requested that the following amendment be made:

- *'Governance will aim to circulate Agendas for Advisory Committee to members at least seven (7) days prior to the meeting'*.

#### 4.8 Confidentiality and Privacy

- Addition *'or is doing so in their capacity as a nominated representative of an organisation'*.

#### 4.12 Responsibility of Council

- Amendment to *'Councils' discretion to consider the views of the Advisory when making changes to TOR, Role and Structure of the Advisory Committee'* with the addition of *'taking into account the views of the Advisory Committee'*.

#### **Community Engagement**

AAC were consulted on the proposed changes to the TOR review workshop in September 2021. Four members of the AAC attended.

#### **Policy Implications**

Information shared during the workshop was taken into consideration for the proposed amendments to the TOR. Should the AAC wish to make any future changes to the TOR, a recommendation to Council will be required. Following the TOR workshop, the suggested amendments were reviewed by Governance and some adjustments have been made to reflect guidance received; these have been outlined above.



**City Administrative Centre**  
Bridge Road (PO Box 42), Nowra NSW Australia 2541 - DX 5323 Nowra  
Phone: (02) 4429 3111 - Fax: (02) 4422 1816

**Southern District Office**  
Deering Street, Ulladulla - Phone: (02) 4429 8999 – Fax: (02) 4429 8939

Email: [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au)

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

For more information contact the Finance Corporate & Community Services Group

## Aboriginal Advisory Committee - Terms of Reference

**Policy Number:** POL19/80 • **Adopted:** 16/08/2016 • **Amended:** 28/02/2017, 26/09/2017, 25/09/2018, 26/11/2019 • **Minute Number:** MIN16.656, MIN17.149, MIN17.853, MIN17.882, MIN18.243, MIN19.900 • **File:** 1209E • **Produced By:** Finance Corporate & Community Services Group • **Review Date:** 1/12/2020

### 1. PURPOSE

To provide appropriate and considered advice to Council on all relevant issues affecting Aboriginal and Torres Strait Islander people within the Shoalhaven LGA, and to influence Council's support & intent in achieving their objectives for the current Statement of Commitment 2010 (SoC) and the Shoalhaven City Council Community Strategic Plan 2027 (SCCSP) and endorsement of the Uluru Statement of the Heart June 2020.

### 2. STATEMENT

Shoalhaven Local Government Area (LGA) is made up of many unique communities with a diverse range of people, lifestyles and cultures. It comprises 49 towns and villages and a key role of Shoalhaven City Council within that is to work in partnership with organisations, services, government agencies and individuals to build strong, resilient, cohesive and creative communities.

Shoalhaven City Council established the Aboriginal Advisory Committee (AAC) in 1997 to advise Council on the needs of Aboriginal people living in the Shoalhaven Local Government Area. This advisory committee provides an opportunity for Council to develop both a structure for effective consultation and communication with Aboriginal communities and the opportunity for Aboriginal people to participate in Council's decision-making process to achieve mutually co-operative responses for their cultural, environmental and economic wellbeing.

### 3. PROVISIONS

The Shoalhaven City Council maintains, in its Statement of Commitment 2010, to strongly support the work of the AAC and sees it as serving an important role in providing the specialist and professional guidance to achieve positive outcomes for local Aboriginal people.

*Shoalhaven City Council - Aboriginal Advisory Committee – Terms of Reference***4. TERMS OF REFERENCE****4.1. Relationship to Council**

The committee is an Advisory Committee, administered by Council to discuss relevant issues and recommend solutions specifically associated to local government and their Aboriginal & Torres Strait Islander communities.

**4.2. Role of the Advisory Committee**

All members are encouraged to become actively involved in the business of the AAC and to be an advocate between community and Council. The role of the Committee is:-

- To advise Shoalhaven City Council on necessary issues relating to Aboriginal communities in the LGA.
- Promote and increase knowledge & understanding of Aboriginal society, history & culture in the LGA.
- Facilitate access and accessibility to services and facilities for Aboriginal people.
- Advise on the development and implementation of the Shoalhaven City Council Community Strategic Plan.
- Develop strong collaborative partnerships between Aboriginal communities and Shoalhaven City Council.
- Maintain strong links between Council and Aboriginal communities throughout the Shoalhaven to accomplish the relationships and outcomes required for genuine reconciliation.
- Foster and safeguard a spirit of mutual trust and respect which allows the AAC and Shoalhaven City Council to work together in their commitment towards intelligent, well informed decision making processes that are sensitive to all Aboriginal issues.
- Recognise, support & uphold past and present local cultural heritage and its place in future Council directions.
- Remain a meaningful 'place' for the communication of messages and information from Aboriginal community voices that identify local needs for services, facilities and activities.
- Support and promote significant celebrations and events within the Shoalhaven Aboriginal and Torres Strait Islander community.
- Provide specialist advice to other Committees of Council.

**4.3. Membership**

Representatives must live in the Shoalhaven Local Government area (LGA) area and/or work with Aboriginal communities of the Shoalhaven on a full-time or part-time basis. The composition will be:

The Group will have membership made up of the following positions:

- Up to 13 local Aboriginal community representatives including Elders, Youth or Government/Non-Government agencies/organisation delegates (including 2 Youth members).
- One (1) NPWS Representative
- Three (3) members being a representative from each Local Aboriginal Land Council
- All Councillors
- The CEO or nominee.

It is important for the AAC to take broad community advice from those Aboriginal organisations and Government agencies with a capacity to provide professional guidance to its members to enable them to make sound decisions.

*Shoalhaven City Council - Aboriginal Advisory Committee – Terms of Reference*

These organisations and agencies working in the sector may be invited to attend the Advisory Committee meetings but will have no voting privilege.

Community representatives that do not attend three (3) meeting without an apology will be sent a reminder/courtesy letter advising that their membership will lapse unless they confirm their membership in writing.

**4.4. Membership Appointments**

- Nominations for Local Aboriginal Community Members should be advertised throughout the community.
- Appointment to the Advisory Committee can be for a maximum four (4) years with a set commencement and finish date and standing members may re-nominate for an additional term.
- Should there be a local Aboriginal community membership vacancy it may be filled upon the resignation of a local Aboriginal community member and will align with set fixed finish dates.
- Vacancies will be advertised locally via media and Council communication networks.
- Council will manage the application process in consultation with the Community Capacity Builder, Aboriginal
- An interview panel will consist of a Council staff member, the Chair of the Aboriginal Advisory Committee and one (1) Aboriginal Committee representative to assess the applications against the agreed criteria for the Committee. Appointment recommendations of AAC to be submitted to Council at the next Ordinary Meeting for endorsement.
- This process does not apply to Government/Non-Government agencies/organisation such as NPWS representative or LALCs delegates who will be nominated by the representing organisation/agency.
- Councillor membership will be re-affirmed at the Call Meeting in September of each year.

**4.5. Term Of Office****4.6. Sub Committees/Working Groups/Represented Delegation**

If representing the AAC on an identified working group/party your role is to represent the Committee's commitment and purpose.

The Advisory Committee will have the right to establish sub groups as deemed appropriate to assist in fulfilling their role and purpose.

**4.7. Meeting Practices and Procedures**

- The administrative provisions of Council's adopted Code of Meeting shall apply subject to any amendment by this Advisory Committee.
- The Chair of the Committee will be limited by a four (4) year tenure and is open to all members of the Committee.
- 
- The Chair of the Committee will be appointed from the Aboriginal Members of the Committee, a Chair can be either a community member or nominated LALC representative on the AAC membership..

*Shoalhaven City Council - Aboriginal Advisory Committee – Terms of Reference*

- In instances where the Chair is not present to perform their duties the Committee will appoint an Acting Chair for the meeting.
- Councillors who have an interest in forming a relationship with the Committee should consider their ability to commit for the term of that Council.
- Chair of Committee may make representation to Council on recommendations from the Aboriginal Advisory Committee through the formal Deputation process.
- Committee members who are absent for three (3) consecutive meetings of the AAC without tendering an apology will be requested in formal correspondence from Council to confirm their intention regarding their membership of the committee. Failure to respond may result in removal from this committee.
- Formal meetings will be held a minimum of four (4) times per year (and others as required) depending on demand and also allowing Committee member's time for consultations.
- Meetings are held at Shoalhaven City Council Administrative Building or can be negotiated with Committee Members.
- A quorum will consist of five (5) local Aboriginal community members of the Committee.
- If a quorum is not present within 30 minutes of the time appointed for the commencement of the Advisory Committee meeting, the meeting will be adjourned or re-scheduled to a time and date set by the CEO
- Each Committee meeting shall be properly recorded by the taking of minutes by the Governance Unit.
- Items in the minutes which are recommendations to Council will be submitted to the next available meeting. Minutes will be confirmed at the next AAC meeting.
- Where possible, members are encouraged to reach a consensus; decisions will normally be made through modified consensuses.
- The Chair of the Committee should facilitate a meeting that is run on a consensus decision making model rather than rely on the formal structures of a simple majority plus one.
- If however there are times when a position cannot be reached, despite open and thorough exploration of the issues and options, the Chairperson will ask for a vote.
- All formal members of the Committee are entitled to a vote.
- In the event of a tied vote, the Chair can exercise a casting vote.
- Governance will aim to circulate Agendas for Advisory Committee to members at least seven (7) days prior to the meeting.
- Advisory Committee members must declare in writing any conflict of interest in any report tabled at the meeting covered by the Code of Conduct and Pecuniary Interest.
- Informal Advisory Committee meetings, special meetings that may discuss specific portfolio matters will be held as and when required or set by the Advisory Committee.
- Planning and costs associated with conducting meetings will be borne by Council.
- Advisory Committee recommendations which are determined to be purely or substantially 'operational' in nature, will be dealt with by the relevant Council officer and any action or lack thereof reported to the Advisory Committee.
- Progress towards the outcomes of Council's Community Strategic Plan 2027 and Statement of Commitment will be reported to Shoalhaven City Council at Council meetings and corporate management meetings, where appropriate, throughout the year. Progress against actions arising from AAC Minutes will be reported on a quarterly basis at each consecutive AAC meeting.

#### **4.8. Code Of Conduct**

Meetings be conducted in an informal manner, but still within Council's 'Code of Conduct' Policy which all members are required to observe.

- Advisory Committee members should act in a professional, responsible and respectful manner with the information they obtain as a member, as the Advisory Committee require openness and honesty to function well.
- Advisory Committee members must at all times respect other members when expressing their opinions and views. Members should feel free to express their opinions and views without fear of recrimination.
- It is essential for Advisory Committee members to accept collective responsibility, and remain loyal to decisions of the Advisory Committee, even where they may not have agreed with the final decision.

#### **4.9. Confidentiality and Privacy**

Members may have contact with confidential or personal information retained by Council. If so, members are required to maintain the security of any confidential or personal information and not access, use or remove any information, unless the member is authorised to do so or is doing so in their capacity as a nominated representative of an organisation.

#### **4.10. Communication**

- All issues must be clearly communicated including priorities, limitations and benefits to community.
- Care needs to be undertaken to ensure that all participants fully understand mutual issues under discussion and that there are no false expectations created. It is important that all members' views are given weight during discussions.
- Members of the Advisory Committee are not permitted to speak to the media as representatives of the advisory committee unless approved by the chairperson
- Where approval has been given by the Chairperson, views and opinions expressed are those of the Advisory Committee and not of Shoalhaven City Council.
- Where endorsement is required from Shoalhaven City Council, approval must be sought through the formal processes.
- The Chair of the Advisory Committee is the point of contact for communication between Advisory Committee members and Council staff.

#### **4.11. Council Staff Attendance**

Shoalhaven City Council will provide administrative Council staff who are normally required to attend the meetings of the Advisory Committee to carry out the following tasks:

- Collate and distribute Business Papers.
- Organise meetings.
- Minute taking, storage and distribution of minutes and associated documents.
- Providing administrative support to the Community Capacity Builder to distribute information between the Committee and the Community Capacity Builder, Aboriginal Other staff at the relevant Group Directors' discretion or at the Advisory Committee's request can attend meetings as required. Staff have no voting privileges.

*Shoalhaven City Council - Aboriginal Advisory Committee – Terms of Reference***4.12. Expectation Of Advisory Committee Members**

- Advisory Committee members will undertake the prescribed Induction process.
- Pecuniary Interest Returns may be required on appointment and annually as required by the Office of Local Government and Council.

**4.13. Responsibility Of Council**

- Council at its discretion may review and change the Terms of Reference, Role and Structure of the Advisory Committee taking into account the views of the Advisory Committee.

**5. REVIEW**

After every Council election.

CL22.48 - Attachment 2

## CL22.49 Report of the Inclusion & Access Advisory Group - 15 November 2021

HPERM Ref: D21/523622

### IA21.16 Accessible Carparking Spaces Provided in Nowra CBD

HPERM Ref:  
D21/71736

#### RECOMMENDATION

That the Inclusion & Access Advisory Group:

1. The report be received for information;
2. Request that Council write to the privately owned car parks noting the spaces do not comply with current Australian Standard;
3. Investigate/seek funding to upgrade accessible spaces in Council owned car parks to meet current Australian Standards.

### IA21.17 Accessible Car Parking Spaces - Entrances to Stocklands Nowra and K-mart Ulladulla

HPERM Ref:  
D21/71753

#### RECOMMENDATION

That:

1. Council write to the owners of Stockland and identify the issues raised in the assessment. Council staff will encourage the owner to work on remedying the discrepancies to upgrade the premises to the current legislation as this would benefit all people with a disability visiting their premises.
2. Council also request a meeting with Stockland concerning the ramp gradient providing access to the building.
3. The information be received concerning the compliant carparking spaces for Kmart Ulladulla.

### IA21.18 Membership Applications - Kylieanne Derwent and Jennifer Anstiss

HPERM Ref:  
D21/259481

#### RECOMMENDATION

That Council appoint Kylieanne Derwent and Jennifer Anstiss as community members of the Inclusion & Access Advisory Group.

### IA21.21 Adult Change Facility - Shoalhaven Indoor Sports Centre

HPERM Ref:  
D21/322491

#### RECOMMENDATION

That the Inclusion & Access Advisory Group recommend that Council:

1. Receive for information as staff have provided a response.
2. Invite a member of the IAAG to attend any design meetings in relation to council facilities and redesign of facilities.

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3. Considers another ramped exit in the redesign of the Basketball Stadium, in case of fire there is an additional exit point for those in wheelchairs.
4. Investigate the inclusion of an adult change facility in the redesign/refurbishment of the old Shoalhaven Basketball Stadium under the National Construction Code.

**IA21.22 Additional Item - Council Online Mapping Include Accessible Facilities.**

Staff advised that Community Connections are working on incorporating accessible Council facilities as part of the DIAP review.

Using the new and more empowered icon in relation to this graphic for online mapping and website upgrades.

**RECOMMENDATION**

That Council consider including information on accessible amenities in the online mapping. Information to include accessible icons particularly in relation to Tourism areas.

**IA21.24 Additional Item - Investigate replacement of Yellow Metal Bollards to prevent vehicle damage.**

Annette Pham raised concerns regarding the large metal yellow bollards placed at accessible parking spaces and the vehicle damage as the poles cannot be seen by some vehicles. It was suggested that the metal bollards be replaced by a bendy pole, similar to roadside reflector poles to prevent damage to vehicles.

**RECOMMENDATION**

That Council investigate the removal of the yellow metal bollards at accessible parking spaces and replaced with a more flexible product/bumper pole to prevent damage to vehicles.

## CL22.50 Report of the Shoalhaven Traffic Committee - 14 December 2021

**HPERM Ref:** D21/548752

**Attachments:**

1. TC21.63 Plan [↓](#)
2. TC21.64 Plan [↓](#)
3. TC21.65 Plan [↓](#)
4. TC21.66 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](#)*

**TC21.63 Road Safety Improvements - Sewerage Treatment Plant - Kings Point Drive, Kings Point (PN 3678)**

**HPERM Ref:**  
**D21/526290**

### **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 at the intersection with the Sewerage Treatment Plant at 125 Kings Point Drive, Kings Point, as per Plan No: D21/526373.

**TC21.64 Active Transport Improvements - Catherine Street - Myola (PN3679)**

**HPERM Ref:**  
**D21/528846**

### **RECOMMENDATION**

That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed Active Transport Improvements at Catherine Street, Myola as per Plan No D21/528856.

CL22.50

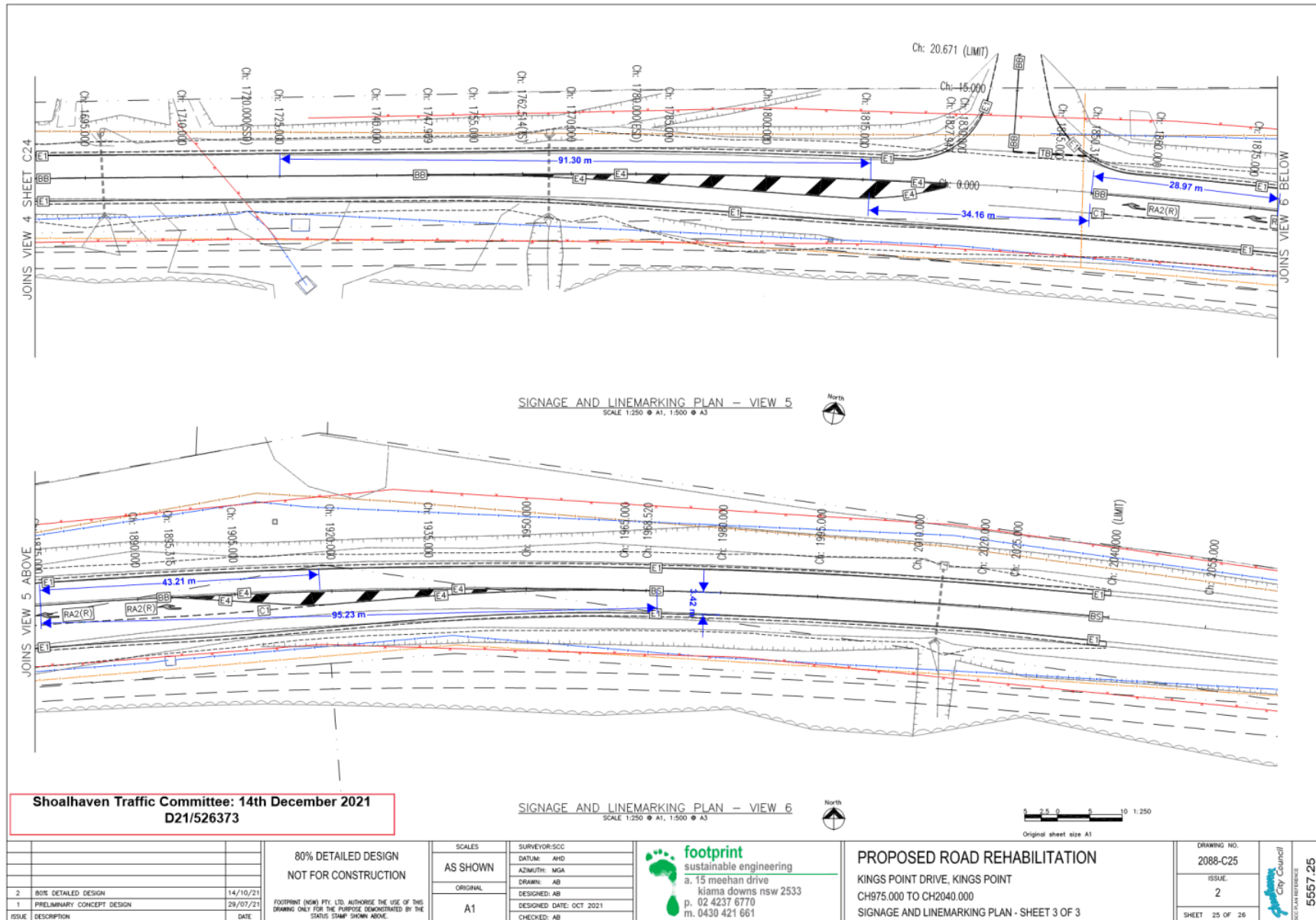
**TC21.65 Proposed Road Safety Improvements - Rock Hill  
Road - Nowra (PN 3677)****HPERM Ref:  
D21/531849****RECOMMENDATION**

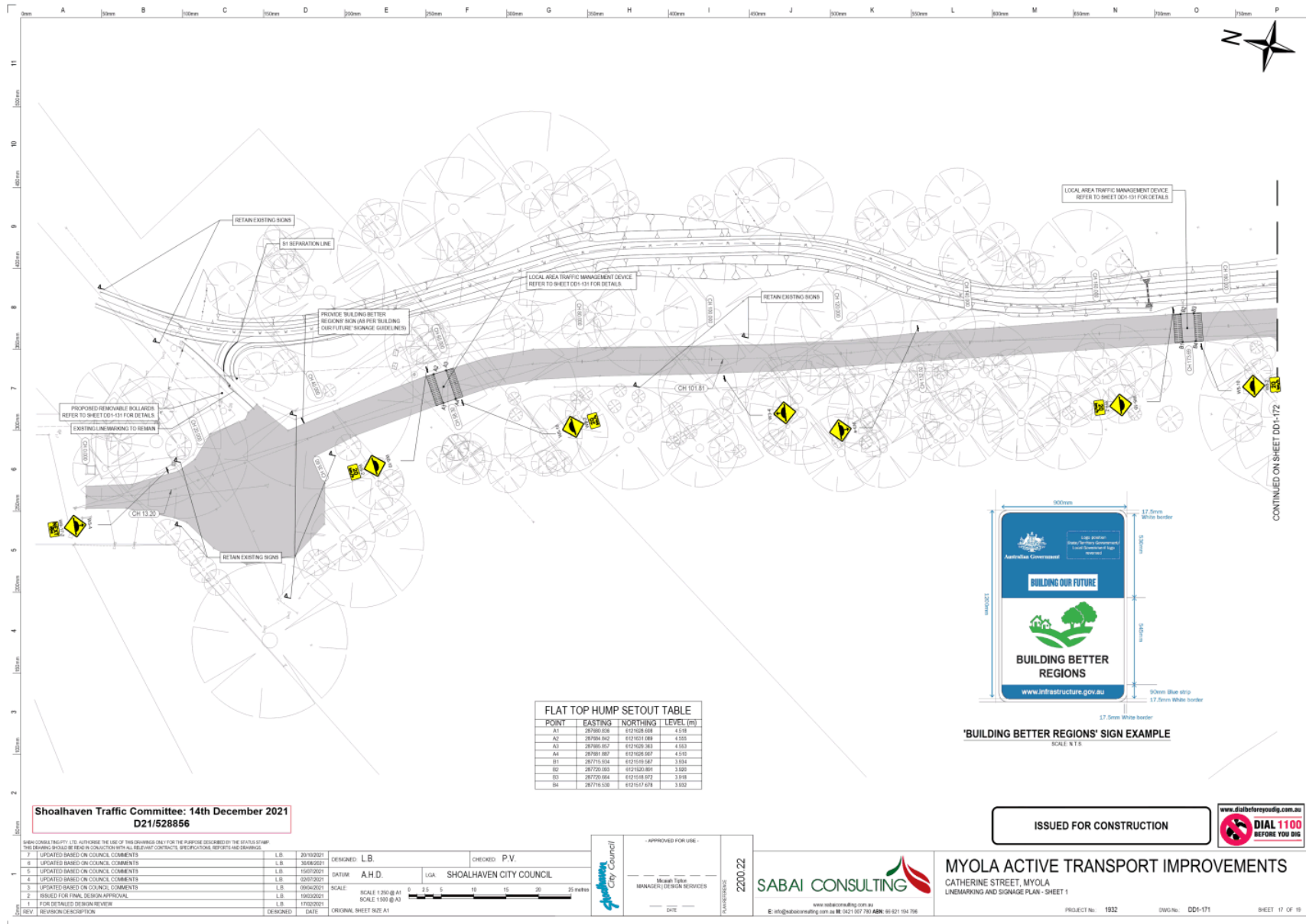
That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed signposting and linemarking changes at Rock Hill Road, North Nowra as per Plan No D21/531911 531911 subject to the installation of Chevron Alignment Markers (CAMs) meeting the necessary warrants in accordance Australian Standard 1742.2.

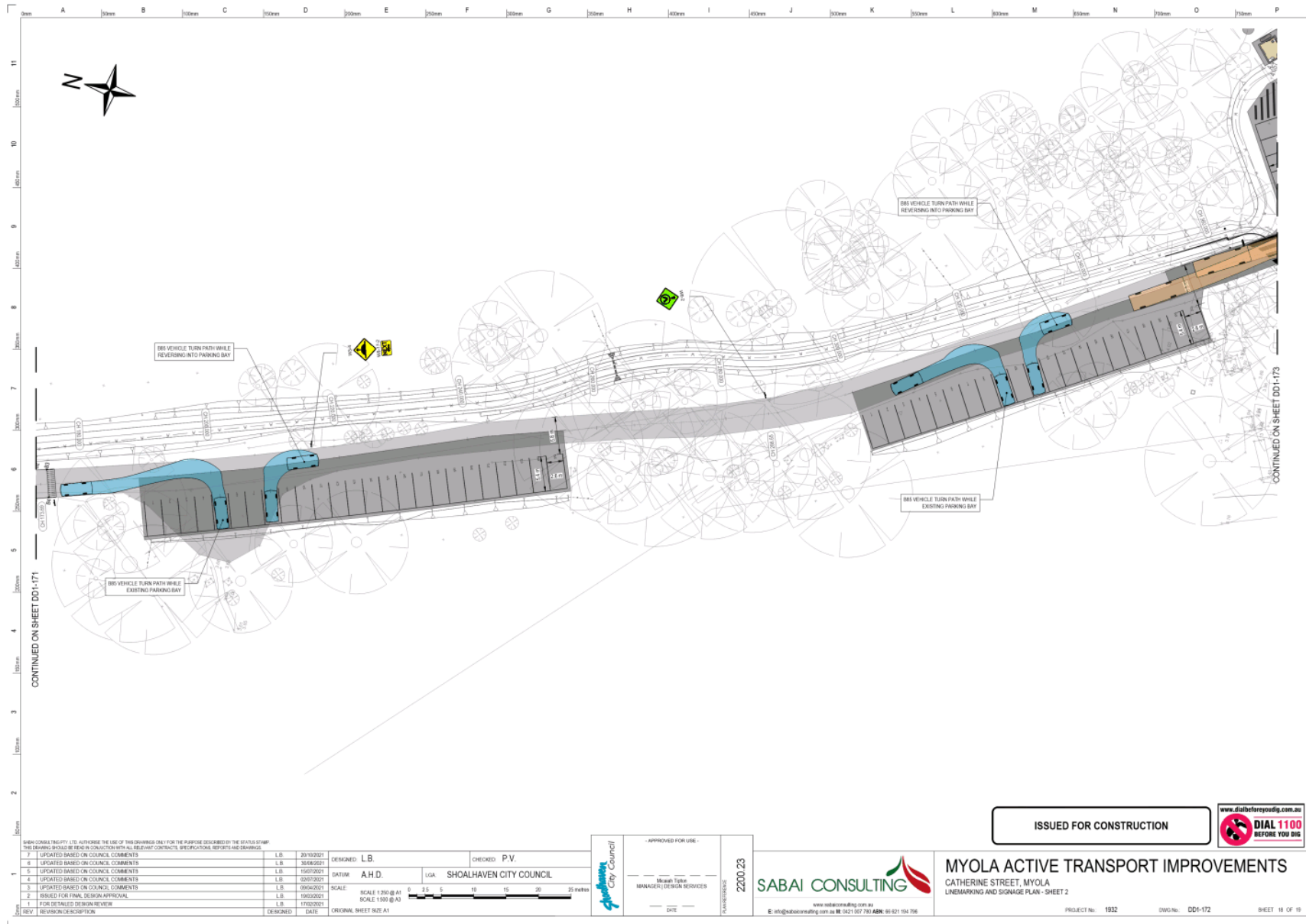
**TC21.66 Proposed Parking Restriction - Foley Street -  
Vincentia (PN 3681)****HPERM Ref:  
D21/532125****RECOMMENDATION**

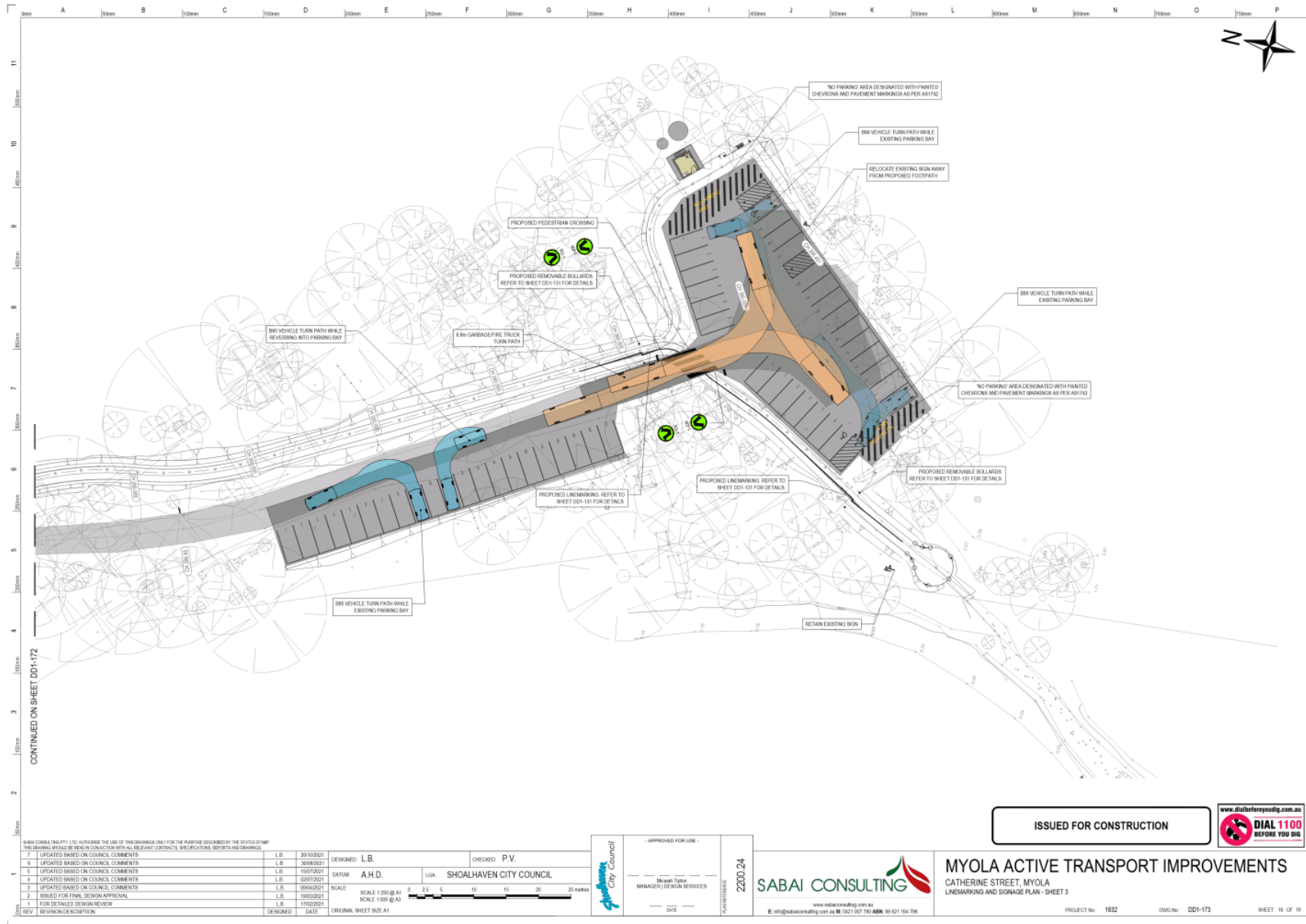
That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed parking restrictions fronting 1 and 6 Foley Street, Vincentia, as per Plan No D21/532131.

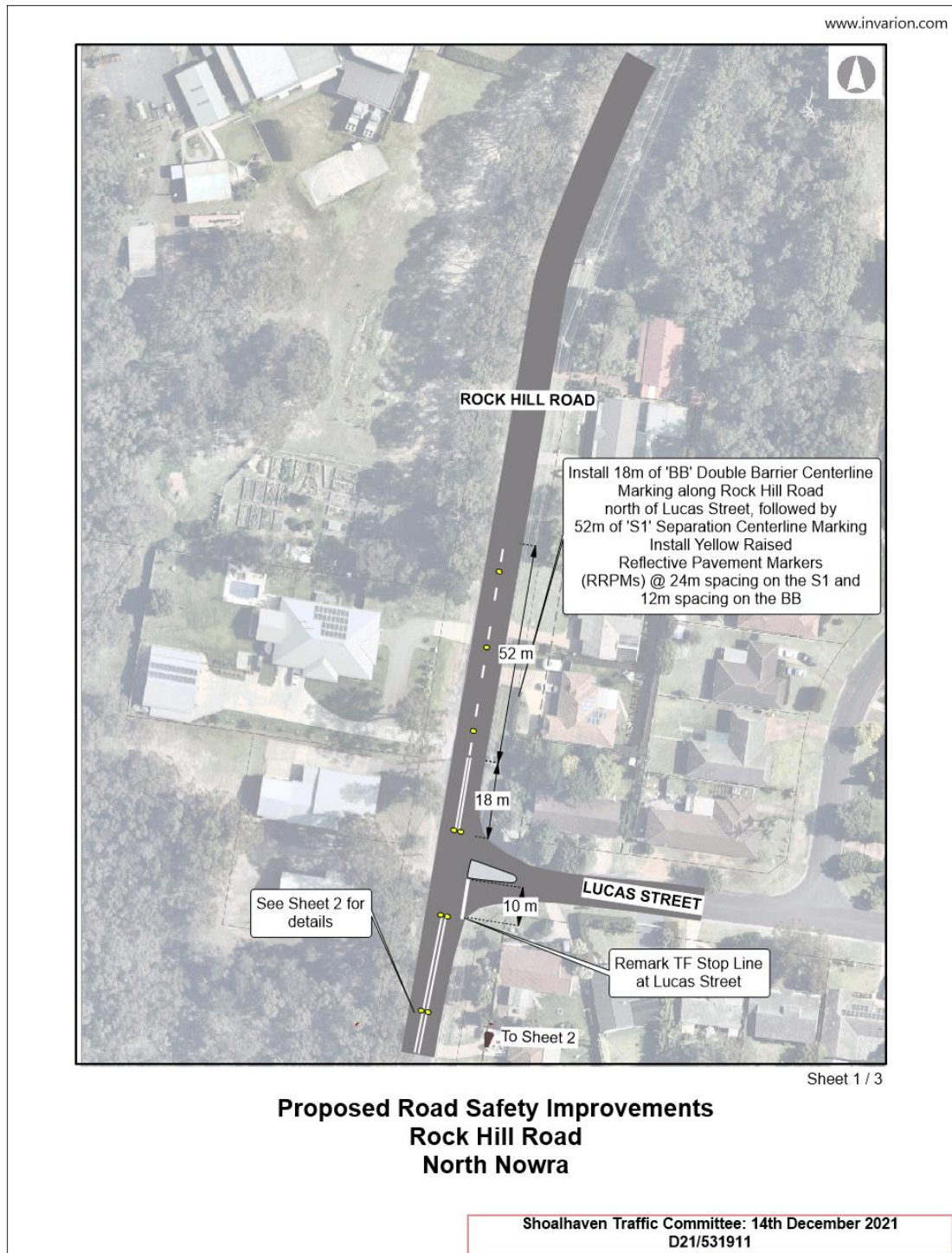
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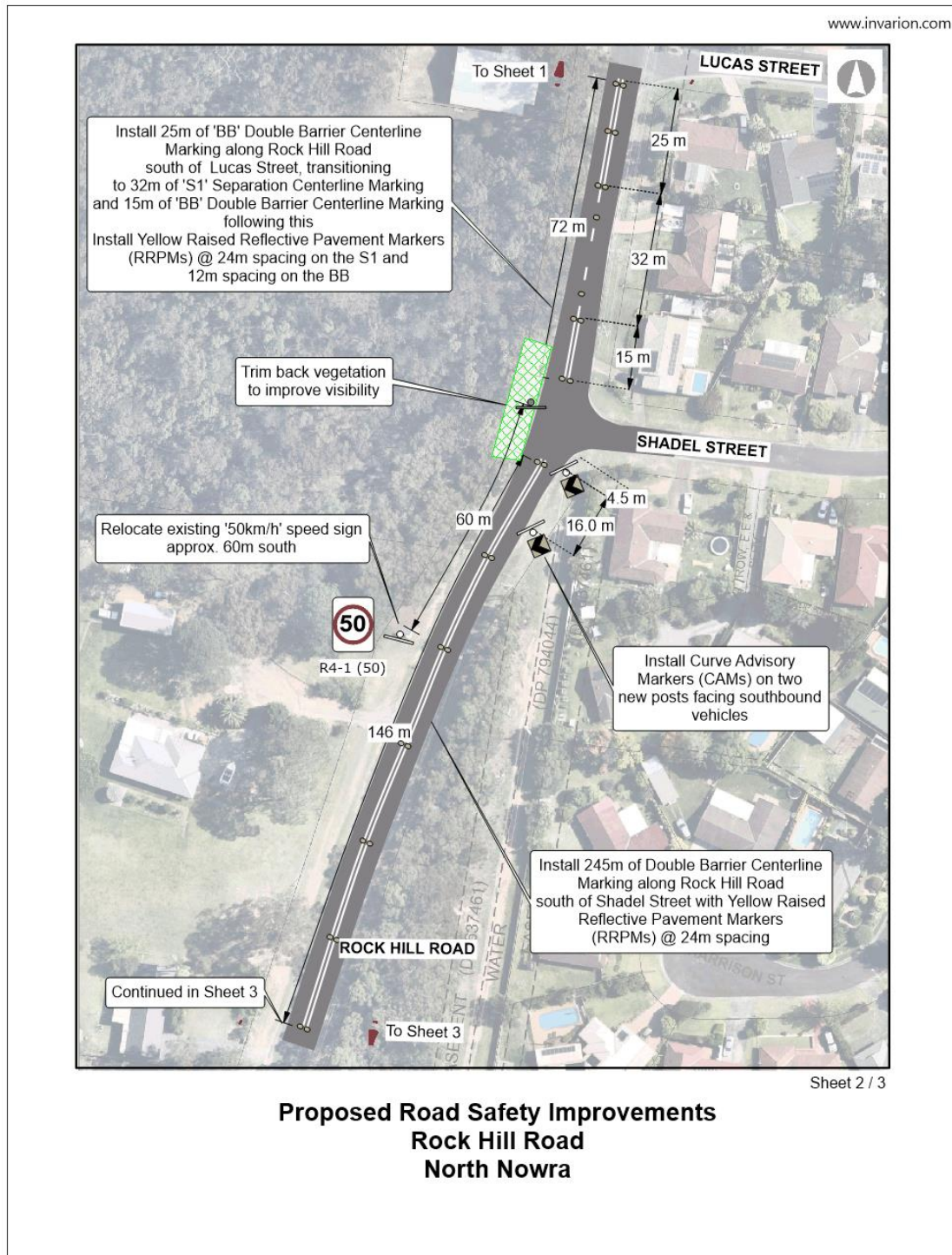


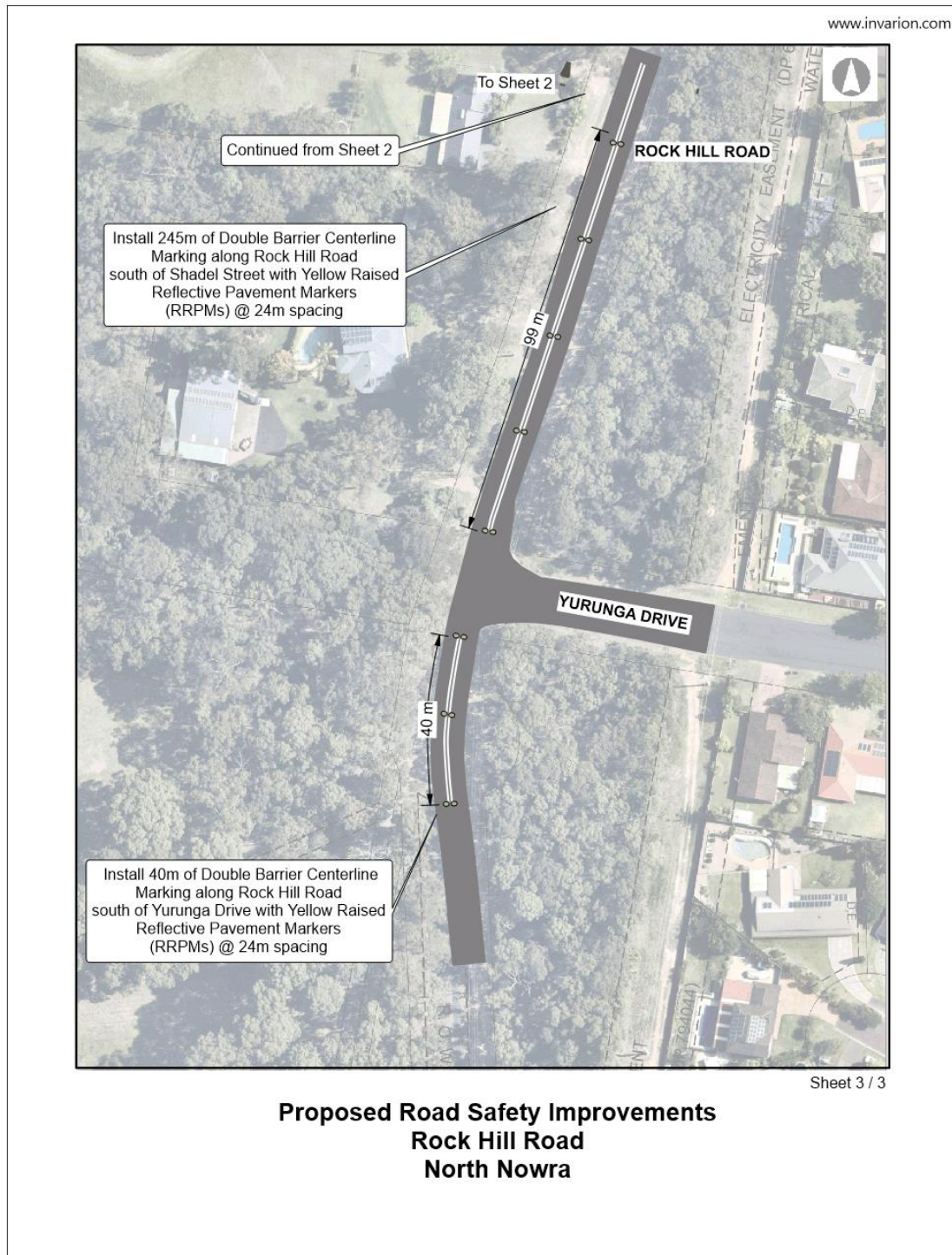














## CL22.51 Report of the Shoalhaven Traffic Committee - 18 January 2022

HPERM Ref: D22/21513

Attachments: 1. TC22.1 - PN 3682 Plan [↓](#)  
2. TC22.2 - PN 3683 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](#)*

**TC22.1 Proposed Linemarking - Lakeland Avenue - Berrara (PN 3682)**

**HPERM Ref:  
D22/3333**

### RECOMMENDATION

That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed signposting and linemarking changes at Lakeland Avenue, Berrara as per Plan No D22/3424.

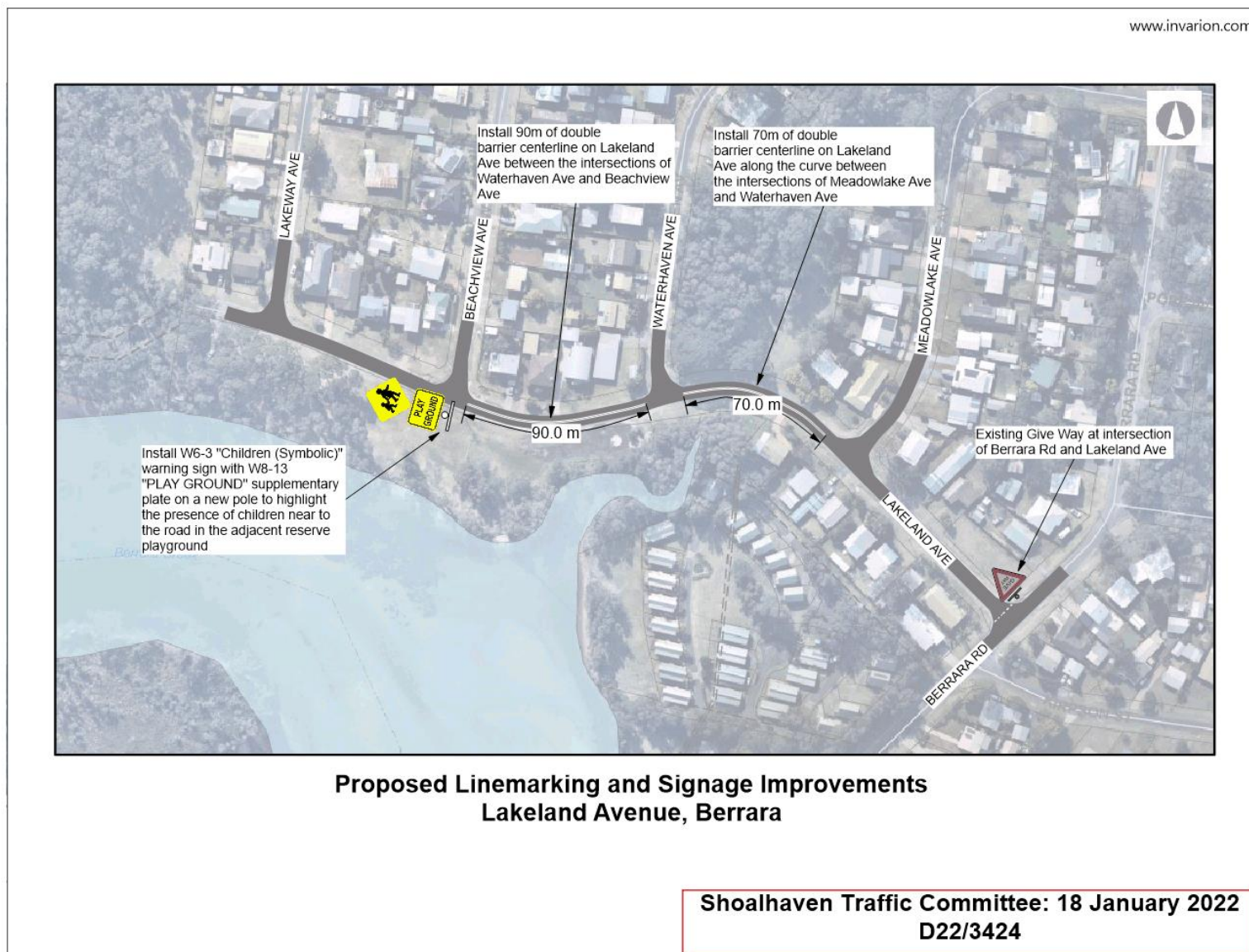
**TC22.2 Proposed Give Way Intersection Controls - Government Road and Sussex Inlet Road - Sussex Inlet (PN 3683)**

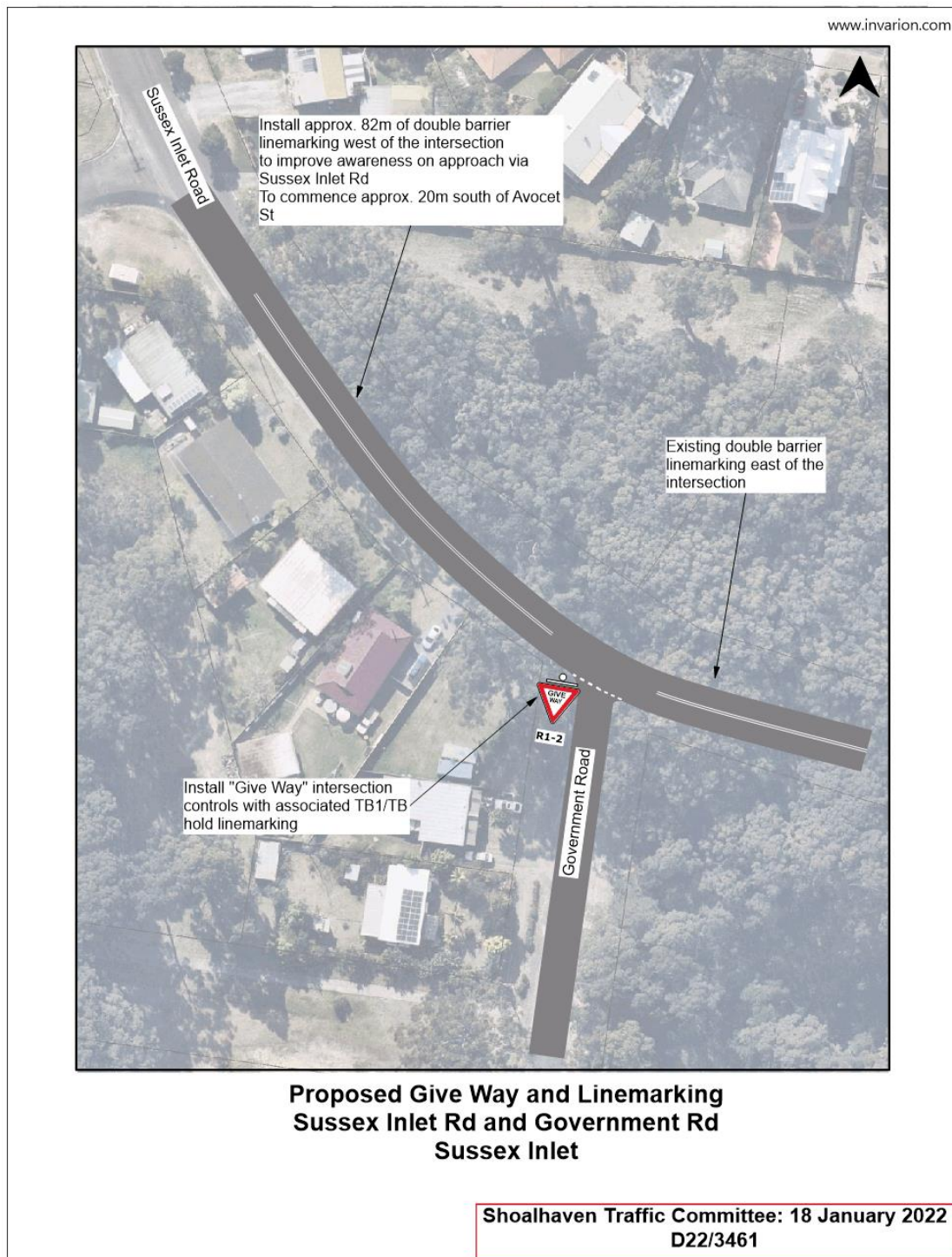
**HPERM Ref:  
D22/3444**

### RECOMMENDATION

That the Chief Executive Officer (Director City Services) be advised that the Shoalhaven Traffic Committee has no objection to the proposed "Give Way" intersection controls and related signage and linemarking, as per Plan No D22/3461.

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## CL22.52 Local Government Remuneration Tribunal - Determination of Councillor and Mayoral Fees 2021/2022 and Superannuation Payments from July 2022

**HPERM Ref:** D21/528913

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

**Attachments:** 1. Annual Report and Determination - Local Government Remuneration Tribunal 2021 (under separate cover) [⇒](#)

### Reason for Report

To consider the fees payable to the Mayor and Councillors for the remaining period of the 2021/22 financial year and to consider commencing superannuation payments to Councillors from 1 July 2022.

### Recommendation

That Council:

1. Determine the Councillor Fee payable to Councillors from 23 December 2021 to 30 June 2022 to be the pro- rata of the annual fee of \$24,810 and the Additional Mayoral Fee of \$61,280, being the maximum payable to Councillors.
2. Pay 100% of the additional Mayoral fee to the Deputy Mayor when the Deputy Mayor is required to act in the position of Mayor during periods of approved leave.
3. Commence Superannuation contributions to Councillors from 1 July 2022.

### Options

1. Pay the maximum available for the Councillor Fee and Additional Fee for the Mayor  
As recommended. This will adjust the Fees for Councillors and Additional Mayoral Fee to the maximum permissible in line with the determination of the remuneration tribunal for the remainder of the 2021/2022 Financial Year on a pro-rata basis (52% of the financial year).
2. Maintain the Councillor and Additional Mayor Fee at the same amount which was resolved on 29 June 2021 as the amount paid for the period until 3 December 2021.  
This would maintain the Councillor Fee at \$24,320 and the Additional Mayoral Fee at \$53,250 the remainder of the 2021/2022 Financial Year on a pro-rata basis (52% of the financial year).
3. Set the Councillor and Additional Mayor Fee at a different rate between the minimum and maximum permitted  
Adjust the Councillor and Mayoral fees to a lesser amount within the minimum and maximum amounts for Councillors which is set between \$14,100 (minimum) and \$24,810 (maximum). The Mayoral Additional Fee has been set at between \$29,330

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(minimum) and \$61,280 (maximum). This would apply for the period of 23 December 2021 until 31 June 2022 (52% of the financial year)

4. Adopt the recommendation for Councillors to receive a Superannuation Payment

For the 2022/2023 Financial Year, Councillors and the Mayor will be paid a superannuation payment equating to 10.5% of their fees at that time

5. Not adopt the recommendation for Councillors to receive a Superannuation Payment

Councillors will not receive a superannuation payment.

## Background

At the Ordinary Meeting 29 June 2021, Council considered a report in relation to setting the Mayoral and Councillor fees for the 2021-22 financial year. The resolution from that meeting was subject to a Rescission Motion and a further Notice of Motion. The Rescission Motion and Notice of Motion were debated at the Ordinary Meeting 27 July 2021. Council, at its Ordinary meeting, Tuesday 27 July 2021 resolved:

*That Council:*

1. *Note the Local Government Remuneration Tribunal's Annual Report and Determination dated 23 April 2021.*
2. *Maintain the Councillor Fee at \$24,320 and the Additional Mayoral Fee at \$53,250 until after the December 2021 election.*
3. *Note that the matter of superannuation payments for Councillors from July 2022 will be a policy matter for determination by the Council following the December 2021 Council Elections.*

As a result of the above resolution, Council now needs to determine the Councillor and Mayoral fees for the period of this new Council term starting on 23 December 2021 and concluding at the end of the current financial year (June 2022). There are no fees payable between the date of the election (4 December 2021) and the declaration of Election Results (23 December 2021) The decision of the Council in this regard is required to be the fixing of a fee no greater than the maximum permissible in the Annual Report of the Remuneration Tribunal (**Attachment 1** to the report).

Council can also determine a payment to the Deputy Mayor for their completion of that role, and the introduction of the payment of superannuation to Councillors. These options are detailed below.

Prior to June 2022, the Council will receive notification from the Local Government Tribunal on their determinations with respect to permissible fee payments for the financial year 2022/23.

## Councillors' Fees

Section 241 of the *Local Government Act 1993* (the Act) requires the Tribunal to determine each year the maximum and minimum amounts of annual fees payable during the following year to Mayors and Councillors. Section 248 and 249 of the Act require Councils to fix and pay an annual fee based on the Tribunal's determination.

The relevant provisions of the Act are outlined below:

### **248 Fixing and payment of annual fees for councillors**

- (1) *A council must pay each councillor an annual fee.*
- (2) *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*

- (3) *The annual fee so fixed must be the same for each councillor.*
- (4) *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*

#### **249 Fixing and payment of annual fees for the mayor**

- (1) *A council must pay the mayor an annual fee.*
- (2) *The annual fee must be paid in addition to the fee paid to the mayor as a councillor.*
- (3) *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- (4) *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*
- (5) *A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee."*

Councils are to fix Councillor and Mayoral fees for financial year based on the Tribunal's Determination. The level of fees paid will depend on the category which is applied to the Council. If a Council does not fix a fee, the Council must pay the minimum fee determined by the Tribunal.

For the current financial year, the Determination of the Tribunal is that Councils in the Regional Centre Category (Including Shoalhaven) may fix the 2021/22 annual fee for Councillors between \$14,100 (minimum) and \$24,810 (maximum). The Mayoral Additional Fee has been set at between \$29,330 (minimum) and \$61,280 (maximum). The Council may set any figure for the fees within this range.

The Councillor and Mayoral fee adoption is distinct and separate to the payment of expenses and provision of facilities to Councillors. The Mayoral Fee is an amount paid to the Mayor in addition to the Councillor Fee.

The recommendation outlined in the report reflects the maximum fee payable to Councillors for this Council term for remainder of the financial year to 30 June 2022. This reflects the usual approach of the Council prior to the 2020/2021 Financial Year.

The below table outlines the fees paid in 2021/2022 to the previous Council and those which are permissible

	<b>Councillor Fee</b>	<b>Mayoral Fee paid to Mayor in addition to Councillor Fee</b>
<b>Maximum fee permitted to be paid for the 2021/2022 Financial year as outlined in Attachment 1 (this is the recommended amount for the remainder of the financial year)</b>	\$24,810 pa per Councillor (equiv. to \$2067.50 per month)	\$61,280 pa (equiv. to \$5106.67 per month)
<b>Fees paid for the period from 27 July 2021 to 3 December 2021 (Previous Council Term)</b>	\$24,320 pa per Councillor (equiv. to \$2,026.67 per month)	\$53,250 pa (equiv. to \$4,437.50 per month)
<b>Difference between actual paid last Council term and</b>	-\$490.00 pa per Councillor (equiv. to an increase of	-\$8030 pa (equiv. to increase of

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<b>recommended maximum</b>	<b>\$40.83 per month)</b>	<b>\$669.17 per month)</b>
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### Payment for the Deputy Mayor

Section 249(5) Local Government Act allows Council to elect to pay the Deputy Mayor a fee when acting in the office of the Mayor. The amount of the fee must be deducted from the Mayor's annual fee. Shoalhaven City Council has not traditionally paid a fee to the Deputy Mayor.

In preparing this report and consideration of the options available to the Council for such a payment, a request was made to all NSW Councils requesting their position on paying the Deputy Mayor fees deducted from the Mayoral fee. At the time of writing this report, 38 responses have been received.

- 22 Councils do not pay the Deputy Mayor fees.
- 7 Councils pay 100% of additional Mayoral fee whilst the Deputy Mayor is acting (some with provisions relating to the length of time acting as Mayor).
- 7 Councils pay a percentage of the Mayoral Fee ranging from 10% to 50%.
- 2 Councils pay a specific amount - \$1,200 and \$3,621 respectively.

The matter of the Deputy Mayoral Fee is one for consideration and determination by the Council. This may also be a matter that the Council could consider at the required time when there is an extended absence of the Mayor.

### Superannuation for Councillors

On 16 May 2021, legislation was passed in the NSW Parliament to introduce superannuation payments for Councillors in NSW. The [Local Government Amendment Act 2021](#) addresses a longstanding inequity in Local Government by providing Councils with the option to make superannuation payments to Mayors and Councillors in addition to their annual fees from July 2022. This decision was made after a lengthy campaign to acknowledge the contribution of Councillors.

The relevant amendment to the Local Government Act 1993 states:

*Section 254B Insert after section 254A—*

*254B Payment for superannuation contributions for councillors*

- 1) A Council may make a payment (a superannuation contribution payment) as a contribution to a superannuation account nominated by a Councillor, starting from the financial year commencing 1 July 2022.*
- 2) The amount of a superannuation contribution payment is the amount the Council would have been required to contribute under the Commonwealth Superannuation Legislation as superannuation if the Councillor were an employee of the Council.*
- 3) A superannuation contribution payment is payable with, and at the same intervals as, the annual fee is payable to the Councillor.*
- 4) A Council is not permitted to make a superannuation contribution payment—*
  - a) unless the Council has previously passed a resolution at an open meeting to make superannuation contribution payments to its Councillors, or*
  - b) if the Councillor does not nominate a superannuation account for the payment before the end of the month to which the payment relates, or*
  - c) to the extent the Councillor has agreed in writing to forgo or reduce the payment.*

- 5) *The Remuneration Tribunal may not take superannuation contribution payments into account in determining annual fees or other remuneration payable to a Mayor or other Councillor.*
- 6) *A person is not, for the purposes of any Act, taken to be an employee of a Council and is not disqualified from holding civic office merely because the person is paid a superannuation contribution payment.*
- 7) *A superannuation contribution payment does not constitute salary for the purposes of any Act.*
- 8) *Sections 248A and 254A apply in relation to a superannuation contribution payment in the same way as they apply in relation to an annual fee.*
- 9) *In this section—*
  - Commonwealth superannuation legislation means the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth.*
  - Superannuation account means an account for superannuation or retirement benefits from a scheme or fund to which the Commonwealth Superannuation Legislation applies.*

The decision on whether to make superannuation contributions to Councillors is a matter for each Council to determine, taking into account financial considerations, the views of Councillors and the expectations of their local community.

The wording of the legislation sets out that the Council may elect to either provide a Superannuation Payment at the rate set out in the Superannuation Guarantee (equal to 10.5% of annual fees from July 2022) or not provide a superannuation payment. The superannuation payment is calculated on the Fees paid to Councillors (and for the Mayor the additional Mayoral Fee in addition to the Councillor Fee). Any amounts reimbursed to Councillors in the form of expense payments under the Council Members Payment of Expenses and Provision of Facilities Policy are not related to the superannuation calculation.

Councils are required to make the decision to pay Councillors superannuation by resolution at an open meeting of the Council, thereby ensuring public accountability and transparency.

As indicated in the recommendation, Council is considering whether the 10.5% Superannuation Payment will apply for the next financial year. Council will not be able to set the Annual Fees on which the superannuation payment will be made until the maximum and minimum fees for the 2022/2023 year are released by the Local Government Remuneration Tribunal which is expected to occur in April/May 2022. A decision at this time with respect to Superannuation will allow administrative arrangements and budget forecasts in advance of such payments occurring.

### **Community Engagement**

Council is not required to undertake community consultation in relation to the adoption of the fee amendment determination process, as it is based on a published report and the process undertaken by the Tribunal.

### **Financial Implications**

Subject to Council endorsing the recommendation to increase the fees payable for this term of Council until 30 June 2021, will result in a total increase in the budget of approx. \$7,488 in this financial year.

Subject to Council resolving to commence Superannuation contributions to Councillors from 1 July 2022, the financial impact will be 10.5% of the Annual Fees set for the 2022/2023 Financial Year.

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## CL22.53 Council Representatives on Other Committees or Organisations Outside of Council

HPERM Ref: D21/335138

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

### Reason for Report

To confirm the list of Council representatives on Other Committees or Organisations Outside of Council.

### Recommendation

That Council resolve the representative membership of Councillors and other delegates on other Committees or Organisations Outside of Council for the period to 30 September 2022.

### Options

1. Council confirm membership as per the recommendation.
2. Council changes the membership of Councillors and other delegates on other Committees or Organisations Outside of Council.

### Background

Details of the other committees or organisations in which Council has an interest, along with their respective purpose and current membership, are listed below.

a)

<b><u>Australian Coastal Councils Association – 33451E</u></b>	
<b>Purpose:</b> To advocate of behalf of coastal councils. It also commissions research on behalf of councils in coastal areas in relation to a range of coastal issues.	
Note: The Committee of Management is a separate entity and nominations are called every two years. The representative(s) nominated below perform a liaison role only. The Association has confirmed that Council would be able to nominate a Councillor &/or a staff member.	
<b>2020-2021 Council Members</b>	<b>2022 Council Members</b>
Clr Kitchener	Clr

b)

<b><u>Cemeteries and Crematoria Association of NSW – 33451E</u></b>	
<b>2020-2021 Council Members</b>	<b>2022 Council Members</b>
Pamela Green (Unit Manager - Bereavement Services)	Unit Manager - Bereavement Services

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c)

<b>Healthy Cities Illawarra Board of Directors – 4043E</b>	
<b>Purpose:</b> Healthy Cities Illawarra is a community based, non-profit organisation that is part of a worldwide movement initiated by the World Health Organisation, committed to improvement of health, environment and the quality of life within the Illawarra community.	
<b>2020-2021 Council Members</b>	<b>2022 Council Members</b>
Clr Alldrick CEO (or nominee) Clr Kitchener – Alternative representative	Clr Clr or CEO (or nominee) Clr – Alternative representative

d)

<b>Illawarra Academy of Sports – 2388E</b>	
<b>Purpose:</b> To develop outstanding young community citizens who utilise their sporting talents and role model status in a positive manner within the Illawarra Region.	
<b>2020-2021 Council Members</b>	<b>2022 Council Members</b>
Mayor Appointed Representative – Clr Wells (also Chair of IAS)	Mayor Appointed Representative –

e)

<b>Illawarra Shoalhaven Joint Organisation – 2172E</b>	
The functions of the ISJO are: <b>Core Functions:</b> <ul style="list-style-type: none"> <li><b>Regional Strategic Planning</b>, including high level planning across the quadruple bottom line</li> <li><b>Inter-Governmental Collaboration</b>, working closely with the NSW Government as well as the Australian Government and other councils and JOs</li> <li><b>Regional Leadership and Advocacy</b>, as the preeminent regional voice for councils and communities</li> </ul> <b>Optional Functions:</b> <ul style="list-style-type: none"> <li><b>Enhancing Regional Strategic Capacity</b>, to support member councils to deliver services to their communities</li> <li><b>Regional Service Delivery</b>, to provide services directly to communities within the region.</li> </ul> The Illawarra Shoalhaven Joint Organisation is comprised of representatives from Shellharbour; Kiama; Wollongong & Shoalhaven Councils.	
<b>2020-2021 Council Members</b>	<b>2022 Council Members</b>
Clr Findley – Mayor Clr Wells Clr Kitchener (alternate delegate)	Mayor Clr Clr (alternate delegate)

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- f) Note: The membership of this Committee consists of one representative from each sector. Clr Findley and Clr Pakes were appointed for a 4-year term. Clr Findley has also been recently appointed as Chairperson for this committee, the Chair role being appointed to Clr Findley as an individual member which does not transfer to any representative nominated by SSC. The Local Government Elections held in December 2021 resulted in the one of the Local Council Representatives on the Jervis Bay Marine Park Advisory Committee not being re-elected. The Jervis Bay Marine Park Director General will make contact to seek nominations to fill vacancies created by the Local Government Elections.

<b>Jervis Bay Marine Park Advisory Authority Committee – 1462E</b>	
<b>Purpose:</b> Advise the Ministers and the Marine Parks Authority (NSW) on the management of the Park and: <ul style="list-style-type: none"> <li>• The conservation of the marine biological diversity within the Marine Park</li> <li>• The ecologically sustainable use of the Marine Park</li> <li>• The public use and enjoyment of the Marine Park</li> </ul>	
<b>2020-2021 Council Members</b>	<b>2022 Council Members</b>
Clr Findley Clr Pakes (alternative representative) Clr Kitchener (advise ISJO that Council would like to nominate Clr Kitchener as the ISJO rep)	Clr Findley Clr (alternative representative)

- g) Note: The SRPP is made up of five members. Three of these are independent experts appointed by the Minister for Planning. The other two are Council representatives. The council appointed members can either be councillors, community members or a combination of both. If Council decides to appoint community representative(s) a formal expression of interest will need to be held.

Section 4.4 of the Sydney and Regional Planning Panel Operational Procedures states that two council members are appointed by each council. **At least one council member must have expertise in one or more of the following areas:**

- *planning,*
- *architecture,*
- *heritage, the environment,*
- *urban design,*
- *land economics,*
- *traffic and transport,*
- *law,*
- *engineering*
- *tourism.*

**In confirming your nominations Council must indicate which member is an expert and in which field.**

<b>Southern Regional Planning Panel – 39782E</b>	
Meetings per year: As required	
<b>Purpose:</b> To determine regionally significant development applications	
<b>2020-2021 Council Members</b>	<b>2022 Council Members</b>
Clr Watson Clr White Clr Alldrick (Alternate) Clr Kitchener (Alternate)	Clr Clr

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**Sitting Fees** - A sitting fee of \$400.00 per meeting is paid to the Council and Community Representatives

h)

<b>Nowra Riverfront Advisory Taskforce – 65932E</b>	
<p>The Nowra Riverfront Advisory Taskforce is a consultative forum managed and co-chaired by Department of Regional NSW (DRNSW) and Department of Planning, Industry and Environment (DPIE).</p> <p>The broad objectives of the Advisory Taskforce are to:</p> <ul style="list-style-type: none"> <li>Identify and prioritise strategic development sites within the Riverfront Precinct as a catalyst for the creation of an iconic gateway into Nowra and the enhancement of associated public spaces;</li> <li>Consider appropriate planning controls to facilitate investment on strategic development sites and investment into affordable housing and other social infrastructure within the Precinct;</li> <li>Identify and explore funding opportunities for catalyst infrastructure within the Precinct;</li> <li>Ensure that any future revitalisation and redevelopment of the Riverfront Precinct aligns with work being undertaken as part of the Nowra Bridge Project and on the Shoalhaven Medical Campus; and</li> <li>Examine the project impact including its effect on local roads and traffic, and opportunities for social housing and community outcomes.</li> </ul>	
<b>2020-2021 Council Members</b>	<b>2022 Council Members</b>
Clr Findley – Mayor Stephen Dunshea – CEO Robert Domm – Director City Futures Gordon Clark – Strategic Planning Manager	Mayor CEO Director City Futures Strategic Planning Manager

i) Note: The Mayor & General Manager are members under the constitution. Council may wish to appoint an alternate delegate.

<b>NSW Country Mayors Association – 14214E</b>	
<p><b>Purpose:</b> The NSW Country Mayors Association is a group that comprises Mayors and General Managers, or their representatives, from country areas of NSW under its constitution.</p> <p>Note: The Mayor &amp; General Manager are members under the constitution. Council may wish to appoint an alternate delegate</p>	
<b>2020-2021 Council Members</b>	<b>2022 Council Members</b>
Clr Findley – Mayor Clr Watson – Deputy Mayor (alternate delegate) Stephen Dunshea - CEO	Mayor Deputy Mayor (alternate delegate) CEO

j)

<b>NSW Public Libraries Association – 14214E</b>	
<p><b>Purpose:</b> The New South Wales Public Libraries Association (NSWPLA) is the peak body for public libraries in New South Wales. The organisation advocates for the public library cause, provides relevant information to stakeholders, fosters cooperation and collaboration, and strengthens the public library network.</p>	
<b>2020-2021 Council Members</b>	<b>2022 Council Members</b>
Clr Wells Library Services Manager	Clr Library Services Manager

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k)

<b>Rural Fire Service Shoalhaven District Liaison Committee – 2122E</b>	
<b>Purpose:</b> The Liaison Committee will: <ol style="list-style-type: none"> <li>Monitor and periodically review the performance of this Rural Fire District Service Agreement by the Council and the RFS;</li> <li>Review the following documents prepared by the District Manager prior to submission to and consideration by the Council:             <ol style="list-style-type: none"> <li>The annual budget and business plan; and</li> <li>The quarterly financial and performance reports</li> </ol> </li> </ol>	
<b>2020-2021 Council Members</b>	<b>2022 Council Members</b>
Clr Pakes Clr Kitchener CEO (or nominee)	Clr Clr CEO (or nominee)

l)

<b>Shoalhaven Bush Fire Management Committee – 2820E</b>	
<b>Purpose:</b> Under the Rural Fires Regulation 2002 – Part 3, At the request of the Bush Fire Co-ordinating Committee: <ul style="list-style-type: none"> <li>Assist the Bush Fire Co-ordinating Committee in the performance of its functions under Section 48 of the Act;</li> <li>Assist the Bush Fire Co-ordinating Committee in the performance of its functions under Sections 60(2) and 63(4) of the Act;</li> <li>Draw to the attention of the following in regard to any matter it considers relevant to the protection of land, life, property or the environment in that area from the impact of bush fires:             <ul style="list-style-type: none"> <li>The Bush fire Co-ordinating Committee; or</li> <li>A public authority exercising its functions in the Bush Fire Management Committee's area.</li> </ul> </li> </ul> <b>Note:</b> The Committee has no power to conduct or take part in firefighting or fire prevention operations authorised by the Act, this regulation or any other Act or statutory instrument.	
<b>2020-2021 Council Members</b>	<b>2022 Council Members</b>
Clr Pakes Clr Kitchener CEO (or nominee) as an observer	Clr Clr (Alternate) CEO (or nominee) as an observer

m)

<b>Shoalhaven Traffic Committee – 1491E</b>
<b>Purpose:</b> The Traffic Authority has delegated certain powers to Councils in respect of the provision of Traffic control facilities and traffic management measures on public streets. The exercise of such powers is conditional upon the Council forming a Local Traffic Committee and seeking its advice /approval before as traffic facility/traffic management measure is implemented or removed.
<b>NOTE-</b> the Local Traffic Committee is not a Committee appointed by Council under the Local Government Act but a Committee to be formed by Council in the exercise of its delegated powers. Councillor members are considered informal members who may contribute to discussion but may not vote.
The recommendations from the Shoalhaven Traffic Committee are approved by the Director City Services under delegation of Council (MIN21.411) unless a Councillor requests that a specific item be considered at an Ordinary Meeting.

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2020-2021 Council Members	2022 Council Members
Informal – Cllr White Informal – Cllr Gash CONVENOR/CHAIRPERSON - As appointed by the Director City Services	Informal – Cllr Informal – Cllr Informal – Cllr CONVENOR/CHAIRPERSON - As appointed by the Director City Services

n)

South Coast Co-operative Library Services – 3934E	
<b>Purpose:</b> To provide control and manage libraries or library services within the areas of the Member Councils upon the terms and subject to the conditions specified in the agreement <b>Note:</b> The member Councils are Shoalhaven City Council and Kiama Municipal Council. In accordance with the South Coast Cooperative Libraries Agreement the committee must meet at least once a year (for an AGM) and the membership must consist of a Councillor, Director responsible for Library Services and a Library Manager from each participating Council.	
2020-2021 Council Members	2022 Council Members (suggested)
Cllr White Director City Lifestyles Manager - Library Services	Cllr Director City Lifestyles Manager - Library Services

o)

South Coast Correctional Centre Community Consultative Committee – 4043E	
<b>Purpose:</b> <ul style="list-style-type: none"> <li>To assist in the development and maintenance of a positive relationship with the local community</li> <li>To provide a forum for local community consultation and comment on correctional programs and procedures</li> <li>To facilitate the involvement of the local community in correctional centres programs</li> <li>To provide a mechanism to identify appropriate programs in which the correctional centre can participate and assist in the local community</li> <li>To assist in the establishment of worthwhile community partnerships</li> </ul>	
2020-2021 Council Members	2022 Council Members
Cllr Gash Cllr Watson Mr Paul Keech - Director City Services	Cllr Cllr Director City Services

p)

South East Australian Transport Strategy Inc – 3678E	
<b>Purpose:</b> To improve the transport network to enhance economic development within the region. <b>Note:</b> Council is entitled to one voting delegate but may also nominate alternative delegates (Councillors &/or staff).	
2020-2021 Council Members	2022 Council Members
Cllr White Cllr Kitchener Mr Greg Pullen – Economic Development Manager (Alternate)	Cllr Cllr Economic Development Manager (Alternate)

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q)

South East Regional Weeds Committee – 52451E	
<p><b>Purpose:</b> The purpose of the RWC is to provide ‘tenure neutral’ strategic planning and coordination of weed management activities at the regional level. These activities play an integral part in an overall state weed management framework.</p> <p>The RWC is a local community advisory group under the provisions of Section 33 of the <i>Local Land Services Act 2013</i>.</p> <p>The RWC is established to:</p> <ul style="list-style-type: none"> <li>• Support implementation of the weeds components and underlining principles of the NSW Biosecurity Strategy, NSW Biosecurity Act and the NSW Invasive Species Plan 2015-2022;</li> <li>• Provide advice to the Board regarding delivery weed functions for the Local Land Services (LLS) consistent with the Local Strategic Plan;</li> <li>• To develop innovative and effective regional weed management strategic plans that consider risks, include all land tenure, and major stakeholders in the landscape; and</li> <li>• Provide a forum for the community and stakeholders in decision making, and develop communication education and awareness programs based on local and/or regional priority weeds and issues.</li> </ul>	
2020-2021 Council Members	2022 Council Members
Phil Hansen (Acting Unit Manager Conservation and Land Management)	Biosecurity Coordinator (currently Scott Galbraith)

r)

Southern Water Services Pty Ltd – 4043E	
<p><b>Purpose:</b> To operate in a commercial way under the Companies Act on a similar basis to any other trading Company.</p> <p><b>Note:</b> Southern Water Services is a Council owned company formed in 1998 with permission from the Minister of the day. Its constitution states that the Company was formed to “undertake the provision of water, sewerage and related services”. It currently has no relationship with Shoalhaven Water operations or staff.</p>	
2020-2021 Council Members	2022 Council Members
Clr Watson Clr Pakes Clr Wells Clr White Clr Guile Ms Vanessa Phelan – Secretary	Clr Clr Clr Clr Clr Ms Vanessa Phelan – Secretary

s)

Ulladulla Harbour User Group – 4043E	
<p><b>Purpose:</b> To assist Transport for NSW (Maritime Infrastructure Delivery Office – MIDO) to resolve operational matters and identify emerging issues in relation to operation and maintenance of coastal infrastructure including Ulladulla Harbour.</p>	
2020-2021 Council Members	2022 Council Members
Michael Strachan – Project Manager	Commercial Services Manager

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## CL22.54 2022 Conferences

**HPERM Ref:** D21/552473

**Department:** Business Assurance & Risk

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

### Reason for Report

To provide details of various conferences from March to December 2022 which may be deemed as Council business to facilitate registration of Councillors.

### Recommendation

That Council

1. Authorises available Councillors to attend the following conferences and such attendance be deemed Council Business
  - a. Local Government Planning & Environmental Law Conference 2022
  - b. Waste 2022 Conference
  - c. 2022 OzWater Conference
  - d. NSW Coastal Conference
  - e. 2022 National Local Roads & Transport Congress
  - f. 2021 National General Assembly of Local Government
  - g. 2022 Australian Local Government Women's Association NSW State Conference
  - h. 2022 LGNSW Annual Conference
  - i. International Cities and Town Centres Conference
  - j. 2022 NSW Local Government Aboriginal Network Conference
  - k. 2022 Global Eco Asia-Pacific Tourism Conference
2. Require that travel, registration fees, accommodation and all reasonable out-of-pocket expenses be met in accordance with Council Members – Payment of Expenses and Provision of Facilities Policy.
3. Request Councillors attending the conference to provide a written report within 30 days of returning from the conference.

### Options

1. As per the recommendation. Additional information on conferences which is not available at the time of publication of the report will be provided to the Councillors.
2. That Council receive an individual report for each conference.
3. That Council does not approve Councillor attendance at one or more of the listed Conferences as Council Business.

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## Background

In order for Councillors' registration and associated expenses for attendance at Conferences outside the local government area to be covered by the [Council Members – Payment of Expenses and Provision of Facilities Policy](#), a resolution of the Council is required to determine the attendance as 'Council Business'.

The details of the Conferences available to the Council currently are as follows (note the blue underlined text below is a link to the webpage for each conference):

- a. [Local Government Planning & Environmental Law Conference 2022](#)  
Dates: 8 April 2022  
Location: Campbelltown, NSW  
Costs of Registration: Free
- b. [Waste 2022 Conference](#)  
Dates: 3 - 5 May 2022  
Location: Coffs Harbour, NSW  
Costs of Registration: Not yet available
- c. [2022 OzWater Conference](#)  
Dates: 10 - 12 May 2022  
Location: Brisbane, QLD  
Costs of Registration: \$1,425 to \$1,900
- d. [NSW Coastal Conference](#)  
Dates: 31 May – 2 June 2022  
Location: Kingscliff, NSW  
Costs of Registration: \$800 to \$900
- e. [2022 National Local Roads & Transport Congress](#)  
Dates: 19 - 22 June 2022  
Location: Canberra, ACT  
Costs of Registration: Not yet available
- f. [2022 National General Assembly of Local Government](#)  
Dates: 19 - 22 June 2022  
Location: Canberra ACT  
Costs of Registration: Not yet available
- g. [2022 Australian Local Government Women's Association NSW State Conference](#)  
Dates: 7 - 9 July 2022  
Location: Fairfield, NSW  
Costs of Registration: Not yet available
- h. [2022 LGNSW Annual Conference](#)  
Dates: 23 – 25 October 2022  
Location: Not yet available  
Costs of Registration: Not yet available
- i. [International Cities and Town Centres Conference](#)  
Dates: Not yet available (Previous conferences have been held in October)  
Location: Not yet available  
Costs of Registration: Not yet available
- j. [2022 NSW Local Government Aboriginal Network Conference](#)  
Dates: Not yet available (Previous conferences have been held in November)  
Location: Not yet available  
Costs of Registration: Not yet available

k. [2022 Global Eco Asia-Pacific Tourism Conference](#)

Dates: Not yet available (Previous events have been held in December)

Location: Not yet available

Costs of Registration: Not yet available

For those conferences where details of the Conferences were not available at the time of this report, Councillors will be advised by email of the specific details. Councillors will also be advised further in relation to the above conferences, as conference dates get closer, and will be provided updates of changes in conference arrangements in response to COVID19 restriction changes.

It is acknowledged that the above list may not include all conferences which may be available in the upcoming year. Conferences additional to those listed above which warrant consideration of attendance by Councillors will be reported individually to the Council once their details are advertised.

**Policy Implications**

The Council Members – Payment of Expenses and Provision of Facilities Policy limits attendance at conferences to three per annum per Councillor exclusive of any conference arranged by either the Australian Local Government Association (ALGA) or NSW Local Government Associations (LGNSW).

**Financial Implications:**

Funds are available for Councillors to attend these conferences.

The expenses relating to Councillors' attendance at conferences and other expenses are published annually on the Council's Website.

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## CL22.55 Exhibition Outcomes and Proposed Finalisation - Draft Amendment to Shoalhaven DCP 2014 Chapter S8 - Ulladulla Town Centre

**HPERM Ref:** D21/458853

**Department:** Strategic Planning

**Approver:** Gordon Clark, Director - City Futures

**Attachments:**

1. Submissions Summary (under separate cover) [⇒](#)
2. Proposed DCP Chapter S8: Ulladulla Town Centre - Post Exhibition Version (under separate cover) [⇒](#)
3. Copies of Submissions (councillors information folder) [⇒](#)

### Reason for Report

Present the outcomes of the public exhibition and outline the issues raised and enable the proposed Amendment to the Development Control Plan (DCP) to be finalised.

The proposed amendment seeks to update the DCP provisions after the building heights and zoning over the southern part of Ulladulla town centre were changed in the Local Environmental Plan (LEP) in June 2020 (LEP Amendment No. 33). The proposed DCP amendment also includes other minor 'housekeeping' updates.

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### Recommendation

That Council:

1. Adopt and finalise proposed Amendment No. 45 to Shoalhaven DCP 2014 Chapter S8: Ulladulla Town Centre as provided in **Attachment 2**, incorporating two (2) changes resulting from the public exhibition as discussed in this report.
2. Publicly notify the adoption of the DCP amendment in accordance with the requirements of the *NSW Environmental Planning and Assessment Act 1979* and Regulations.
3. Advise key stakeholders, including relevant industry representatives, the Ulladulla and Districts Community Forum CCB and those who made a submission, of this decision and when the DCP amendment will be made effective.
4. Add the following issues/possible changes raised in submissions to the scope of works for the future proposed housekeeping amendment to DCP Chapter S8, and receive a report on the future draft amendment, to consider the detail, prior to placing it on public exhibition:
  - a. Review the effectiveness/appropriateness of the Floor Space Ratio (FSR) incentives for consolidated lots, including whether the incentive FSR should apply to smaller lots.
  - b. Consider including additional development objectives in the Context statement for Precinct 3 Recreation and Special Activities.
  - c. Review the appropriateness of the requirement for 25% of site area to be deep soil planting in the commercial core precinct (specifically the Harbour Triangle sub-precinct).
  - d. Update maps and figures to reflect the final harbourside walkway project alignment within the Harbour Triangle Precinct.

- e. Review planned pedestrian paths across the DCP area as part of the general review of planned infrastructure improvements.
- f. Review the Height of Buildings map relative to the riparian corridor and buffer from the top of Millards Creek bank.

## Options

1. As recommended.

Implications: This is the preferred option as it will enable the DCP Chapter to be updated to reflect current building heights and zones in the southern part of the Ulladulla Town Centre, which took effect in June 2020. It will also enable other minor updates/corrections of a 'housekeeping' nature to be made to resolve inconsistencies with the LEP, update references to external policy / guidelines and to enhance the overall readability of the Chapter.

Other issues raised in submissions will be added to the scope of works for the future proposed housekeeping amendment to DCP Chapter S8 which will address issues across the broader Ulladulla town centre area.

2. Adopt an alternative recommendation.

Implications: This will depend on the nature/extent of any changes. Could delay the finalisation of the update of DCP Chapter S8 to reflect current LEP building heights and zones in the southern part of the Ulladulla Town Centre and other minor updates/corrections to the Chapter.

3. Not adopt the recommendation.

Implications: DCP Chapter S8 will remain unchanged and will be inconsistent with the current LEP building heights and zones over the southern part of Ulladulla town centre. This may cause uncertainty and confusion for developers and the community and lead to undesirable development outcomes. Other necessary updates and corrections to Chapter S8 would not be made.

## Background

On 13 July 2021 Council considered a draft amendment to DCP Chapter S8: Ulladulla Town Centre for public exhibition and resolved (MIN21.446) to:

1. *Endorse the draft proposed Amendment to Shoalhaven Development Control Plan 2014 Chapter S8: Ulladulla Town Centre, as provided in Attachment 1 and place the Draft Amendment on public exhibition for a period of at least 28 days as per legislative requirements.*
2. *Receive a further report on the Draft Amendment following the conclusion of the public exhibition period to consider feedback received, any necessary adjustments, and the finalisation of the Amendment.*
3. *Advise key stakeholders, including affected and adjoining landowners, the Ulladulla & Districts Community Forum and development industry representatives, of this decision and the public exhibition arrangements in due course.*
4. *Endorse the preparation of a further housekeeping amendment to Chapter S8 to review and update other matters that are relevant to the broader Ulladulla town centre area including general context, built form and desired character, maps and*

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*figures, and other minor matters identified during the review, with the Draft Amendment to be reported to Council for consideration prior to public exhibition.*

The endorsed draft Amendment has a general focus on the southern part of Ulladulla town centre (land identified in **Figure 1**) and proposes to update the DCP provisions to reflect the LEP building height and zoning controls that came into effect in June 2020. These changes to the LEP implemented a general increase in building heights and also rezoned nine (9) properties on the corner of Deering Street and St Vincent Street from B5 Business Development to B4 Mixed Use.



**Figure 1: Shoalhaven LEP 2014 (Am No. 33) Subject land**

The endorsed draft DCP Amendment includes a number of other minor housekeeping updates/changes to resolve issues identified during the initial review of Chapter S8.

In accordance with the Council resolution, a future housekeeping amendment to Chapter S8 will be prepared to address updates and issues applicable to the broader Ulladulla town centre area.

### **Community Engagement**

The draft DCP Amendment was publicly exhibited from 18 August to 17 September 2021 inclusive (30 days). The exhibition material available on Council's exhibition webpage included:

- Public notice
- Explanatory Statement
- Draft Amended DCP Chapter S8: Ulladulla Town Centre
- Frequently Asked Questions (FAQs) document

Key stakeholders, including all landowners within and adjacent to the Ulladulla town centre (as shown in Figure 1 of the DCP), the Ulladulla & Districts Community Forum CCB and development industry representatives, were directly notified of the exhibition arrangements.

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## Submissions

Nine (9) submissions were received during the public exhibition period, comprising eight (8) public submissions and one (1) internal submission from Council's Development Services unit.

A summary of the submissions is provided in **Attachment 1**. Copies of submissions are provided in the Councillor's information folder.

Most of the submissions raised issues with DCP provisions that apply to the broader Ulladulla town centre area which are generally currently outside the scope of this housekeeping DCP Amendment. It is thus recommended that some of those issues, which are considered to be of a minor 'housekeeping' nature, be added to the scope of works and considered as part of the future broad housekeeping amendment, that is discussed later in this report.

Two (2) public submissions objected to the proposed addition of new Acceptable Solution A2.2 (shown below in *italics*) to the existing Performance Criteria P1 relating to important views and vistas.

Performance Criteria	Acceptable Solutions
P1 Maintain important views and vistas.	<p>A2.1 Views along public streets to the water and distant surrounding landscape are protected and embellished through framework planting and the like.</p> <p>A2.2 <i>Any reduction in views from the public domain or private property is not to be severe or devastating based on the following <u>NSW Land &amp; Environment Court Planning Principles</u>:</i></p> <ul style="list-style-type: none"> <li>• Views - General principles.</li> <li>• Views - Impact on public domain views.</li> </ul> <p><b>Note:</b> Where compliance with the objective, performance criteria and acceptable solution is achieved, the expectation of there being no change to existing views is considered unreasonable.</p>

Given the nature of the area, it is considered appropriate that development proposals consider the significant views and vistas that are present throughout Ulladulla town centre, in line with current established Land & Environment Court Planning Principles. This was a recommendation of the related Ulladulla Building Heights Review Report (2017) and is consistent with other existing DCP Chapters (e.g. *G13: Medium Density and Other Residential Development*; *G12 Dwelling Houses and Other Low Density Residential Development*). Thus, it is recommended that Acceptable Solution A2.2 be retained as exhibited in the proposed DCP Amendment.

It is also recommended that the following issues arising from submissions be resolved as part of the current proposed DCP Amendment. The proposed resulting changes have been included in the post-exhibition version of proposed DCP Chapter S8 at **Attachment 2**:

- Issue: The reference to the pathway in the drainage reserve from North Street to Church Street, Ulladulla in Maps 2, 3 and 6 should be removed. This was noted in an internal submission from Council's Development Services Department, which recently assessed a DA on land that adjoins the reserve. Flood modelling as part of the DA indicated that it was not suitable for a future pedestrian pathway.

*Proposed change: Remove pathway from Maps 2, 3 and 6 in the DCP Chapter.*

- Issue: Table 2 'Building Heights and Floor Space Ratios' need to be updated for 'Residential unit living Precinct 4' to reflect those in the.

*Proposed change: Update Table 2 in the DCP Chapter accordingly to ensure consistency.*

### **Proposed Future Housekeeping Amendment**

As noted in the exhibition material, Council has resolved to undertake a further future housekeeping amendment to the DCP Chapter to review and update matters that are relevant to the broader Ulladulla Town Centre area. It is planned to commence the future amendment following the review of the Milton-Ulladulla Structure Plan (expected to be completed in mid-2022).

The following issues have already been foreshadowed in the scope of works for the future housekeeping amendment, as noted in the public exhibition material:

1. Context / built form / character statements for each Town Centre precinct in section 3. In particular:
  - a. Consider whether the maritime theme / identity should be retained and, if so, include criteria / guidance for built form, building appearance, materials and finishes (the maritime theme can be widely interpreted at present);
  - b. Imagery to illustrate best practice examples, desired building forms etc.
2. Consequential updates to built form and character controls throughout the chapter.
3. Review and update maps, figures and provisions where needed, for example:
  - a. Map 6 Infrastructure Improvements Concept Plan (update where works have been completed, have changed or are no longer required);
  - b. 5.4.4 Soil and Stormwater Management – given the recent update of DCP Chapter G2 Sustainable Stormwater Management and Erosion/Sediment Control, the provisions in 5.4.4 are possibly redundant or may need revision.
4. Section 5.2.4 Building roofscapes: Consider limiting the height of building parapets and other roof features that exceed the LEP building height limit. Under LEP clause 5.6 architectural roof features are permitted to exceed the maximum building height but there is no limit on how far they may exceed it by.
5. Section 5.2.2 Building form / orientation: review the controls to be more flexible and encourage creative design solutions.

As noted above, a number of the public submissions raised issues which were generally outside of the scope of the current proposed DCP amendment. It is thus recommended that those issues listed below, which are considered to be of a minor 'housekeeping' nature, be considered as part of the future broad housekeeping amendment:

1. **Section 3.1.1 Precinct 1 Commercial Core and Table 2 Building Heights and Floor Space Ratios:** Review the effectiveness/appropriateness of the Floor Space Ratio (FSR) incentives for consolidated blocks, including whether the incentive FSR should apply to smaller lots (from submission No 2 and 8). Two submissions raised concerns that the existing controls disadvantage smaller lots (1000-1600sqm) and have not resulted in much consolidation of lots within the town centre.
2. **Section 3.3 Precinct 3 Recreation and Special Activities:** Consider including additional development objectives in the Context statement for Precinct 3 Recreation and Special Activities (as suggested in submission No 4):
  - a. Demonstrate the compatibility of the proposed uses within a mixed-use development context with specific reference to adjoining and adjacent development such as leisure and entertainment uses.
  - b. Allow for a combination of temporary and short-term accommodation such as hotel and motel accommodation, serviced apartments and the like (also see Chapter G15 – Tourist and Visitor Accommodation). Accommodation must not dominate use of the site.
  - c. Compatible retail/commercial uses including restaurants and cafes, gift shops, galleries, personal services, leisure and indoor recreational facilities and the like.
  - d. Increase activity levels in the Town Centre outside of business hours and improve the quality of the urban environment adjacent to the retail area.
  - e. Promote shared use of privately funded facilities, new developments are encouraged to design future infrastructure so that it can be shared, particularly by adjoining users.
3. **Section 5.2.1 Ecologically Sustainable Development:** Review the appropriateness of the requirement for 25% of site area to be deep soil planting in the commercial core (specifically the Harbour Triangle precinct), as raised in submission No 8.
4. **Section 5.1.2 Building Setbacks and Section 5.1.5 The Public Domain and Section 5.1.6 Land Adjoining the Harbour Foreshore:** Update relevant controls, maps and figures to reflect the final harbourside walkway alignment within the Harbour Triangle precinct (from submission No 8).
5. **Pedestrian paths:** Review planned pedestrian paths across the DCP area as part of the general review of planned infrastructure improvements (submission No 2)
6. **Height of Buildings adjacent to Millards Creek:** Review the height of buildings map relative to the riparian corridor and buffer from the top of Millards Creek bank (potential LEP housekeeping amendment as well) (submission No 5).

The remaining issues raised in the public submissions, as listed below, are considered to be outside the scope of both the current and future proposed housekeeping DCP amendments.

- **Planning controls in the Harbour Triangle Precinct (HTP):** submitter No 8 raised concerns that property in the Harbour Triangle Precinct is unfairly encumbered by a network of height controls, setbacks, planned pedestrian thoroughfares, heritage constraints and contributions which makes it unviable to develop. Seeks a review and reconsideration of a range of controls – building height, residential uses above the ground floor, rationalisation of pedestrian thoroughfares, removal of landscaped area requirement.

*Comment: The changes sought to controls are generally beyond the scope of the proposed housekeeping DCP amendments and would ideally be undertaken as part of*

*a more detailed holistic review of planning controls over the wider precinct / town centre. This would also possibly require a Planning Proposal given that building height, floor space ratio and heritage provisions are set in the LEP. It is noted that there is a considerable history behind the existing controls. Council has the option of undertaking a more holistic review in the future. At this point however no changes are proposed as part of the housekeeping amendments. It is however noted that there are no controls (LEP or DCP) which preclude residential uses on the ground floor under the land's B4 Mixed Use zoning.*

- **Infrastructure (7.11) contributions:** Contributions applicable to development under Shoalhaven Contributions Plan (CP) 2019 was raised in Submission No 8 as a general encumbrance to development.

*Comment: Council reviews and updates the CP on an ongoing basis to (among other things) rationalise the number of contributions projects and remove those that are not viable. Several contributions projects formerly applying to the Ulladulla town centre were removed in historic CP amendments. A major review of the CP was undertaken as recently as 2019 which resulted in further projects removed. There are no immediate plans to review the CP for this area.*

- **Development of a CBD beautification masterplan for the public domain.** This was suggested in Submission No 8 as something that Council should undertake.

*Comment: The DCP encourages street beautification measures in conjunction with development, utilising any relevant streetscape master plan which may apply. DCP Chapter G18: Streetscape Design for Town and Village Centres does apply to some streets within the Ulladulla Town Centre and aims to promote and guide the revitalisation of nominated centres, including Ulladulla. However a broader beautification masterplan is not currently planned to be undertaken by Council for the Town Centre. There are however plans being prepared for granted funded projects adjacent to the harbour and related to the broader harbour walkway.*

## Policy Implications

The proposed amendment will update DCP Chapter S8 to reflect the changes to building heights and zones in the southern part of the Ulladulla Town Centre which took effect in June 2020 through Amendment No.33 to Shoalhaven LEP 2014. It also includes minor updates/corrections of a 'housekeeping' nature to resolve inconsistencies with the LEP, update references to external policy / guidelines and improve the operation of the DCP.

It is proposed to prepare a broader housekeeping amendment to Chapter S8 in the future to address issues that are applicable to the broader Ulladulla town centre area.

## Financial Implications

Finalisation of the Amendment to the DCP will be undertaken within the existing Strategic Planning budget.

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## CL22.56 Proposed Works in Kind Agreement - Construction of Road and Drainage Infrastructure - 70 Hillcrest Avenue, South Nowra

**HPERM Ref:** D21/474030

**Department:** Strategic Planning

**Approver:** Gordon Clark, Director - City Futures

### Reason for Report

Obtain 'in-principle' support to commence the process of entering into a Works in Kind Agreement (WIKa) with the owner/developers of the subject land for the construction of road and drainage infrastructure required under the [Shoalhaven Contributions Plan 2019](#). The works are associated with an approved residential subdivision (SF10525).

### Recommendation

That Council:

1. Provide 'in-principle' support to finalise negotiations and enter into a Works in Kind Agreement (WIKa) with the owner/developers of Lot 2 DP 610984; 70 Hillcrest Avenue, South Nowra for the construction of road and drainage infrastructure and land value, as outlined in this report, except where further negotiations result in substantial changes to the proposal, in which case Council will receive a further report prior to proceeding.
2. Delegate authority to Council's Chief Executive Officer, or his delegate, to prepare and enter into the WIKa following final negotiations.
3. Endorse the approach that any variations to the design in the Contributions Plan that is not considered reasonable by Council's Chief Executive Officer, or his delegate, will need to be paid for by the developer and will not be offset in the WIKa.
4. Endorse the allocation of deleted funds from Planning Area 1 to cover any shortfall in available funds that may occur relating to the construction of the road and drainage infrastructure and land value, following the procurement independent costings. If there is not enough in the Planning Area 1 deleted funds budget to cover any shortfall, the remaining shortfall is to be covered by the developer upfront and reimbursed back to the developer as contributions are received overtime for 01ROAD3144 and 01DRAI0005, to the value of the difference.
5. Notify the owner/developer of this resolution.

### Options

1. As recommended.

**Implications:** The proposed WIKa will result in a positive public benefit through the construction of part of the road and drainage infrastructure earmarked in the Shoalhaven Contributions Plan (CP) 2019. The approved subdivision (SF10525) will bring 63 residential lots to the market and progressing this agreement will help facilitate the development.

Currently only dated land value estimates and concept infrastructure detail is available, which does result in some uncertainty at this stage. This option will however minimise any further delays to the development by enabling the agreement to be finalised under

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delegation, subject to no major changes resulting from the detailed designs and costings.

2. As recommended, with no allocation of deleted funds to cover the shortfall.

Implications: This option will still enable the agreement to progress, however the cost burden relating to the likely shortfall from the construction of the infrastructure will be borne by the developer and reimbursement will occur only when contributions are received overtime. The use of deleted funds to cover the shortfall as far as possible is preferable and is consistent with Council's general resolution of 2 April 2019 (MIN19.212(4)) relating to the use of deleted funds.

3. Provide 'in-principle' support to conclude the negotiations and report back to Council for endorsement to enter into the agreement prior to proceeding.

Implications: This option will enable Council staff to finalise negotiations with the developer, including procuring detailed costings (based on detailed designs and current land value) prior to reporting back to Council. This process is preferable and provides greater up-front certainty for all parties, however this will likely result in further delays to the delivery of the subdivision which is not a good overall outcome.

4. Adopt an alternative recommendation.

Implications: May further affect the timely delivery of the subdivision and/or the nature and quality of the works provided.

## Background

On 14 February 2020, development consent (SF10525) was granted for a 63-lot residential subdivision at Lot 2 DP 610984; 70 Hillcrest Avenue, South Nowra (**Figure 1**, coloured in blue).

The subdivision also relies on a connecting road link to the northern part of the partially constructed Somerset Avenue (not yet dedicated as public road) on Lot 8 DP 702959; 60 Hillcrest Avenue, South Nowra (**Figure 1**, coloured in yellow). Through the WIKA drafting process, it will be determined whether the owner of Lot 8 will need to be party (or otherwise) to the WIKA.

**Figure 2** indicatively shows the approved subdivision layout, noting that some changes may be required as a result of ongoing WIKA negotiations.



Figure 1: The subject land (60 Hillcrest Avenue in yellow, 70 Hillcrest Avenue (subject land) in blue)

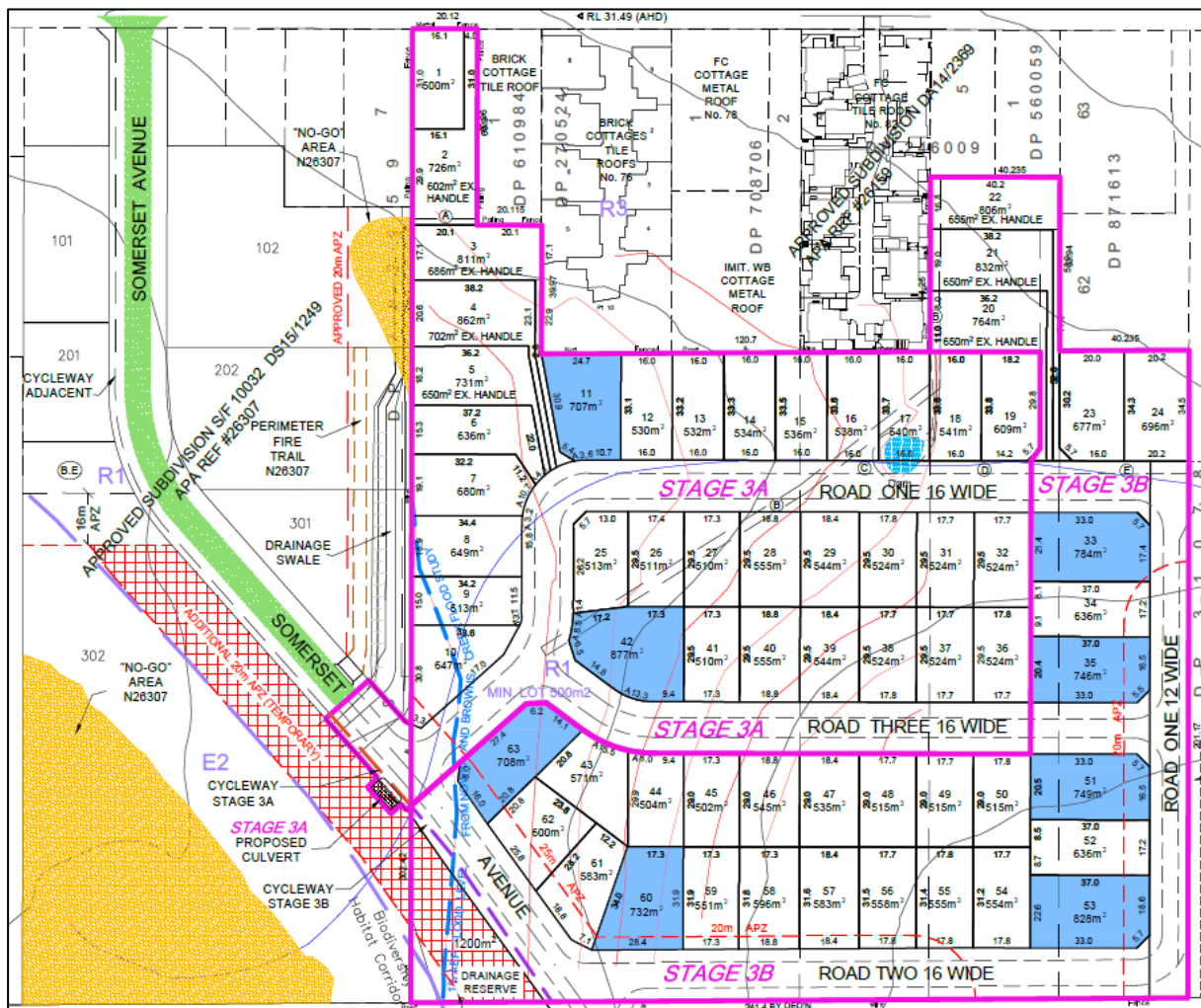


Figure 2: Approved subdivision layout (Source: Allen Price & Scarratts, July 2019)

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## The Proposal

The current proposal is for a WIKA that will enable the construction of:

- Approximately 300m of road (exact length to be determined) between Somerset Avenue (i.e., the collector road identified in [DCP Chapter N10: Worrigee Residential Area](#)) and the Lot 2 eastern boundary (e.g., Road One in Figure 2). This is part of the Internal Access Road referred to in [Contributions Project 01ROAD3144 Internal Access Road \(adjoining Hillcrest Avenue\)](#).
- Drainage infrastructure on the site to meet the requirements of [Contributions Project 01DRAI0005 Hillcrest Avenue Drainage](#).

The proposal also includes the dedication of the relevant land associated with the above infrastructure, with an associated payment of the value of the land.

A WIKA is required as a result of a recent Land and Environment Court decision (*Ku-ring-gai Council v Buyozo Pty Ltd* [2021] NSWCA 177) and contemporary legal advice.

The proposal overview presented in this report is based on concept plans to maintain momentum on this project. Delegation to Council staff is requested to continue to negotiate the particulars of the agreements, including the procurement of detailed designs and costings (including land valuation) at the appropriate point.

These WIKA elements are discussed in more detail below:

### Construction of the Internal Access Road Adjoining Hillcrest Avenue and Drainage Infrastructure

The CP (Contributions Project 01ROAD3144) requires the provision of an Internal Access Road joining Hillcrest Avenue to the east of the benefiting area and connecting to a collector road (i.e., Somerset Avenue) to the west of the benefiting area. **Figure 3** shows the Internal Access Road (red hatched), collector road/Somerset Avenue (red dash) and the contribution project benefiting area (blue, i.e., those who contribute to the project) as per the CP.

The CP (Contributions Project 01DRAI0005) also requires the provision of upgraded drainage infrastructure in the broader drainage catchment (**Figure 4**).



Figure 3: 01ROAD3144 Project

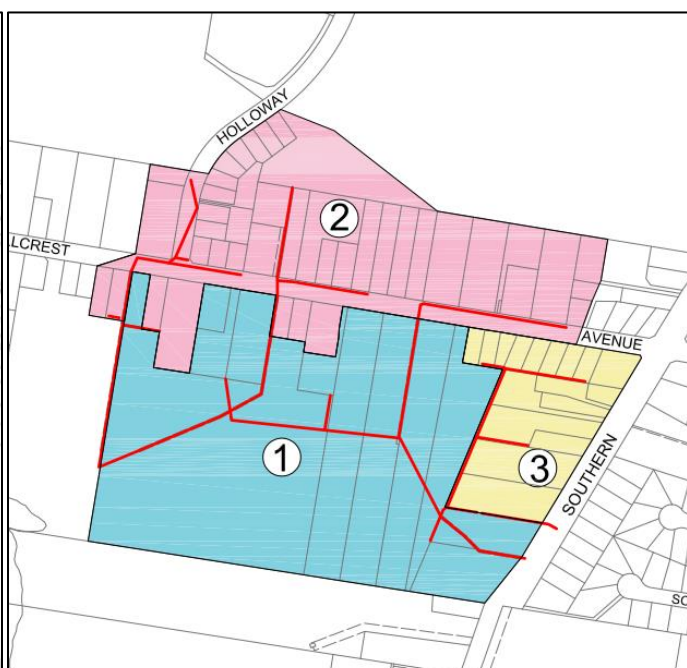


Figure 4: 01DRAI0005 Project

Council Staff have considered the initial draft plans for the road and drainage works through the subdivision works certificate process and negotiations are ongoing regarding the ultimate alignment and design.

It is noted that the proposed alignment differs from the indicative alignment in the CP which may add additional cost to the proposal. Further, some elements of the road and drainage design are not standard as they are required to achieve the subdivision design. This could be resolved with an alternative subdivision layout; however, the developer has advised that redesigning the layout to achieve a more affordable infrastructure outcome is not possible. Therefore, at this point in time, it is considered that some design elements go beyond the scope of the contributions project.

Ultimately, the works undertaken via a WIKA need to be reasonable and efficient to be considered a public benefit. Any variations that are not considered reasonable should be paid for by the developer (i.e., not be offset). If this does not occur, the additional costs will be borne by Council and the remaining owners in the benefiting area which is not an equitable outcome.

Although further work is required before the proposal is satisfactory, it is considered that these matters can be advanced with further review and negotiation. Delegation is requested to continue to resolve these design matters and to determine the reasonableness of the design.

#### Consideration of Land Costs

The CP allows for the acquisition of land associated with the road project, and for certain land for drainage devices. To manage the payment of the land value efficiently (i.e., the land earmarked for acquisition), it is proposed that this occur via the WIKA, with the land being dedicated. Depending on whether value of works proposed to be undertaken by the developer exceeds or is less than the value of the contribution, suitable provision can be made in the WIKA to ensure the full land costs are paid to the developer.

#### **Delegation Opportunities**

In accordance with Council's existing [Works In Kind Policy](#), Council may resolve to delegate authority to Council's Chief Executive Officer, or his delegate, to negotiate, enter into and register the agreement.

The proposed agreement has some final negotiation yet to occur (including final detailed design endorsement and costings, including land valuation), however the proposal is supported in principle and these matters can be resolved and progressed in time. As such, it is recommended that Council extend delegation for the above functions, unless further negotiations result in substantial changes to the proposal, in which case Council will receive a further report prior to finalisation.

#### **Conclusion**

Due to the public benefit that would be realised from the ultimate construction of the road and drainage infrastructure, it is in Council's interest to support the proposal as recommended, finalise negotiations and proceed to prepare the WIKA.

#### **Community Engagement**

No community engagement is required for a WIKA.

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## Financial Implications

### Options to Address the Funding Shortfall for the Construction of Hillcrest Avenue - Road and Drainage Infrastructure

As independent costings have not yet been obtained for this proposal; it is unclear if there will be a shortfall between the developers s7.11 obligations for 01ROAD3144 (\$903,939.54) and 01DRAI0005 (\$380,484.00) and the infrastructure construction costs/land values, however this is likely to be the case.

In accordance with Council's [Works In Kind Policy](#), if the value of the works undertaken (i.e. agreed construction costs) is less than the s7.11 development contributions required in the consent, the developer will need to pay the difference to Council.

If there is a shortfall, a funding source will need to be identified accordingly.

To date, no contributions have been collected for 01ROAD3144 and approximately \$100,000 has been collected for 01DRAI0005. If there is a shortfall, funds collected should be used in the first instance for the respective projects.

It is preferable that any remaining shortfall be covered by recently received deleted funds. On 2 April 2019, Council resolved (MIN19.212(4)) to:

*Endorse the position that all funds from deleted projects are to remain within each relevant planning area and be transferred to a "recoupment fund", with those funds used as Council's apportionment towards projects and to provide seed funding for community infrastructure projects identified in the revised contributions plan.*

This project is an excellent candidate for the use of deleted funds and this option is preferred. If a shortfall remains, this shortfall could be covered by the developer upfront. The agreement could be drafted so that regular claims can be made for any contributions received overtime for 01ROAD3144 and 01DRAI0005 to the value of the difference (i.e., a reimbursement mechanism).

Alternatively, the entire shortfall (if any) could be covered by the developer upfront. Whilst this is certainly a viable option, it is not preferred as deleted funds have been set aside by Council specifically to seed fund infrastructure delivery in circumstances like this.

It is noted that the developer has also proposed a reimbursement schedule which would see Council reimburse the developer the shortfall in 3 equal payments in a three-year period. The proposed reimbursement timeframe is not supported.

### Costs Associated With The Acquisition

The CP estimates that land costs associated with the road/drainage network will be between \$55-65 per square metre (2006 and 2018 values). Based on recent experience and current land values, it is expected that the land value is significantly higher. A valuation will be required as part of the WKA negotiation process, with costs payable by the developer.

### Costs Associated With The Drafting And Entering Into The WKA/VPA

In accordance with Council's [Works In Kind Policy](#), the developer will cover Council's costs (direct and incidental) relating to the negotiation, preparation and entering into the agreement (including associated legal costs) and enforcing the agreement.

### COVID-19 Contributions Discount Subsidy Policy

Depending on when the SF10525 s7.11 contributions are paid (or works undertaken in kind), the development may be eligible for the COVID-19 Contributions Discount Subsidy (refer to the [COVID-19 Contributions Discount Subsidy Policy](#)), noting the eligibility criteria and exclusions within. The Subsidy should be considered separately to the WKA, however the

WIKI mechanism should not be considered a reason for ineligibility as certain monetary contributions are essentially being paid by works in kind.

### **Policy Implications**

Following the construction of the infrastructure as envisaged in the proposed WIKI and acquisition of land as required, changes to the current contributions plan projects 01ROAD3144 and 01DRAI0005 will be required. Changes should reflect the partial completion status of the project, updated cost and acquisition estimates, and subsequent changes to the contribution rate as required.

The changes to these projects can be undertaken as part of a future amendment/s to the CP and would be reported separately at the appropriate point in time.

## CL22.57 Proposed Works in Kind Agreement - Construction of Road and Drainage Infrastructure - Island Point Road, St Georges Basin

**HPERM Ref:** D22/1636

**Department:** Strategic Planning

**Approver:** Gordon Clark, Director - City Futures

### Reason for Report

Obtain 'in-principle' support to commence the process of entering into a Works in Kind Agreement (WIKa) with the owner/developers of the subject land for the construction of road and drainage infrastructure required under the [Shoalhaven Contributions Plan 2019](#). The works are associated with an approved mixed use subdivision SF9847 (as modified).

### Recommendation

That Council:

1. Provide 'in-principle' support to finalise negotiations and enter into a Works in Kind Agreement (WIKa) with the owner/developers of Lot 69 DP 25550, The Old Wool Rd, St Georges Basin; Lot 68 DP 25550 Island Point Rd, St Georges Basin; Lot 4 DP 785956, Island Point Road, St Georges Basin for the construction of road and drainage infrastructure and land value, as outlined in this report, except where further negotiations result in substantial changes to the proposal, in which case Council will receive a further report prior to proceeding.
2. Delegate authority to Council's Chief Executive Officer, or his delegate, to prepare and enter into the WIKa following final negotiations.
3. Endorse the allocation of deleted funds from Planning Area 3 to cover any shortfall in available funds that may occur relating to the construction of the road and drainage infrastructure and land value, following the procurement of independent costings. If there is not enough in the Planning Area 3 deleted funds budget to cover any shortfall, the remaining shortfall is to be covered by the developer upfront and reimbursed back to the developer as contributions are received over time for 03ROAD2023 and 03DRAI3001, to the value of the difference.
4. Notify the owner/developer of this resolution.

### Options

1. As recommended.

**Implications:** The proposed WIKa will result in a positive public benefit through the construction of part of the road and drainage infrastructure earmarked in the Shoalhaven Contributions (CP) Plan 2019. The approved subdivision (SF9847) will bring additional land supply and ongoing economic growth and the progression of this agreement will help facilitate this development.

Currently only dated land value estimates and concept infrastructure detail are available, which does result in some uncertainty at this stage. This option will however minimise any further delays to the development by enabling the agreement to be finalised under delegation, subject to no major changes resulting from the costings.

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2. As recommended, with no allocation of deleted funds to cover the shortfall.

Implications: This option will still enable the agreement to progress, however the cost burden relating to the likely shortfall from the construction of the infrastructure will be borne by the developer and reimbursement will occur only when contributions are received over time. The use of deleted funds to cover the shortfall as far as possible is preferable and is consistent with Council's general resolution of 2 April 2019 (MIN19.212(4)) relating to the use of deleted funds.

3. Provide 'in-principle' support to conclude the negotiations and report back to Council for endorsement to enter into the agreement prior to proceeding.

Implications: This option will still enable Council staff to finalise negotiations with the developer, including procuring detailed costings (based on detailed designs) prior to reporting back to Council. This is the usual way a WIKA is progressed and provides greater up-front certainty for all parties; however, this will likely result in further delays to the delivery of the subdivision which is not a good overall outcome.

4. Adopt an alternative recommendation.

Implications: May further affect the timely delivery of the subdivision and/or the nature and quality of the works provided.

## Background

On 14 August 2007, development consent (SF9847) was granted for the subdivision of three existing lots (Lot 68 & 69 DP 25550 and Lot 4 DP 785956 - **Figure 1**, coloured in blue) into eleven (11) lots including a reserve. The original consent has since been modified a number of times.

**Figure 2** shows the approved subdivision layout as per the Construction Certificate (CC21/1284).



Figure 1: The subject land - Lot 68 & 69 DP 25550 and Lot 4 DP 785956 in blue, Lot 2 DP 1093012 in yellow

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- (Source: Allen Price & Scarratts, June 2020)**

- Reduction in SF9847 area draining to the project (03DRAI0001) network to 28,800m<sup>2</sup>.
- Village Access Road works:
  - Construction of:
    - 1,620m<sup>2</sup> of sealed road, including earthworks and supporting pavement.
    - 217m of kerb and gutter.
    - 217m of sub-soil drainage.
    - Undertaking of associated works.
  - Dedication of 1,455.85m<sup>2</sup> of road reserve.

Note: Not all of the above works are supported, as discussed in more detail below.

A WIKA is required in this circumstance as a result of a recent Land and Environment Court decision (*Ku-ring-gai Council v Buyozo Pty Ltd* [2021] NSWCA 177) and contemporary legal advice.

The proposal overview presented in this report is based on approved Construction Certificate plans (D21/303415) and discussions to date between the parties. Council staff delegation is requested to continue to negotiate the particulars of the agreement, including the procurement of costings at the appropriate point (which has commenced).

#### Construction of the Road and Drainage Infrastructure

The Shoalhaven Contributions Plan ([Contributions Project 03ROAD2023](#)) requires the provision of a new access road and traffic facilities which will connect Anson Street to the south of the benefiting area to Island Point Road to the west of the benefiting area and will help facilitate planned/envisaged development of the St Georges Basin Village Centre.

**Figure 3** shows the new access road (in red) and the contribution project benefiting area (in blue - those who contribute to the project) as per the Contributions Plan.

The Shoalhaven Contributions Plan ([Contributions Project 03DRAI3001](#)) also facilitates the provision of an integrated drainage network connected to Council's existing system to minimise overflow and environmental impacts in the broader drainage catchment (see **Figure 4**).



Figure 3: 03ROAD2023 Project

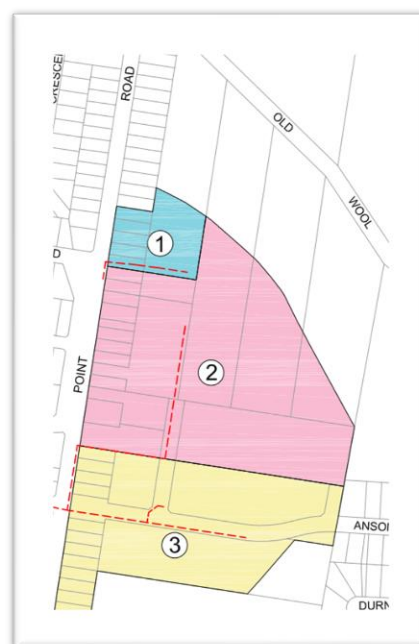


Figure 4: 03DRAI3001 Project

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The Shoalhaven CP 2019 allows for the acquisition of land associated with the road project. To manage the payment of the land value efficiently (i.e., the land ear marked for acquisition), it is proposed that this occur via the WIKA, with the land being dedicated. Depending on whether value of works proposed to be undertaken by the developer exceeds or is less than the value of the contribution, suitable provision can be made in the WIKA to ensure the full land costs are paid to the developer.

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## Delegation Opportunities

In accordance with Council's existing [Works In Kind Policy](#), Council may resolve to delegate authority to Council's Chief Executive Officer, or his delegate, to negotiate, publicly notify, enter into and register the agreement (as relevant).

The proposed agreement has some final negotiation yet to occur (including final detailed costings), however the proposal is supported 'in principle' and these matters can be resolved and progressed in time. As such, it is recommended that Council extend delegation for the above functions, unless further negotiations result in substantial changes to the proposal, in which case Council will receive a further report prior to finalisation.

## Conclusion

Due to the public benefit realised from the ultimate construction of the road and adjustments to the drainage infrastructure, it is in Council's interest to support the proposal as recommended, finalise negotiations and proceed to prepare the WIKA.

## Community Engagement

No community engagement is required for a WIKA.

## Financial Implications

### Options to Address the Funding Shortfall for the Construction of St Georges Basin - Road and Drainage Infrastructure

As independent costings have not yet been obtained for this proposal, it is unclear if there will be a shortfall between the developers Section 7.11 obligations for 03ROAD2023 (\$4,503.17) and 03DRAI3001 (\$315,955.20), as per Consolidated Consent DS21/1330, and the infrastructure construction costs/land values, however this is likely to be the case.

In accordance with Council's [Works In Kind Policy](#), if the value of the works undertaken (i.e. agreed construction costs) is less than the development contributions required in the consent, the developer will need to pay the difference to Council.

If there is a shortfall, a funding source will need to be identified accordingly.

Currently no contributions funds are available for either project, as a significant amount of work has been undertaken in relation to these projects and they are in deficit. As there are no contributions available to reimburse these projects, it is preferable that any remaining shortfall be covered by recently received deleted funds. In this regard, on 2 April 2019, Council resolved (MIN19.212(4)) to:

*Endorse the position that all funds from deleted projects are to remain within each relevant planning area and be transferred to a "recoupment fund", with those funds used as Council's apportionment towards projects and to provide seed funding for community infrastructure projects identified in the revised contributions plan.*

This project is an excellent candidate for the use of deleted funds and this option is preferred. If a shortfall remains, this shortfall could be covered by the developer upfront. The agreement could be drafted so that regular claims can be made for any contributions received over time for 03ROAD2023 and 03DRAI3001 to the value of the difference (i.e., a reimbursement mechanism).

Alternatively, the entire shortfall (if any) could be covered by the developer upfront. Whilst this is certainly a viable option, it is not preferred as deleted funds have been set aside by Council specifically to seed fund infrastructure delivery in circumstances like this.

It is noted that the developer has also proposed a reimbursement schedule which would see Council reimburse the developer the shortfall in 3 equal payments in a three-year period. The proposed reimbursement timeframe is not supported.

#### Costs associated with the land

A valuation will be required as part of the WIKA negotiation process to determine the current value of the land, with costs payable by the developer. Based on recent experience and current land values, it is expected that the land value will be significantly higher than identified in the Contributions Plan (2009 value).

#### Costs associated with the drafting and entering into the WIKA/VPA

In accordance with Council's [Works In Kind Policy](#), the developer will cover Council's costs (direct and incidental) relating to the negotiation, preparation and entering into the agreement (including associated legal costs) and enforcing the agreement.

#### COVID-19 Contributions Discount Subsidy Policy

Depending on when the SF9847 s7.11 contributions are paid (or works undertaken in kind), the development may be eligible for the COVID-19 Contributions Discount Subsidy (refer to the [COVID-19 Contributions Discount Subsidy Policy](#)), noting the eligibility criteria and exclusions within. The Subsidy should be considered separately to the WIKA; however, the WIKA mechanism should not be considered a reason for ineligibility as the monetary contributions are essentially being paid by works in kind.

### **Policy Implications**

Following the construction of the infrastructure as envisaged in the proposed WIKA and acquisition of land as required, changes to the current contributions plan project 03ROAD2023 will be required. Changes should reflect the partial completion status of the project, updated cost and acquisition estimates, and subsequent changes to the contribution rate as required. Minor administrative changes will need to be made to contributions project 03DRAI3001 to reflect actual expenditure in due course.

The changes to these projects can be undertaken as part of a future amendment/s to the Shoalhaven CP 2019 and would be reported separately at the appropriate point in time.

## CL22.58 Post Exhibition and Finalisation - Planning Proposal - LEP Housekeeping 2020/21 Amendment (PP044)

**HPERM Ref:** D21/527216

**Department:** Strategic Planning

**Approver:** Gordon Clark, Director - City Futures

### Reason for Report

Detail the outcomes of the public exhibition of Planning Proposal (PP044) – Housekeeping 2020/21 Amendment to Shoalhaven Local Environmental Plan (LEP) 2014 and enable the resultant amendments to the LEP to proceed to finalisation.

### Recommendation

That Council:

1. Adopt the Planning Proposal – Housekeeping 2020/21 Amendment (PP044) as exhibited, and using Council's delegation, forward to the NSW Parliamentary Counsel's Office to draft the resulting amendment to the Shoalhaven Local Environmental Plan 2014.
2. Advise key stakeholders, including those who made a submission, CCBs and Industry Representatives, of this decision and when the Amendment will be made effective.

### Options

1. Adopt the recommendation.

Implications: This is the preferred option as it will enable the Planning Proposal (PP) to be finalised to ensure that the relevant housekeeping matters in the LEP are finalised and addressed/progressed in a timely manner, so that the plan operates correctly.

2. Adopt an alternative recommendation.

Implications: Will depend on the extent of any changes and could delay the finalisation of the PP.

3. Not adopt the recommendation.

Implications: This is not the preferred option as the identified housekeeping matters will not be resolved.

### Background

The Shoalhaven LEP 2014 is continuously updated to ensure that it aligns with strategic documents, is improved/corrected where necessary, relevant matters are resolved, and positive planning outcomes are delivered for the community. As a result, Council has an ongoing process of housekeeping amendments to improve the operation and maintain the accuracy of the LEP.

PP044 intends to make the following amendments to Shoalhaven LEP 2014:

- Ten (10) items that require administrative amendments to the written LEP instrument. These amendments include (but are not exclusive to):
  - Insertion of ‘Secondary Dwellings’ as permitted with consent in certain residential zones.
  - Insertion of ‘Artisan Food and Drink Industry’ as permitted with consent in certain business zones.
  - Additional subdivision provisions for certain split zoned industrial land.
- Twenty-nine (29) items that require amendments to the LEP maps, covering a variety of minor mapping issues relating to land zoning, lot size, height of building, buffer, urban release area, clauses and heritage.
- One (1) item that relates to both the instrument (LEP Schedule 5 – Environmental Heritage) and the associated heritage mapping.

On 11 May 2021, Council resolved (MIN21.248) to:

1. *Submit Planning Proposal PP044 to the NSW Department of Planning, Industry and Environment for an initial Gateway determination, and if favourable:*
  - a. *Proceed to formal exhibition in accordance with the terms of the determination/legislative requirements; and*
  - b. *Receive a further report following the conclusion of the public exhibition to enable its finalisation.*
2. *Advise key stakeholders, including relevant Community Consultative Bodies and any directly affected landowners, of the public exhibition agreements.*

The PP was submitted to the NSW Department of Planning, Industry and Environment (DPIE) and received a favourable Gateway determination on 11 June 2021. The determination granted delegated authority to Council for this PP which means that Council can liaise directly with the NSW Government to prepare and finalise the LEP amendment following exhibition.

### Government Agency Feedback

Prior to the required public exhibition, the PP was referred to the following State authorities for review/comment:

- NSW Rural Fire Service
- DPIE – Environment, Energy and Science Division – Biodiversity and Conservation Division
- DPIE – Crown Lands
- National Parks and Wildlife Service

The resulting comments on the PP are summarised in **Table 1** below.

**Table 1: Agency Consultation**

Agency	Response Summary
NSW Rural Fire Service	No objection to the proposal.
DPIE – Crown Lands	No objection to the planning proposal.
National Parks and Wildlife Service	Support the proposed LEP amendments detailed in Mapping Changes 5 (land to north of Errol Bay), 7 (Lot 17 DP857006 Huskisson Road, Huskisson) and 16 (Lot 1 DP866983 Naval College Road, Vincentia).
	Related to the Errol Bay land - Recommended the rezoning of Lot

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	241 DP 8769 to E1 National Parks and Nature Reserves; and not proceed with the rezoning of part of Road UPN's 106875, 106878 and 114695 as these 'paper roads' potentially provide access to lands that are not reserved under the <i>National Parks and Wildlife Act 1974</i> and should remain as E2 Environmental Conservation.
DPIE – Environment, Energy and Science Division – Biodiversity and Conservation Division	No objection to the proposal - noted NSW National Parks and Wildlife Service's comment.

The PP document was updated to reflect National Parks and Wildlife Services comments, prior to the public exhibition.

### Community Engagement

In accordance with the Gateway determination and Council resolution (MIN21.248) the PP was publicly exhibited for a period of more than 28 days, from 13 October to 12 November 2021 (inclusive) on Council's website.

Key stakeholders including Community Consultative Bodies (CCBs), and all directly affected landowners were notified in writing.

The exhibition material remains available on [Council's website](#) and includes:

- Planning Proposal
- Explanatory Statement
- Gateway Determination
- Public Exhibition Notification

As a result of the exhibition, two (2) formal submissions were received in support of the PP (one from the development industry and one from a utility provider). The following table provides a summary of the submissions received and comments from Council staff. Copies of the actual submissions can be made available to Councillors on request prior to the meeting if necessary.

No.	Submitter	Summary of Submission	Staff Comments
1	Utility Provider <i>Endeavour Energy</i>	Support Mapping Item 23 (Lot 1 DP844280 Osborne Street, Nowra) The proposed rezoning of the site to SP2 is considered to: <ul style="list-style-type: none"> <li>• Best reflect the lands ongoing permanent use as vital electricity network infrastructure,</li> <li>• Provide clarity to the local community as to the current and ongoing use of the land,</li> <li>• Provide consistency with Council's LEP SP2 zone objectives to provide for infrastructure and related uses,</li> <li>• Confirm the land use is intended to support population growth within the LGA,</li> <li>• Enable the provision of reliable service and infrastructure to meet peoples changing needs.</li> </ul>	<i>Support noted. No change recommended.</i>
2	Industry <i>Allen Price &amp; Scarratts on behalf</i>	Support Instrument Items 1 (Land Use Table – Secondary Dwellings) and 2 (Land Use Table – Artisan food and drink industry) and Mapping Item 15 (Golfcourse Way, Sussex Inlet).	<i>Support noted. No change recommended.</i>  <i>Additionally, it is noted</i>

	of Lucas Sheargold Property Group Joint Venture	<p>With respect to Item 1, support the inclusion of “Secondary dwellings” as a nominated land use within the R1, R2, R3 and R5 zones which increases flexibility around providing more affordable housing choices available in the market.</p> <p>With respect to Item 2, support the inclusion of “Artisan food and drink industry” as a nominated land use within the B2 and B3 zones which increases flexibility around commercial areas for an emerging industry.</p> <p>With respect to Item 15 in Table 2 (Section 3.2), support the realignment of zone and minimum lot area boundaries between RE2 and R1 zones to correlate with the registered cadastral boundaries.</p>	<p><i>that subsequent to the end of the public exhibition period, an additional request was received from the submitter to extend the scope of Mapping Item 15 - outside the scope of the current PP and will be considered in the relevant housekeeping PP</i></p>
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### Conclusion

No further changes are recommended to the PP as a result of state agency consultation or the public exhibition.

The PP can now be finalised and the resulting LEP amendment can proceed to finalisation.

### Policy Implications

Finalising these amendments will ensure Shoalhaven LEP 2014 is both accurate and is operating as intended.

### Financial Implications

There are no immediate financial implications for Council. The PP will continue to be resourced from the Strategic Planning budget.

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## CL22.59 Planning Proposal (PP007) - Inyadda Drive, Manyana - Proponent Not Proceeding

**HPERM Ref:** D21/550139

**Department:** Strategic Planning

**Approver:** Gordon Clark, Director - City Futures

### Reason for Report

Advise of advice received from the proponent for the Planning Proposal (PP007) at Manyana that they are no longer seeking to rezone the land and as a result to formally discontinue this rezoning project.

### Recommendation

That Council note the proponents' advice and formally discontinue Planning Proposal PP007 over land at Inyadda Drive, Manyana.

### Options

1. Discontinue PP007 as recommended.

Implications: Will confirm that any future development of the land will need to be consistent with the existing zoning/planning controls, reducing any potential confusion in the local community.

It may be appropriate to review the zoning of the land should the land ultimately be subdivided/developed based on the current zoning.

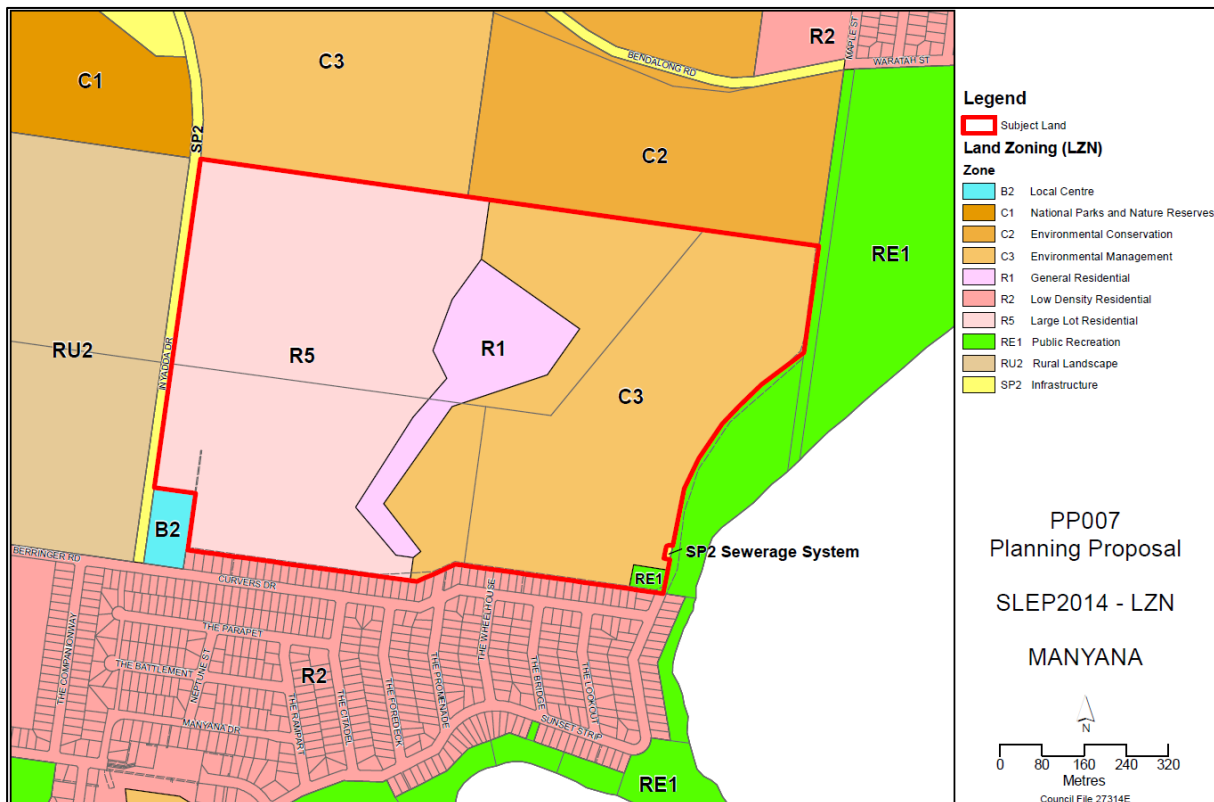
2. An alternative direction.

Implications: There are no obvious alternative options. Advice can be provided if an alternative approach is suggested or proposed.

### Background

The subject land has a long and complex planning history dating back to the 1980's. Various development outcomes have been considered over a long period and the local community has maintained a keen interest in the site and its potential development.

The subject land is located on Inyadda Drive, Manyana and consists of Lot 106 DP 755923 (Por 106), Lot 2 DP 1161638 and Lot 2 DP 1121854 (see Figure 1 – subject land and existing zones).

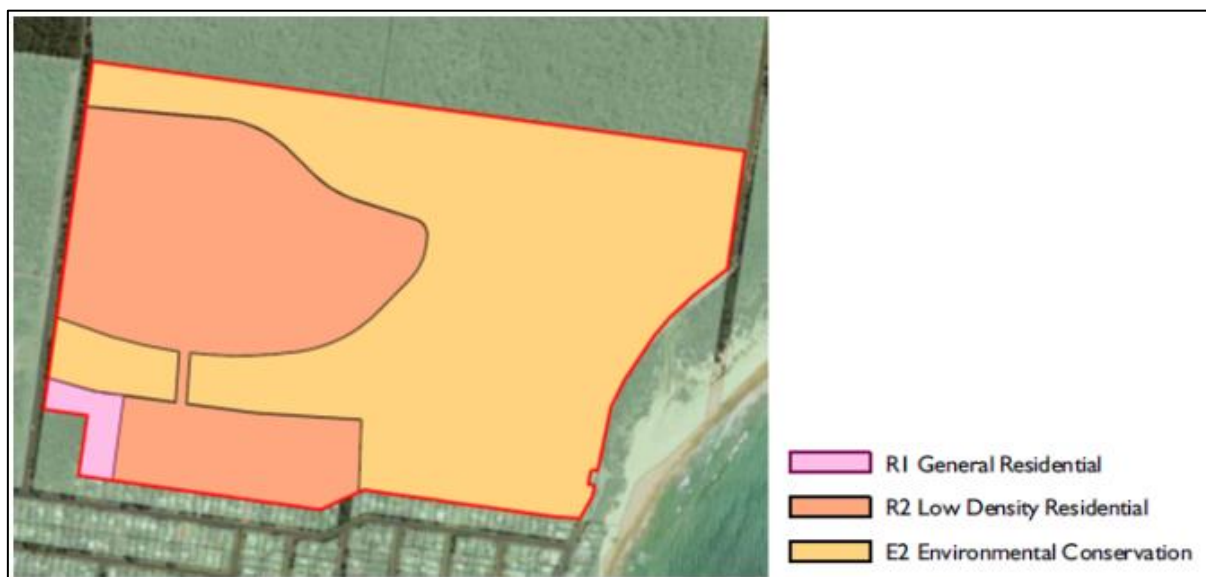


**Figure 1 – Subject land and current zoning (discontinued Planning Proposal PP007)**

As shown in Figure 1, under Shoalhaven Local Environmental Plan (LEP) 2014, the land is currently zoned a mix of: R5 - Large Lot Residential; R1 - General Residential; C3 - Environmental Management; and RE1 - Public Recreation.

The current minimum lot size requirements for subdivision in the LEP are 2,000 m<sup>2</sup> (R5 zone) and 500 m<sup>2</sup> (R1 zone).

In early 2014, Council resolved to progress a proponent-initiated Planning Proposal (PP) seeking to enable a denser more compact residential development and provide environmental protection for the remaining land generally as shown in Figure 2.



**Figure 2 - Proposed zoning adopted by Council in 2014 as basis for PP007**

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The PP was prepared and submitted to the NSW Government for the required initial Gateway determination. At that time, the purpose of the Gateway step was to determine if a proposal had merit to proceed further, and what if any additional studies or consultation would be needed prior to public exhibition. **Note:** the NSW Department of Planning, Industry and Environment (DPIE) released new LEP making guidelines in December 2021, now essentially requiring all, or at least, most of the supporting technical studies to be undertaken prior to the Gateway step.

A Gateway determination was originally issued by the NSW Government in mid-2015, requiring a range of assessments before the PP could be publicly exhibited, including a biodiversity assessment and offset strategy, which the then owner Kylor Pty Ltd did not complete.

The land subsequently changed ownership in 2018 and the new owners initially sought to expand the footprint adopted by Council, but after considering community feedback obtained by Council, in mid-2019, they agreed to investigate a potential footprint consistent with that previously adopted by Council (Figure 2).

The new owners initiated their own biodiversity investigations which identified two plant communities that are protected under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) meaning that approval could be required under the EPBC Act for any development on the land, potentially impacting on the land's development potential. It was agreed that it would be prudent to clarify this EPBC issue before the PP (rezoning) was progressed and finalised.

Thus, progressing the PP to resolution was impeded by a range of factors outside of Council's control.

In December 2020, the PP was one of 5 'legacy' rezoning proposals that were terminated by DPIE as part of the NSW Governments focus on speeding up the rezoning process and reforming the NSW planning system generally. In response to this decision Council resolved in January 2021 to seek a new Gateway determination once an EPBC referral outcome is reached.

In May 2021, the proponent referred a concept subdivision plan based on the rezoning proposal, to the Federal Department of Agriculture, Water & Environment (DAWE) under the EPBC Act. In June 2021, the proposal was determined to be a 'controlled action', meaning that that if the land is rezoned (see below) approval would also be required under the EPBC Act for the resulting subdivision (in addition to needing development approval under the NSW planning system).

Documents forwarded to Council by DAWE in November 2021 indicated that the proponent's concept subdivision being assessed under the EPBC Act had been formally amended (refer to the [EPBC public notices](#) website – ref# 2021/8948) reducing the lot yield from approximately 278 lots to 100. The proponent's documentation stated:

*"...the varied proposal is for a 100-lot community title residential subdivision that complies with the current zoning of the subject site. The proposed subdivision applies a minimum lot size of 2000m<sup>2</sup> across all residential lots and complies with Shoalhaven City Council's requirements for large-lot residential subdivisions and as such will be included in a complying DA submitted to Council rather than a planning proposal to rezone the land."*

The PP had sought to reduce the overall development footprint from the current R5 and R1 zoned areas (Figure 1) while offering a greater number of smaller lots. It appears that the proponent is now seeking to develop a footprint similar to the PP, but at a lower density allowed under the current R5 zoning. The remaining land will potentially be the subject of a biodiversity stewardship site (BSS), established to help offset the biodiversity impacts of the

development. Additional offsets will potentially need to be secured (if insufficient credits are generated from the BSS).

As noted above, approval under the EPBC Act does not remove the need for approval (also) under NSW planning legislation (i.e., a development application under the EP&A Act).

In late November 2021 the proponent advised that they would not be progressing with the PP and intend to submit a development application for a large lot subdivision based on their concept plan being assessed under the EPBC Act, relying on the existing LEP zones. Potentially they will do this if/when their concept plan is first approved under the EPBC Act.

If a subdivision is ultimately approved and developed, the land's current zoning may need to be updated in the future, e.g., to better reflect the nature of the approved lots/development and an environmental zone applied to the biodiversity stewardship site (BSS). This could be done through a house-keeping amendment to the LEP at the appropriate time.

## Conclusion

This PP has attracted community interest over a long period, as such this report provides an update to Council, noting that it will now be discontinued based on advice received from the proponents.

## Community Engagement

In recognition of the high level of community interest in this land/project, a [project page](#) has been maintained on Council's Get Involved community engagement platform. The project page currently has 255 subscribers and has been kept updated.

## Financial Implications

Given that this has been managed as a proponent-initiated PP, costs incurred are to be met by the proponent in accordance with Council's set Fees and Charges.

The full cost of the Aboriginal Cultural Heritage Assessment that has been undertaken to support the PP was met by the proponent. In relation to Council staff time, the proponent has been issued with an appropriate invoice for chargeable staff time accrued on this project since mid-2018 (after the land changed ownership), acknowledging that the project has now been discontinued.

## CL22.60 Update - Planning Proposal PP028 - Halloran Trust Lands at Callala Bay, Wollumboola and Kinghorne

**HPERM Ref:** D22/100

**Department:** Strategic Planning

**Approver:** Gordon Clark, Director - City Futures

**Attachments:**

1. Draft Conservation and Development Land Map - PP028 [↓](#)
2. Letter from NSW DPIE - Urgency in resolving PPs - 19 Mar 21 [↓](#)
3. Letter NSW DPIE - PP028 Declaration of state and regional significance - 13 Dec 21 [↓](#)

### Reason for Report

Inform Council (and the community) that the Planning Proposal (PP) for Halloran Trust Lands at Callala Bay, Wollumboola and Kinghorne (PP028) was declared by the then NSW Minister for Planning and Public Spaces, the Hon Robert Stokes, to be of *State and Regional Significance* on 13 December 2021 due to the state and regionally significant area of land proposed to be dedicated to the state as an extension of Jervis Bay National Park.

This means the Planning Secretary of the NSW Department of Planning, Industry and Environment (DPIE) has replaced Council as the PP Authority (decision-making authority) for this matter.

### Recommendation

That Council:

1. Acknowledge the decision by the NSW Minister for Planning and Public Spaces that the Planning Proposal for the Halloran Trust lands at Callala Bay, Wollumboola and Kinghorne (PP028) is of *State and Regional Significance* and that Planning Secretary of the NSW State Government Department of Planning, Industry and Environment (DPIE) is now the Planning Proposal authority.
2. Continue to assist and work collaboratively with DPIE, the proponent and other stakeholders on the proposal to help achieve beneficial development, environmental and community outcomes, including assisting with community engagement.
3. Receive progress reports on the Planning Proposal as appropriate/required.
4. Notify key stakeholders, including relevant Community Consultative Bodies (CCB's) of the *State and Regional Significance* declaration and its implications, and the project 'Get Involved' webpage be updated accordingly.

### Options

1. Note the NSW Planning and Public Spaces Minister's decision and continue to assist and work collaboratively with DPIE and relevant stakeholders. As recommended.

Implications: This declaration was issued by the then NSW Minister for Planning & Public Spaces given the state and regionally significant area of land proposed to be dedicated as an extension of Jervis Bay National Park as a result of the PP. This means DPIE is now the assessment and decision-making body for the finalisation of this PP.

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DPIE will undertake the remaining assessment activities for the project, including collating the remaining technical study information, refinement of the proposed planning controls and PP documentation, public exhibition, state agency consultation and post-exhibition review and finalisation.

The Minister's decision relatively late in the PP process was unexpected. However, it is understood that an alternate decision could have been the terminate the PP, as has previously occurred with other older PP's, and this option would have been even less desirable.

At the time of writing, initial discussions have been held with DPIE on handover arrangements and the role that Council can play to support the process, involve the community, and get the best possible planning outcomes.

While Council no longer has a decision-making role in PP028, there is an opportunity to play a supporting, collaborative role in terms of finalising the supporting technical information, preparing the mapping, and assisting with community engagement. This approach will help achieve beneficial outcomes, for example those relating to infrastructure provision (e.g., adequate local park provision and high-quality stormwater management outcomes) and development design.

Council staff will also be involved in the public exhibition phase and this is important given Council's role in managing the PP to this point including assessing the supporting technical studies and developing the proposed LEP mapping.

The approach previously settled with the proponent and DPIE is the proposed residential area will also be mapped as 'urban release area' in the Shoalhaven Local Environmental Plan (LEP) 2014, to which Part 6 of the LEP applies.

This would mean that a detailed site-specific Development Control Plan (DCP) will need to be prepared before the land could then be subdivided. The DCP will provide more detailed planning provisions to achieve desired outcomes and will be Council's responsibility. Council will also be responsible for progressing other supporting mechanisms (such as a Voluntary Planning Agreement and Contributions Plan Amendment). The community will also be engaged when preparing these later supporting documents.

## 2. Alternative recommendation.

Implications: There are no obvious alternative options, given that the Act the Minister with powers to confer and alter decision-making authority for PP's. For example, there is no legislative ability for Local Government to challenge the decision.

## Background

Local land use planning decisions are guided by the *Shoalhaven Local Environmental Plan (LEP) 2014*. The LEP prescribes land use zones and other development standards such as height limits and provides a framework for the way land can be developed and used. Amendments to LEPs are generally undertaken through the preparation and assessment of [planning proposals](#).

The Halloran Trust Planning Proposal (PP) for land in the Callala Bay, Wollumboola and Kinghorne localities (PP028) seeks to rezone approximately 557 hectares of land owned by Sealark Pty Ltd, a subsidiary of the Halloran Trust, for residential and environmental conservation purposes. See **Figure 1: Location Map** below.

Most of the subject land (approximately 517 ha / 1277.5 acres) is proposed to be rezoned for conservation and incorporation into Jervis Bay National Park. All the subject land within the Kinghorne and Wollumboola localities (including part of the catchment area of Lake

Wollumboola) will be zoned for conservation. A [Biobank Agreement](#) between the landowners and the NSW State Government (Biodiversity and Conservation Division) to protect the proposed conservation lands was entered into in 2019.

Land directly west of Callala Bay (approximately 40 ha / 100 acres) is proposed to be rezoned to enable the development of housing and associated infrastructure (including roads, footpaths, cycleways, stormwater management, and a local park). Refer to **Attachment 1: Proposed Conservation and Proposed Development Area Map**.

The PP is proponent-initiated - was submitted to Council by Allen Price and Scarratts (APS) planning consultants on behalf of Sealark Pty Ltd.

This PP has a long/complex planning history and it is important to note that it does not cover the Halloran Trust land at Culburra Beach. Originally all the land owned by Sealark Pty Ltd was covered by a single PP (PP006), however the proposal was split in late 2017 as follows:

- PP028 relates to the Callala Bay, Wollumboola and Kinghorne components
- PP006 Relates to the Culburra Beach component

The Planning Minister's recent decision only relates to PP028. Council will remain as the planning authority for PP006.

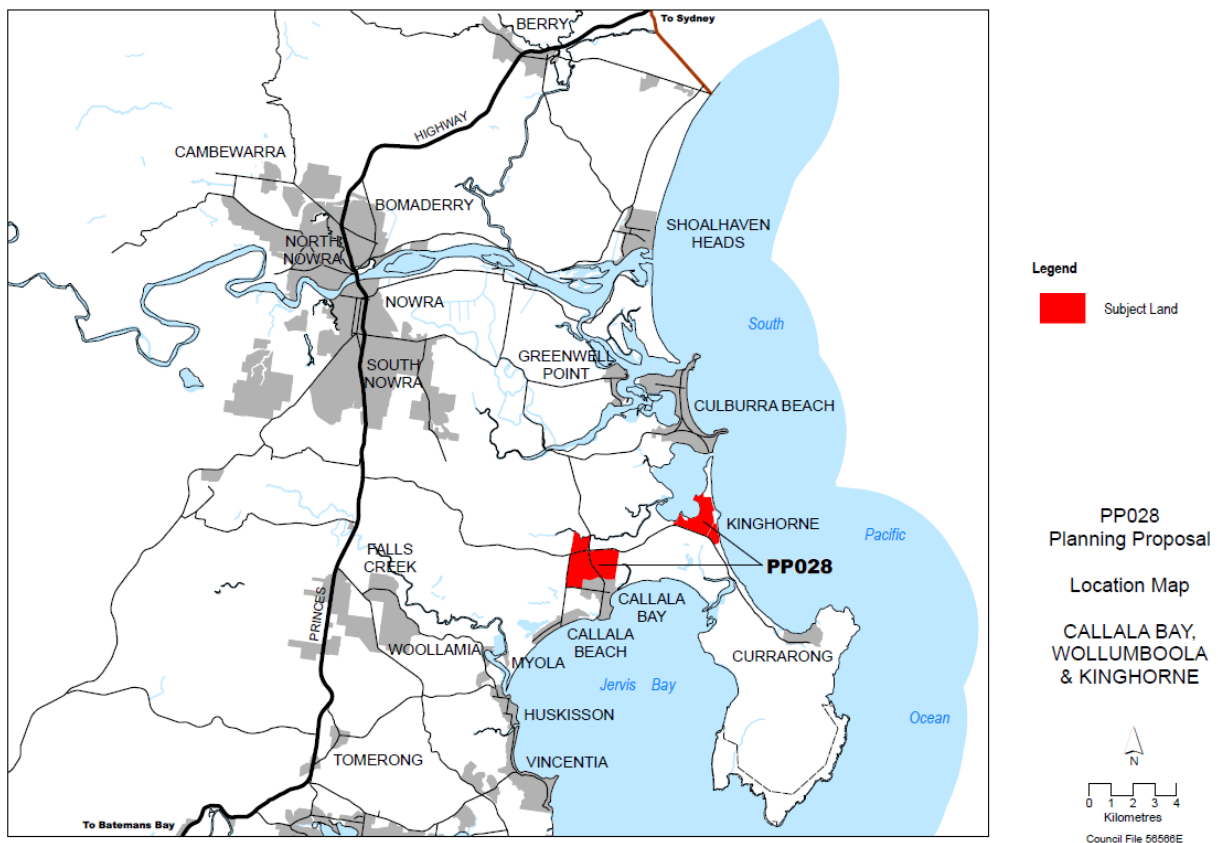


Figure 1: Location Map PP028

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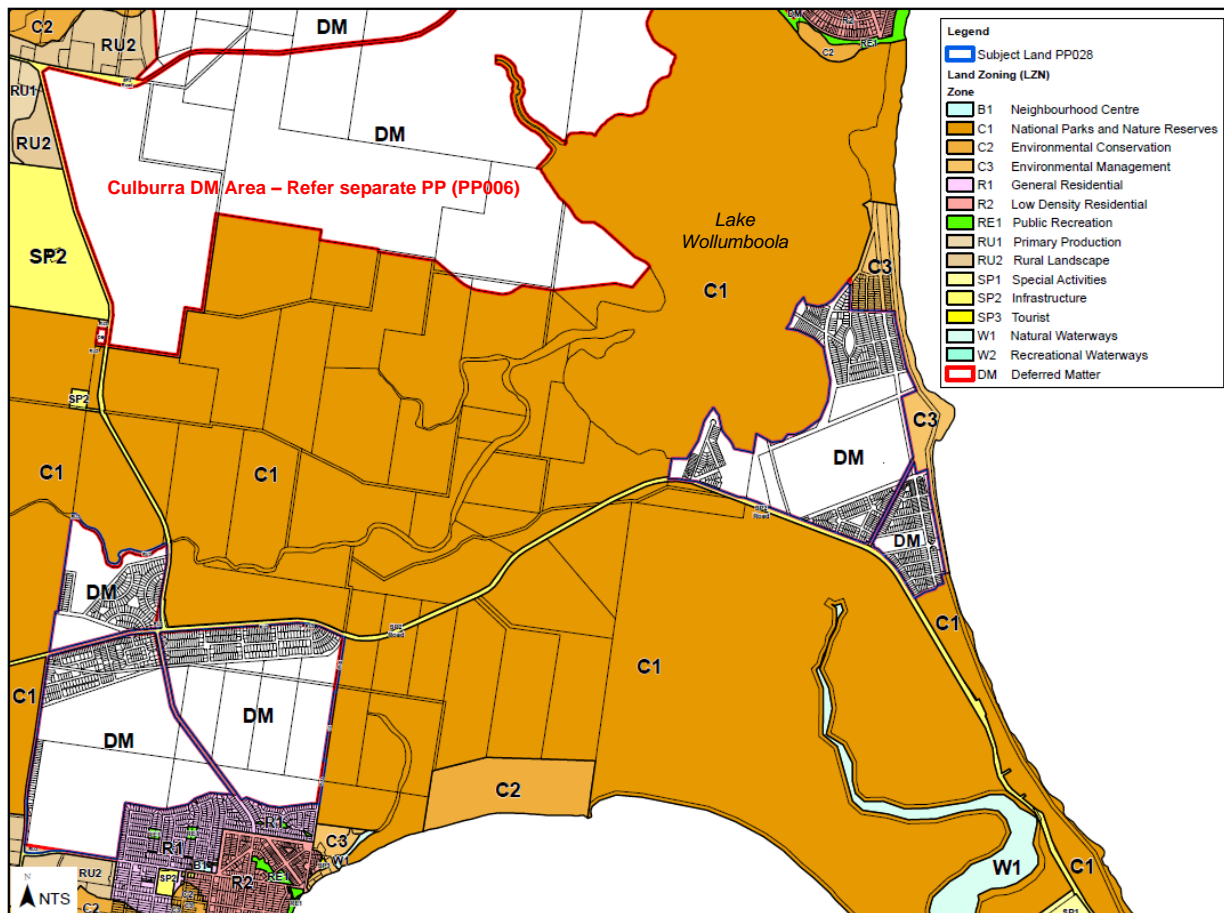


Figure 2: Current Zoning Map – PP028 seeks to rezone the DM areas surrounding Callala Bay. The small properties shown in the DM area are 'paper subdivision lots' proposed to be zoned for conservation.

Most of subject land has a 'deferred' zoning under the LEP (see **Figure 2: Current Zoning Map**). As such it is currently zoned a mix of rural and environment protection zones under the earlier LEP 1985. The PP will essentially resolve the 'deferred' status of the land and apply updated zones and other planning controls to allow for some westwards expansion of the Callala Bay township and facilitate preservation of native bushland to the north and east.

The area contains hundreds of 'paper subdivision' lots in the vicinity of the intersection of Forest Road, Currarong Road and Coonemia Road, and at Kinghorne Point. These resulted from speculative subdivisions dating back to the early 1920s that were never realised or developed. These lots cannot be developed for housing under current planning controls. The PP will facilitate their consolidation and ultimate incorporation into the Jervis Bay National Park along with surrounding land, consistent with the Jervis Bay Settlement Strategy 2003 (JBSS).

It is estimated the proposal will also facilitate delivery of ~380 housing lots<sup>1</sup> in the area directly west of the existing Callala Bay township, also consistent with the JBSS.

The proposed residential area is bound by Callala Beach Road to the west, the rear of properties on Stott Crescent to the east, Emmett Street in the south, and the Lake Wollumboola Biobank site to the north. The bushland to be cleared for housing (approximately 38 ha) is proposed to be fully offset using credits generated from the protection of habitat in the neighbouring Lake Wollumboola Biobank site (see **Attachment 1: Conservation and Development Land Map**). In addition, approximately 2 hectares of

<sup>1</sup> Lot yields are approximate only, and eventual lot numbers are subject to detailed design and assessment at subdivision development application stage.

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bushland within the housing development area will be retained and managed as a bushland reserve to protect a population of protected orchids.

### PP History and Process

As part of the LEP 2014 the zoning of lands owned by the Halloran Trust was 'deferred' pending further site-specific study and master planning.

The landowners lodged a PP for the Halloran Trust lands in and around Callala Bay and Culburra in August 2014. This PP was supported 'in principle' by Council on 7 October 2014 and provided to the NSW State Government for Gateway determination on 30 October 2014 (Note: information link on [Gateway Process for Planning Proposals](#)).

A Gateway determination was issued by the NSW Government on 16 November 2015, requiring a comprehensive suite of technical studies and other actions prior to public exhibition. At that time, the purpose of the Gateway step was to determine if a proposal had merit to proceed further, and what if any additional studies or consultation would be needed prior to public exhibition. One of the studies required for the Culburra Beach component was a groundwater assessment (to enable potential impacts on Lake Wollumboola to be assessed). The groundwater assessment was required to involve a comprehensive two year monitoring program.

Following the first stage of the Groundwater Assessment, Council resolved on 12 September 2017 to split the then PP into two as detailed earlier. This was aimed at enabling the timelier progression of the Callala Bay component while also facilitating more targeted community engagement.

PP028 was submitted for a new Gateway determination on 27 November 2017 and a favourable determination was received on 13 June 2018.

Gateway determinations provide deadlines for completion of PP's. The deadline for PP028 originally lapsed on 18 June 2020, but was extended by one year to 20 June 2021.

*Note:* In December 2020, the Culburra Beach PP (PP006) was one of 5 'legacy' rezoning proposals that were terminated by the NSW Government as part of a focus on speeding up the rezoning process and reforming the NSW planning system generally. In response, Council resolved in January 2021 to seek a new Gateway determination for PP006 at the appropriate point once a potential development footprint is more fully resolved for this area in consultation with the proponent and DPIE.

On 19 March 2021, DPIE issued a letter to Council requesting urgency in resolving PP's that have been under assessment for greater than two years and PP028 Callala Bay was listed as an affected PP (see **Attachment 2: NSW DPIE Letter – Urgency in PP's**).

In December 2021, DPIE released new LEP Making Guidelines, essentially requiring all, or at least, most of the supporting technical studies to now be undertaken prior to the Gateway step, representing a fundamental shift in the PP process.

Complex PP's such as PP028 often require technical studies and concurrent approvals/processes which can take between 6-12 months or longer to complete (for example, biodiversity seasonal surveys and studies, seasonal traffic survey/monitoring, water monitoring, Aboriginal Cultural Heritage Assessments). In the case of PP028, biodiversity studies and a referral to the Federal Government under their *Environment Biodiversity Conservation (EPBC) Act 1999* to assess impacts on the Endangered *Genoplesium baueri* – Bauer's Midge Orchid occurred between early 2020 and mid-2021. Progression of other supporting studies and master planning were thus delayed pending the implications of the EPBC decision. An EPBC Act referral to the Federal Government was initiated by the proponent in March 2020 with an approval issued on 1 June 2021.

The required studies to accompany PP028 are now mostly complete. In December 2021, Council was awaiting a revised Integrated Water Cycle Management Study (to assess and

propose mitigations for stormwater quantity and quality impacts) from the proponent as well as minor revisions to other studies including the Bushfire Study and Infrastructure Study. Internal Council staff consultation and master planning based on the findings of the supporting technical studies was well underway, with a targeted timeframe to report an updated PP to Council in March 2022 to enable public exhibition.

However, on 13 December 2021, Council received correspondence from the then Minister for Planning and Public Spaces, Transport and Roads relating to PP028 - see **Attachment 3: Letter - PP028 declaration of state and regional significance**).

The letter advises that DPIE is now the PP Authority for the subject PP (PP028) under Section.3.32(2)(a) of the *NSW Environmental Planning & Assessment Act*. This effectively means the decision-making powers to approve and make the proposed LEP amendments revert to the NSW State Government. The reasons for this state and regional significance declaration are listed as the '*potential environmental benefits of this proposal for both Lake Wollumboola and the Jervis Bay National Park*'.

A short meeting between Council officers and DPIE staff was held on 23 December 2021 to discuss roles and handover details; and discussions will continue in January/February 2022.

Council staff will now hand over all relevant information to the NSW State Government as the PP Authority, in accordance with the requirements of the Act, and will continue to work collaboratively with DPIE to progress the proposal.

As the PP Authority, DPIE has certain timeframe advantages available to it in progressing this PP to finalisation, including access to a larger pool of resources, and the ability to resolve any Government agency objections (through the Planning Delivery Unit).

## Conclusion

The decision by the Minister to make DPIE the PP Authority for PP028 at this late stage in the PP process was somewhat unexpected.

At the commencement of the original PP back in 2014/2015 there were discussions about who was the logical PP Authority given its significant nature, the likely involvement of complex consultations with different NSW Government Agencies and also the associated significant land dedication to the NSW Government.

The Minister's recent letter states that the reason for this decision now is the *potential environmental benefits of this proposal for both Lake Wollumboola and the Jervis Bay National Park*.

The supporting technical studies (most of which have been prepared by the proponent) are largely complete and the draft LEP maps (prepared by Council) are being refined. To help achieve the best possible development, environmental and community outcomes of this proposal, it is important that Council staff support and assist DPIE in the final stages of the PP process.

## Community Engagement

Community engagement is a key phase of the PP process and legislative requirements apply. The existing Gateway determination states that the PP must be exhibited for a minimum of 60 days. DPIE's new 'LEP Making Guideline' (December 2021) recommends a maximum period of public exhibition period of 30 working days (equivalent to 42 days excluding any public holidays) for complex PP's. As such it is possible that DPIE could alter the Gateway determination to reduce the minimum required exhibition for the PP to align with their new guideline.

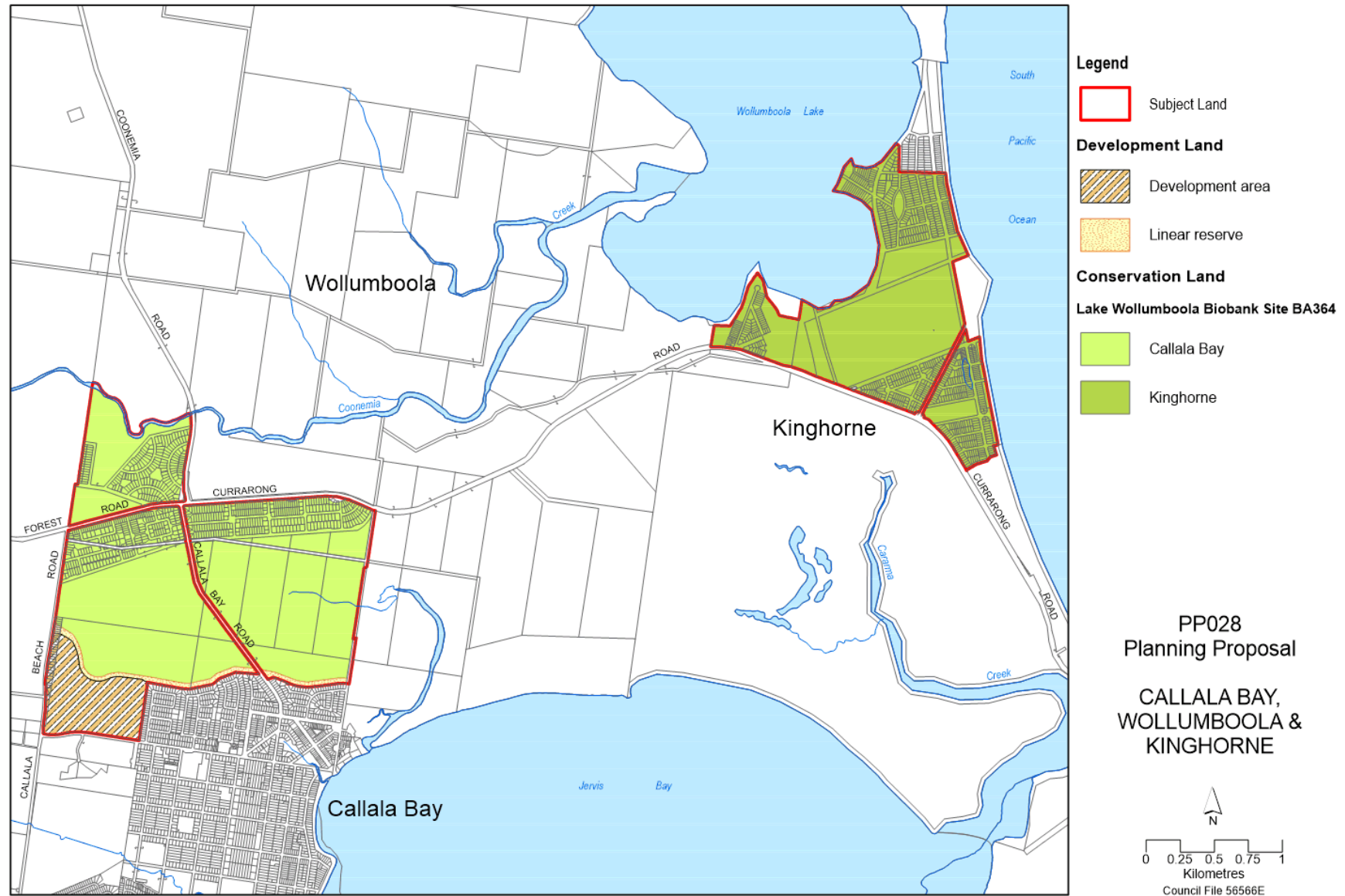
Council staff will have the opportunity to assist DPIE in the public exhibition phase to ensure that there is a local point of contact, and respond to enquiries which require local knowledge/input.

In recognition of the high level of community interest in this PP, a [project page](#) has been maintained on Council's 'Get Involved' community engagement platform. This project webpage will continue to be maintained and updated to help keep the community informed. *Note:* DPIE will exhibit the PP on the NSW Planning Portal – a link will be provided on Council's 'Get Involved' page to help people navigate to the exhibition page. Any feedback received directly by Council will also be forwarded to DPIE.

### **Financial Implications**

Council's [Planning Proposal \(Rezoning\) Guidelines](#) state that the costs to prepare and assess proponent-initiated PP are to be met by the proponent, including the costs associated with staff time, as set out in Council's fees and charges.

While the NSW Government is now the PP authority for PP028, Council's fees and charges will continue to be applied as appropriate to recoup costs incurred by Council.



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**Planning,  
Industry &  
Environment**

19 March 2021

Mr Stephen Dunshea  
Shoalhaven City Council  
Bridge Road,  
NOWRA NSW 2541

Via email: [stephen.dunshea@shoalhaven.nsw.gov.au](mailto:stephen.dunshea@shoalhaven.nsw.gov.au) & [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au)

Dear Stephen

### Urgency in resolving planning proposals

I am writing to Council regarding the resolution of unresolved planning proposals.

As you know, the Department is focused on the reduction of long-standing planning proposals in the system. This will bring the benefit of allowing Councils and the Department to focus more resources on strategic planning and the proposals to deliver those plans.

The Department's planning teams have been in regular contact with your staff over planning proposals that have been in the system for greater than two years, and which were of immediate concern.

We appreciate that whilst work may be underway, the following planning proposals are still to be resolved:

LGA	LEP ID	Title	Stage	Date lodged
Shoalhaven City Council	PP_2018_SHOAL_002_01	Planning Proposal - Callala Bay and Kinghorne Point Halloran Trust Lands Rezoning	Additional information requested	27/11/2017
Shoalhaven City Council	PP_2018_SHOAL_004_02	Planning Proposal - Hitchcocks Lane Berry Residential Investigation Area	PPA assessment - Post Exhibition	18/12/2017
Shoalhaven City Council	PP_2018_SHOAL_007_01	47 Jervis Bay Road Falls Creek Community Title Subdivision	PPA assessment - Post Exhibition	27/06/2018
Shoalhaven City Council	PP_2018_SHOAL_008_01	Planning Proposal - Coastal Hazard Review	PPA assessment - Post Exhibition	21/08/2018

It is important that plans are put in place to address the resolution of these planning proposals as soon as possible, and ensure they are completed before the end of 2021. This can include how the Department can assist Council to resolve these planning proposals, which may involve engaging the [Planning Delivery Unit](#) (PDU). The PDU is a specialist team designed to progress priority planning projects, both development applications and planning proposals that may be stuck in the system. Projects can be referred to the PDU by Council and a request can be submitted to the PDU via [email](#), however, it should be noted that not all planning proposals will be suitable for PDU's intervention.

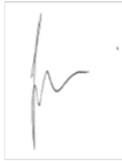
In order to shift the planning system to a more strategic focus, the Government is aiming for planning proposals to generally take one year and no more than two years to complete. To achieve these ambitions, we need the support and commitment of your Council to work swiftly with the Department, stakeholders and proponents.

Moving forward, the Department is taking an active case management approach. More information about this, an overview of planning proposal process improvements the Department is undertaking, and a summary of what councils can expect from the Department in terms of consultation on planning reform and other major program initiatives up until July 2021, will be shared in the coming weeks.

I encourage you to contact me to discuss Council's outstanding planning proposals via telephone on 0429 313 214, or via email at [Kiersten.Fishburn@planning.nsw.gov.au](mailto:Kiersten.Fishburn@planning.nsw.gov.au).

I look forward to working with you and your team in 2021.

Yours sincerely



**Kiersten Fishburn**  
Coordinator General  
Planning Delivery Unit



**The Hon. Rob Stokes MP**  
Minister for Planning and Public Spaces  
Minister for Transport and Roads

IRF21/4337

Mr Stephen Dunshea  
Chief Executive Officer  
Shoalhaven City Council  
PO Box 42  
NOWRA NSW 2541

Via email: [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au)

Dear Mr Dunshea *Stephen,*

I am writing to you in relation to the planning proposal for Callala Bay and Kinghorne Point. I appreciate that Council has been working with the landowner on studies required to progress this proposal and note that the studies and investigations that were required in the June 2018 Gateway determination are now mostly complete. However, I understand that Council is not able to consider this proposal to arrange community exhibition until later in 2022.

Given the potential environmental benefits of this proposal for both Lake Wollumboola and the Jervis Bay National Park, I have formed the view that this proposal is a matter of state and regional significance under section 3.32(2)(a) of the *Environmental Planning and Assessment Act 1979*. As a result, I have directed that Ms Kiersten Fishburn, Secretary of the Department of Planning, Industry and Environment, is now the Planning Proposal Authority for the Planning Proposal.

Should council officers have any questions, they are welcome to contact Ms Sarah Lees, Director Southern Region at the Department of Planning, Industry and Environment on 0488 499 309.

Yours sincerely

**The Hon. Rob Stokes MP**  
Minister for Planning and Public Spaces  
Minister for Transport and Roads

## CL22.61 Passive Open Space (Local Park) - West of Princes Highway, Berry – Draft Concept Plan and Proposed Shoalhaven Contributions Plan 2019 Amendment

**HPERM Ref:** D21/520686

**Department:** Strategic Planning  
**Approver:** Gordon Clark, Director - City Futures

**Attachments:** 1. Project Sheet and Supporting Information - Draft CP Amendment - 01OREC5009 [↓](#)  
2. Draft Concept Plan - Huntingdale Park Local Park [↓](#)

### Reason for Report

Obtain endorsement to publicly exhibit a draft Concept Plan and associated proposed amendment to the *Shoalhaven Contributions Plan 2019 (Project 01OREC0009)*, to enable embellishment of a passive open space area west of the Princes Highway at Berry.

This proposal will provide a local park for the growing population in the area, consistent with Council's resolution of 11 May 2021 (MIN21.242).

### Recommendation

That Council:

1. Endorse the Draft Concept Plan for the passive open space area between Huntingdale Park Road and Hitchcocks Lane, Berry and the associated Amendment to the *Shoalhaven Contributions Plan (CP) 2019*.
2. Publicly exhibit the draft Concept Plan and CP Amendment for a period of 28 days.
3. Advise key stakeholders, including affected and adjoining landowners, the Berry Forum and Huntingdale Park Resident Action Group, of this decision and the public exhibition arrangements.
4. Post-exhibition, receive a report considering any submissions received, as well as a final Concept Plan and CP Amendment for finalisation.

### Options

1. Endorse the Draft Concept Plan and CP Amendment for public exhibition

Implications: This is the recommended option. Council endorsement will allow this long-established project to be progressed to public exhibition and, subject to community feedback, delivery. Delivery of the local park infrastructure will provide recreation opportunities within walking distance for residents in this growth area of Berry. This will also allow contributions for the park to be levied from new development south of Hitchcocks Lane.

2. Alter the Draft Concept Plan and/or CP Amendment before proceeding to public exhibition

Implications: This option is not preferred. The draft Concept Plan is informed by previous community feedback and internal feedback across Council. The timing of the public

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exhibition of the project is critical as exhibition will need to occur prior to July 2022 to avoid being tied up in the changes anticipated by the [NSW Government's Infrastructure Contributions Reforms](#).

3. Not proceed with the passive open space project

Implications: This option is not preferred. Delivery of a local park (subject to community feedback) will provide functional public open space for residents west of the Princes Highway at Berry. Should the project not proceed, collected development contribution funds would be diverted to other projects in Planning Area 1. This approach would likely not be supported by the residents of the area, given an identified need for recreation space to support growth and previous Council resolutions on the matter. In addition, should the project not proceed, the subject land area would remain underutilised.

## Background

As part of the recent rezoning of land for additional future housing south of Hitchcocks Lane, Berry (Planning Proposal 029), Council resolved (in part, MIN21.242) to:

- *Review the passive open space (recreational) needs of the Berry growth area;*
- *Update the Shoalhaven Contributions Plan 2019 to provide funding for embellishment of the passive open space area.*

This is reflected in the [resolution](#) of the Development Committee on 7 April 2020 and reconfirmed in the [resolution](#) of 1 September 2020. Most recently, as part of the finalisation of the rezoning of the Hitchcocks Lane residential area in May 2021, Council resolved to (MIN21.242(5)):

*Prepare and progress an amendment to the Shoalhaven Contributions Plan (CP) 2019 Project 01OREC0009 (Land acquisition for passive open space – Princes Highway, Berry) to provide embellishments to the passive open space area between Hitchcocks Lane and Huntingdale Park Road, in response to increased demand due to population growth.*

Residential growth on the western edge of Berry has been planned since the late 1980s, with considerable growth occurring as part of Huntingdale Park Estate over the past decade. When complete, it is estimated that they will accommodate around 450 dwellings and 1,000 residents (with approximately 70% of the population living in Huntingdale Park Estate and 30% in the Hitchcock Lane south area). Part of the growth area south of Hitchcocks Lane (as identified in the *Shoalhaven Growth Management Strategy 2014*) was recently rezoned in November 2021.

An area for passive open space has long been identified as part of growth planning for the area, on land between Huntingdale Park Road and the unformed eastern section of Hitchcocks Lane (see **Figure 1**). This land is legally described as Part Lot 914 DP 1268409 and currently contains an ephemeral waterway and drainage infrastructure, a manmade wetland (stormwater pond), access road and grassy areas as well as areas of regrowth vegetation. The site measures approximately two (2) hectares and was dedicated to Council as open space in October 2020 as part of the final stages of the Huntingdale Park Estate subdivision (SF 9320 - DS18/1311). The land is currently zoned RE1 Public Recreation under *Shoalhaven Local Environmental Plan 2014*.

To enable recreational use of the land and provide functional embellishments in accordance with the above Council resolution and the [Shoalhaven Community Infrastructure Strategic Plan 2017](#), a draft Concept Plan for a Local Park has been prepared with preliminary (estimated) costings. This Draft Concept Plan accompanies supports the proposed amendment to the *Shoalhaven Contributions Plan (CP) 2019* (Project [01OREC0009](#)), to allow funds collected for the passive open space area to be used for the proposed embellishment of the open space (Refer to **Attachment 1**: Project Sheet and Supporting

Information). The proposed amendment also recognises the new residential area south of Hitchcocks Lane as a benefit area for the project.

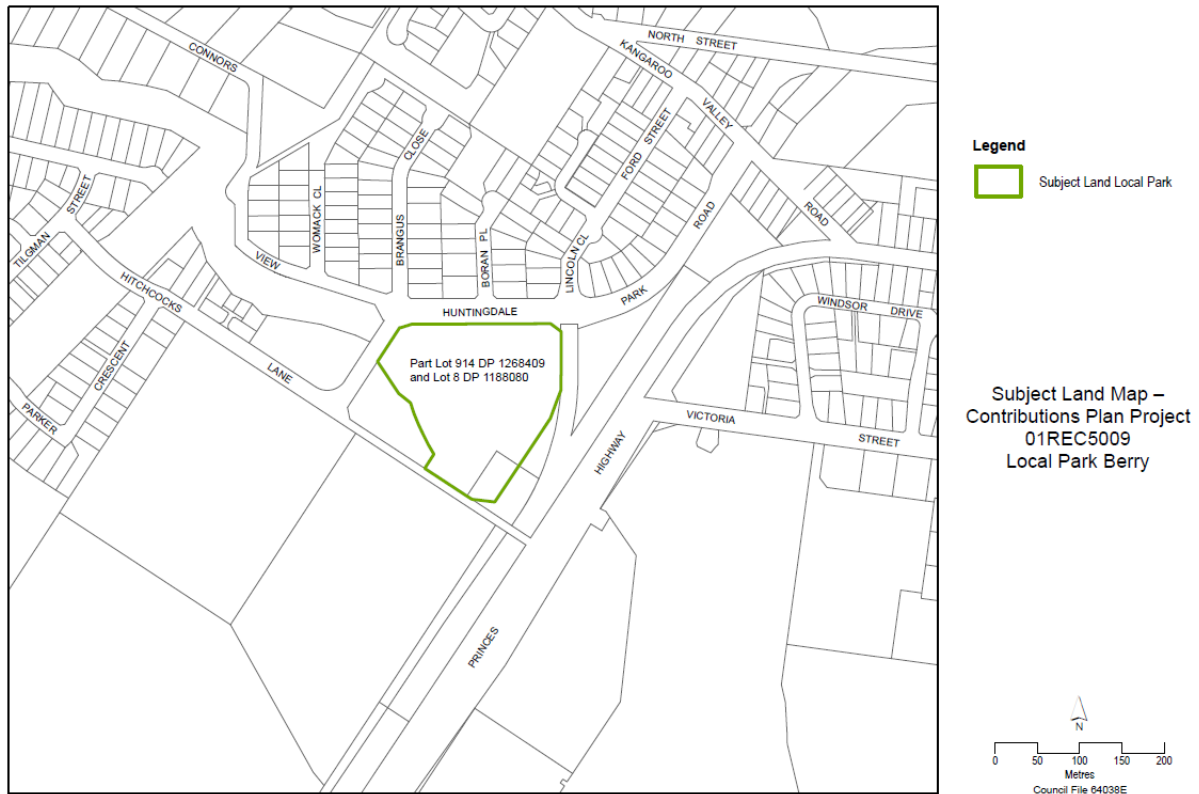


Figure 1: Subject Land Map

## Proposal

### Draft Concept Plan

The draft Concept Plan for a local park to meet the day-to-day recreation needs of residents west of the Princes Highway in Berry is provided as **Attachment 2**. The draft Concept Plan has been informed by community feedback received from Huntingdale Park Estate residents and during the exhibition of the Hitchcocks Lane rezoning (PP029). The main features of the proposal include:

- A playground.
- Picnic shelters and seating.
- Small car park (7 spaces including accessible space).
- Wetland viewing platform, connecting internal paths and boardwalk along eastern edge of wetland.
- Landscaping.

The Park will contain facilities and access for all levels of ability in a natural and informal setting. Views into and out of the park will be enhanced, and tree planting and landscaping will enhance the amenity of the area and provide shade. Interpretative signs will be incorporated into the park with potential artworks if budget permits. The draft Concept Plan has been costed at a high level, and the subsequent detailed design phase will refine the park design, embellishment detail, staged delivery, and costs.

### Draft Amendment to Shoalhaven CP 2019 Project 01OREC0009

The *Shoalhaven Contributions Plan (CP) 2019* contains a list of projects to be funded through the collection of levies imposed on new developments that increase infrastructure

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demand in accordance with the NSW *Environmental Planning and Assessment Act 1979* (EP&A Act) and associated Regulations.

Project [01OREC0009 \(land acquisition for passive open space Princes Highway Berry\)](#) in the CP was introduced along with planning controls to guide the subdivision of Huntingdale Park Estate (then named Berry Gardens) and to ensure adequate open space would be provided to address the recreational demand of new residents.

The draft Amendment to the CP Plan is provided as **Attachment 1**. The draft Amendment:

- Renames the project to *01OREC5009* for consistency with updated projects.
- Seeks to enable funds already collected from development in the area relating to 01OREC0009 to be spent on embellishment of the subject land to meet existing and future recreation demand.
- Amends the Contribution Area (Benefit Area) boundaries to fit the Huntingdale Park Estate boundary, to reflect contributions being levied from residential properties only. The rural-zoned properties south of Parker Crescent (Lots 5 and 7 DP 1115338) have been removed from the Contribution Area (see **Attachment 2**) as they do not directly benefit from the infrastructure (i.e., no nexus).
- Adds the Hitchcocks Lane (south) residential area (Part Lots 762 and 763 DP 1224932) to the contribution area, to allow funds from future development to be levied, recognising the additional recreational demand this development will place on the area. The new residential development south of Hitchcocks Lane will benefit from provision of new recreational facilities within walking distance of future residents which is important as a local park will not be provided on the development land (i.e., a nexus is clearly established).

## Community Engagement

The Draft Concept Plan and proposed CP Amendment will be placed on public exhibition for a minimum of 28 days in accordance with legislative requirements.

The community will be notified of the exhibition via email notification to key stakeholders such as the Berry Forum Community Consultative Board (CCB) and Huntingdale Park Residents Action Group, as well as stakeholders registered on the 'Hitchcocks Lane Residential Area Planning Proposal (PP029)' Get Involved project webpage. Letters will be mailed to landowners within the proposed Contribution Area (for *Project 01OREC5009*).

The proposal documents will be available for viewing on the Council website, on the 'Documents on Exhibition' webpage, as well as the 'Get Involved' engagement platform. Feedback will be invited through these web-based platforms, as well as via post and email.

## Policy Implications

The draft Concept Plan provides recreation space for a growth area in accordance with the *Shoalhaven Community Infrastructure Strategic Plan (CISP)* (Ross Planning 2017). The design is in line with the 'Local Recreation Park' classification and aims to provide a range of recreational and family-friendly facilities for the local residents. The design seeks to encourage active lifestyles (encouraging walking and play) as well as provide space for reflection/relaxation in a natural setting. Car parks are not usually a feature of local parks because they are designed for people living within the neighbourhood who are within walking distance of the park (i.e., unlikely to draw external visitors like district parks such as nearby Boongaree). Whilst it is expected that most residents will walk to the park, the community have requested parking as there is no adjacent on-street parking on Huntingdale Park Road. As such, a small car park is included in the draft concept design.

Part 7 of the *EP&A Act* enables Council, other consent authorities and accredited certifiers, via the *Shoalhaven Contributions Plan 2019*, to levy development contributions for the

provision of community infrastructure generated as a consequence of that development. The draft Amendment has been prepared in accordance with the requirements of the *EP&A Act* and associated regulations.

### Financial Implications

The draft Concept Plan for embellishment of the park is costed at \$1,521,332 (refer to **Attachment 1** for itemised estimates). Development contributions levied for Project 010REC0009 already collected from Huntingdale Park Estate development amount to \$1,240,750.12. The remaining cost (balance) to deliver the project is \$280,581.38.

For most projects identified in CP, the contribution project rate is calculated by dividing the project estimate cost (in this case the remaining project cost) by the total future ETs (Equivalent Tenements e.g., households). The total anticipated ETs for the contribution area is estimated at 457 with 34% (157) being future development (66% of the development in the contributions area has already been delivered). Considering the remaining cost to deliver the project of \$280,581.38 and 157 future ETs, a contribution rate of \$1,787.14 per ET is proposed for future development.

The external shared user paths that are proposed around the subject land do not form part of the proposed contributions project and will not be funded by development contributions levies.

### Risk Implications

The proposal is considered low risk as it seeks to deliver a playground and other local park facilities to a growing population in accordance with adopted plans and strategies. In addition, the draft design has been informed by previous community feedback.

However, a delay to the timing of the amendment to the Contributions Plan could trigger the earlier than planned transition to a new standard instrument contributions plan which is a likely outcome of the NSW Government's [Infrastructure Contributions Reforms](#). It is expected that should the project progress to finalisation (considering feedback or changes as a result of public exhibition) by July 2022, then the risk of the project being adversely affected by state-wide contributions reforms is appropriately mitigated.

The Infrastructure Contributions Reforms is also being delivered in stages which suggests that local development contributions levies relating to social and recreation infrastructure may be altered in future years. This could mean that the IPART Essential Works List may apply from 2024, resulting in these forms of infrastructure needing funding through alternative mechanisms (e.g., rate revenue, special rates, grants, planning agreements). It is therefore important for this amendment to progress in a timely manner, noting that the CP project is existing and development contributions funding has already been collected from existing development to provide public open space to meet development demand.

# Shoalhaven Contributions Plan

## Project Sheet

All changes are shown highlighted (additions) or highlighted ~~striketrough~~ (deletions).

<b>Project Code</b>	01OREC50009
<b>Project Area/ Project Category</b>	Area 1 / Passive Recreation
<b>Location</b>	Berry
<b>Description</b>	<del>Land acquisition</del> Embellishment for passive open space (west of the Princes Highway, Berry).
<b>Strategy</b>	To provide new and embellished passive open space to meet user needs associated with future development demand.
<b>Project Estimate</b>	<del>\$1,023,400.00 in Nov 2004</del> Total Cost: \$1,521,332.00 in Dec 2021 Balance: \$280,581.38 in Dec 2021
<b>Indexed Estimate</b>	\$1,645,574.37 \$280,581.38
<b>Apportionment</b>	The apportionment related to the balance is 100% to development.
<b>Nexus</b>	The project is critical to provide public open space that meets current and future user requirements for outdoor recreational and social activity.
<b>Supporting Information</b>	<del>This project is described in Shoalhaven DCP Chapter N3 Berry Residential Subdivision.</del> See also following page/s
<b>Land Acquisition Estimate</b>	<del>\$1,023,400.00 in Nov 2004</del> Nil
<b>Timing</b>	2022-2026

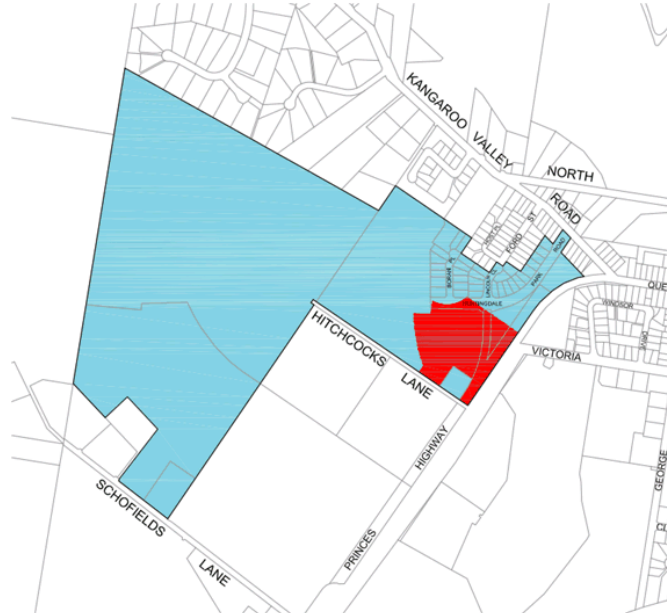
## Contribution Rate

Financial Year	Contribution Rate Type	Contribution Rate	Existing ET/M2/SP	Future ET/M2/SP	Total ET/M2/SP
2021	Equivalent Tenement	<del>\$4,784.16</del> \$1,787.14	300	<del>354</del> 157	<del>354</del> 457

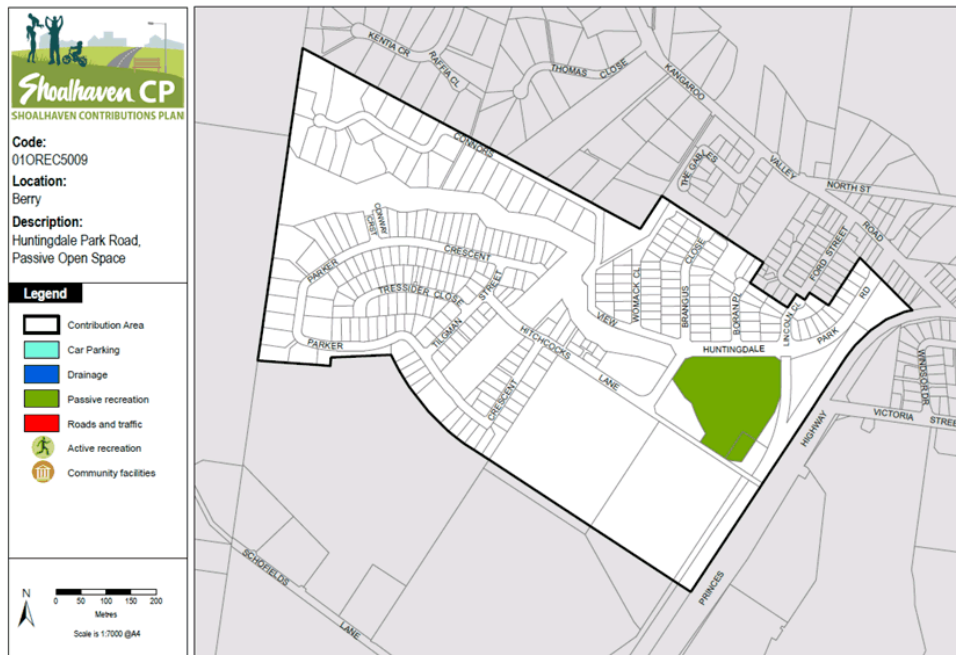


# Shoalhaven Contributions Plan

Existing Project Map



Proposed Project Map



# Shoalhaven Contributions Plan

## Supporting Information

All changes are shown highlighted (additions) or highlighted ~~strikethrough~~-(deletions).

Project Code	01OREC0009
Project Name	Land Acquisition <del>Embellishment</del> for Passive Open Space (west of the Princes Highway, Berry)
Project Status	Project not completed

Estimated Project Cost Breakdown as at ~~November 2004~~ December 2021

### Acquisition costs

Area (m <sup>2</sup> )	Rate per m <sup>2</sup>	Estimated Cost
34,000	<del>\$30.10</del>	\$1,023,400

### Embellishment Costs as at December 2021

Item	Description	Qty	Unit	Rate	Amount
<b>1</b>	<b>General</b>				
1.1	General Site Establishment	1	item	\$12,000	\$12,000
1.2	Design and Project Management	1	item	\$89,000	\$89,000
1.3	Prepare and implement Site Specific & Environmental Management Plan	1	item	\$12,000	\$12,000
<b>2</b>	<b>Clearing and Earthworks</b>				
2.1	Miscellaneous landscape preparation – weeds, removal of weeds, dead tree pruning of trees etc.	1	item	\$50,000	\$50,000
2.2	Subgrade to desired levels. Utilise spoil on site if feasible.	1	item	\$8,000	\$8,000
<b>3</b>	<b>Civil Works</b>				
3.1	Construct Carpark (368m <sup>2</sup> )	1	m <sup>2</sup>	\$160,000	\$160,000
3.2	Concrete path around playground	192	m <sup>2</sup>	\$165	\$31,680
3.3	Concrete path from carpark	66	m <sup>2</sup>	\$165	\$10,890
3.4	Tracks sealed	433	m <sup>2</sup>	\$165	\$71,445
<b>4</b>	<b>Park Landscape Items</b>				
4.1	Boardwalk	106	m <sup>2</sup>	\$950	\$100,700
4.2	Construct footbridge	1	item	\$40,000	\$40,000
4.3	Viewing platform works	1	item	\$30,000	\$30,000
4.4	Supply and install seats	5	item	\$2,000	\$10,000



# Shoalhaven Contributions Plan

4.5	Supply and install playground	1	item	\$250,000	\$250,000
4.6	Supply and install shade for playground	1	item	\$25,000	\$25,000
4.7	Supply and install fencing for playground and carpark	198	m	\$230	\$45,540
4.8	Supply and install fitness stations	1	item	\$25,000	\$25,000
4.9	Supply and install bin enclosures	3	item	\$3,000	\$9,000
4.10	Supply and install picnic shelter	2	item	\$25,000	\$50,000
4.11	Community Space Works miscellaneous landscape works	1	item	\$40,000	\$40,000
4.12	Signage	1	item	\$30,000	\$30,000
4.13	Miscellaneous landscape works – restoration, planning etc (TBC)	1	rate	\$70,000	\$70,000
5	TOTAL				\$1,170,255
6	Contingency 30%				\$351,077
7	GRAND TOTAL				\$1,521,332
8	Contributions collected to date				\$1,240,750.12
9	Balance (contributions to be collected) – 100% apportioned to development				\$280,581.38

## Benefit Area(s) Assumptions

The area to benefit from the provision of passive open space between Hitchcocks Lane and Huntingdale Park Road is the local residential catchment of Huntingdale Park. This area has grown in population over the past decade and will continue to grow with new land release south of Hitchcocks Lane. The project will provide recreational space and local park embellishments within walking distance of residents living in west of the Princes Highway at Berry (e.g. Huntingdale Park Estate and the new residential area south of Hitchcocks Lane).

## Apportionment Assumptions

~~\*This project is apportioned 100% to development, therefore existing development is not included in the project page calculation.~~

This project is apportioned 100% to development within the contributions area.

01OREC5009 Contributions Area	Huntingdale Park Estate	Hitchcocks Lane Release Area
Existing ETs	300	0
Future ETs	14	143
Total ETs	314	143



# Shoalhaven Contributions Plan

ET credits*	*300	0
Total Future ETs	157	

**NOTES:**

- contributions have been collected for existing development
- assume 10% of total lots developed as dual occupancies
- existing medium density developments included

**Development Contributions estimated as at December 2021**

01OREC00115 Benefit Area	Existing Lots	Potential Single Detached Dwellings	Potential Medium Density Dwellings	Estimated Capacity (Total)	Benefit Area Cost	2004 2020 Contribution per ET
Dwellings	11*	294	105	407	\$1,023,400	\$2,890.96
ETs	11*	294	63	365		

**Actual Project Cost/Estimated Project Cost**

Project not completed.

**History of Amendment to this Project**

~~None applicable.~~

This project supersedes the following inactive projects:

- 01AREC0007

Draft amendment December 2021 – Funds collected for acquisition reallocated to embellishment of the passive open space area. Hitchcocks Lane (south) residential area included in Contributions Area.

**Other Relevant Information**

**History of Project - Berry Gardens Estate**

In anticipation of development in the area west of Berry, Council prepared Development Control Plan (DCP) No. 70 to guide development outcomes of the Berry Gardens/Huntingdale Park Estate. This DCP came into effect on 25 June 1998, and identified the need for the provision of certain facilities to ensure that residential amenity standards would be achieved and that the environmental quality of the area would not be compromised. The controls of DCP No. 70 have now been incorporated into Chapter N3 of the *Shoalhaven DCP 2014*. The provision of public open space within the Estate forms part of the existing approval for residential development over the major part of project area.

**Review of Project September 2020 – December 2021 – Hitchcocks Lane Subdivision**



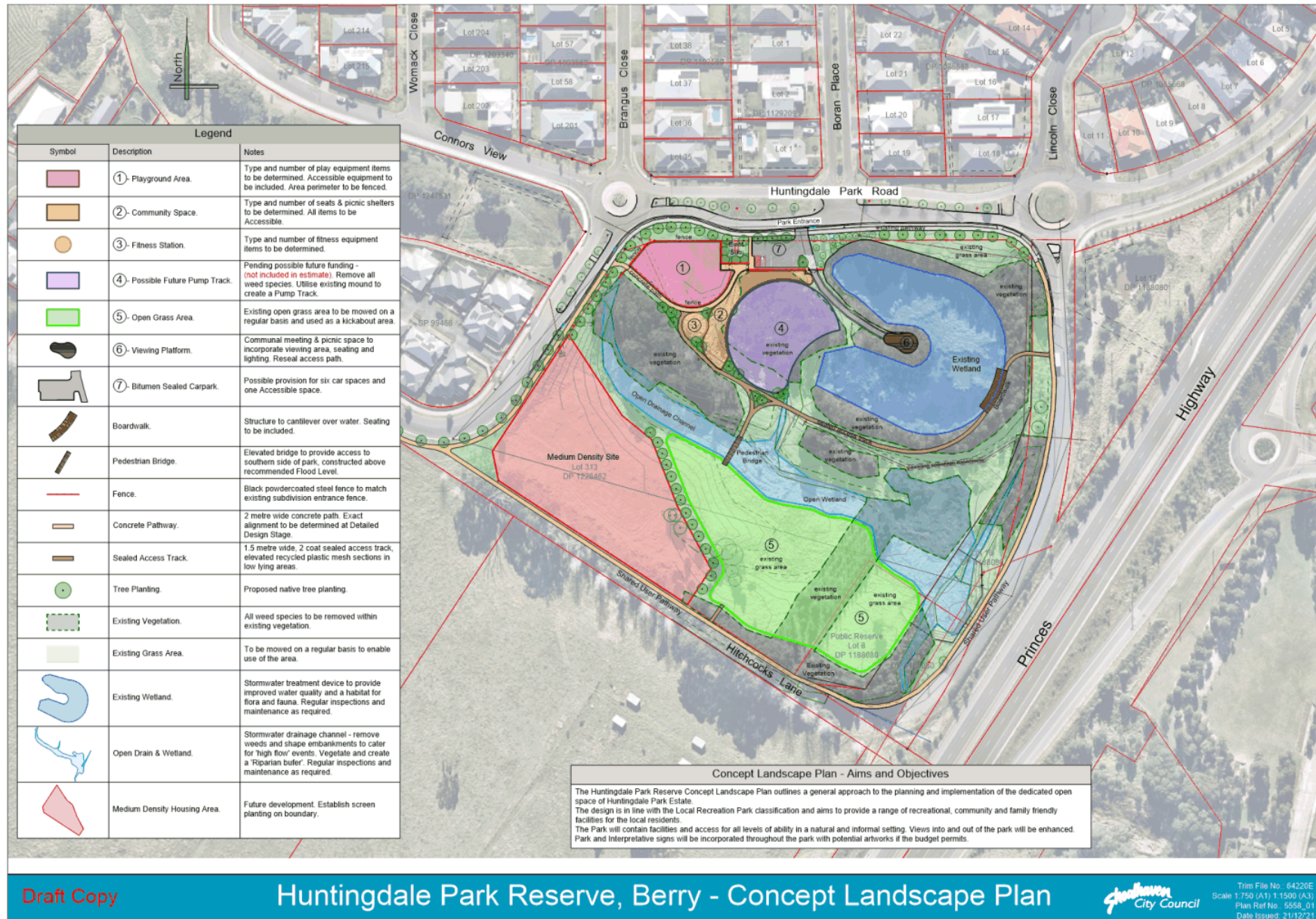
## Shoalhaven Contributions Plan

As part of the assessment of Planning Proposal 029 to rezone land south of Hitchcocks Lane to allow for residential development, the passive open space needs of the area was reviewed and this project updated to reflect the local recreation needs of the community west of the Princes Highway at Berry.

The total number of ETs (households) for the area is estimated at 457. Of these, 300 ETs are existing (Huntingdale Park Estate) with a further 157 ETs to be delivered (as part of the Hitchcocks Lane South development and additional infill development in Huntingdale Park Estate). As of December 2021, \$1,240,750.12 of contribution funds have been collected for the project. The delivery of the project has been costed at \$1,521,332. The balance of contributions is \$280,581.38 is to be collected from future development in the benefit area.

**Note:** Contribution rates are adjusted annually on 1 July to reflect annual changes to the Consumer Price Index. These rates are adjusted in accordance with the indexation formula detailed in the Contributions Plan 2019.





Place / Area Conceptual Images



Playground Area.



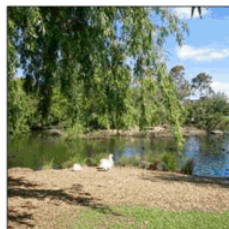
Community Space.



Fitness Station.



Sealed Access Track.



Nature Space.



Wetland.



Viewing Platform.

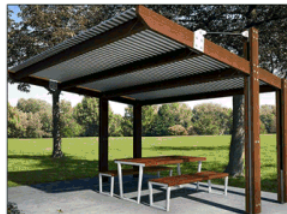


Boardwalk.



Pedestrian Bridge to Open Grass Area.

Park Furniture



Landmark - Longreach Shelter.



Street Furniture Australia - 'Mail' table setting with end access for accessible seating (AS1428.2).



Street Furniture Australia - 'Mail' seat with arm rests.

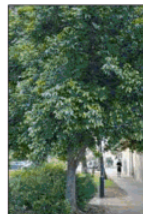


Street Furniture Australia - 240lt Bin Enclosure.

Typical Native Planting



Tristaniopsis 'Luscious'



Glochidion ferdinandi



Callistemon species



Melaleuca species



Syzygium species



Lomandra 'species'



Grevillea species

Draft Copy

Huntingdale Park Reserve, Berry - Concept Design Palette

Shoalhaven  
City Council

Trim File No. 642205  
Plan Ref No. 5958\_02  
Date Issued: 21/12/21

## CL22.62 Update - Interim Heritage Order (IHO) & Working Party - Former Torpedo Workshop - 50 BTU Road, Nowra Hill

**HPERM Ref:** D21/548948

**Department:** Strategic Planning

**Approver:** Gordon Clark, Director - City Futures

**Attachments:** 1. Heritage Assessment - Former BTU Torpedo Workshop - 50 BTU Rd, Nowra Hill (under separate cover) [⇒](#)  
2. Letter from Landowner - Pentarch Forestry - 50 BTU Road, Nowra Hill [↓](#)

### Reason for Report

Provide an update on the proposed heritage listing for No. 50 BTU Road, Nowra Hill and the progress of the Working Party.

### Recommendation

That Council:

1. Endorse the progression of an amendment to Schedule 5 of Shoalhaven LEP 2014 to include 50 BTU Road, Nowra Hill as an item of environmental heritage, as part of the next appropriate housekeeping amendment.
2. Encourage the Working Party to prepare a detailed record of the history of 50 BTU Road, Nowra Hill and associated sites, as relevant.
3. Progress a review of the heritage significance of the other items identified by the Working Party, subject to a funding source being made available through the quarterly budget review process.
4. Note the resignation of Capt. Cris George RAN ret. as the Chair of the Working Party and continue to facilitate Working Party meetings as required to progress consideration of the memorial and broader heritage significance of the RAAF, RN and RAN grouping of sites.
5. Correspond with HMAS Albatross in relation to information regarding relics and history that may be of assistance in the heritage investigations.
6. Thank the landowner of 50 BTU Road, Nowra Hill for their commitment to the conservation of the heritage significance of the site and their support of the proposed heritage listing and continue to keep them updated.
7. Advise the landowner and any other stakeholders of the public exhibition arrangements of the future Planning Proposal (PP) in due course.

### Options

1. As recommended.

Implications: This is the preferred option as it will enable the heritage listing of 50 BTU Road, Nowra Hill to progress and the items that were raised at the first Working Party meeting to be investigated.

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2. Not adopt the recommendation.

Implications: This would prevent the subject site from being heritage listed within Shoalhaven LEP 2014. As a result, the site would not be afforded the warranted protection and should the land ownership change, a future landowner may not have the same appreciation for the heritage significance of the site as the current owner.

3. Propose an alternative recommendation.

Implications: This could involve the heritage listing of 50 BTU Road, Nowra Hill only, disbanding the Working Party and not pursuing investigations into the alternate scope of works. This option is not recommended. Protection would not be provided to those other potentially important items, and valuable knowledge held by Working Party members would be lost.

## Background

Following consideration of a Notice of Motion, it was resolved on 18 May 2021 (MIN21.265) that:

1. Council agree to facilitate the formation of a Working Party to investigate the possible establishment of a RAAF Memorial to commemorate the RAAF, RAF and American involvement in the Shoalhaven during the Second World War.
2. The CEO be delegated the authority to seek an interim Heritage Order on the former Torpedo Workshop and associated bunker located at the Timber Mill, 50 BTU Road, Nowra Hill as a matter of urgency and the current owner be advised of this decision.
3. The Working Party be Chaired by Capt. Cris George RAN ret. and initially comprise one representative nominated from the Nowra Historical Society and the CEO or delegate.
4. The Working Party be delegated the power to co-opt other members.
5. The Working Party be authorised to make recommendation to Council on the following:
  - a. The possible preservation critical heritage infrastructure associated with the RAAF and to make recommendations to Council in respect of the heritage listing in the LEP and the possible immediate interim protection of items considered at risk i.e. the torpedo workshop and magazine.
  - b. The possible establishment of a suitable Memorial.
  - c. The application for grants to establish a memorial.
  - d. The possible inclusion of some RN and American recognition.
  - e. Any other matters that relate to the subject proposal.

The immediate priority resulting from this resolution was an investigation into the heritage significance of 50 BTU Road, Nowra Hill and steps to establish an Interim Heritage Order (IHO) over the site for the purpose of protecting the Former Torpedo Workshop located on the working timber mill site.

**Table 1** below, outlines the various components of the Council resolution and provides a summary of progress to date.

**Table 1: Progress of Council Resolution**

Part of Council Resolution:	Staff Comment:
1. Council agree to facilitate the formation of a Working Party to investigate the possible establishment of a RAAF Memorial to commemorate the RAAF, RAF and American involvement in Shoalhaven during the Second World War.	Due of Covid-19 and associated timing difficulties, the first Working Party meeting was ultimately held on 16 December 2021. See Table 2 for further details.

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2.	The CEO be delegated the authority to seek an interim Heritage Order on the former Torpedo Workshop and associated bunker located at the timber mill, 50 BTU Road, Nowra Hill as a matter of urgency and the current owner be advised of this decision.	<p><u>Completed.</u></p> <p><i>A Heritage Assessment was prepared by Louise Thom Heritage to determine the significance of the site and to support the application for an IHO (Attachment 1).</i></p> <p><i>Council Staff also undertook a number of discussions with the representative of the current landowner of 50 BTU Road to determine whether the site was under immediate threat, which is a key criteria for an IHO. The landowners representative outlined in writing that the site was not under immediate threat and that they supported the proposed Local Environmental Plan (LEP) listing of the site (Attachment 2).</i></p> <p><i>Given this, the IHO could not be made under delegation as the site was not deemed to be at immediate risk. As such a request was made to Heritage NSW to consider an IHO over the subject site under Section 24 of the Heritage Act 1977.</i></p> <p><i>Heritage NSW responded on 21 December 2021, advising that the IHO had been refused as the site was not under immediate threat.</i></p> <p><i>Heritage NSW however support the listing of the site in the LEP via the normal Planning Proposal (PP) process.</i></p>
3.	The Working Party be Chaired by Capt. Cris George RAN ret. and initially comprise one representative nominated from the Nowra Historical Society and the CEO or delegate.	<p><i>As per the resolution, Capt. Cris George RAN ret. was appointed as Chairperson of the Working Party. Unfortunately, following the first meeting of the Working Party, Mr George resigned from this position. As such a new Chair will need to be appointed by the Working Party at its next meeting.</i></p>
4.	The Working Party be delegated the power to co-opt other members.	<p><i>Two additional Working Party members have been co-opted (Mr Ben Dannecker and Mr John Bailey).</i></p>
5.	The Working Party be authorised to make recommendation to Council on the following:	
a.	The possible preservation of critical heritage infrastructure associated with the RAAF and to make recommendations to Council in respect of the heritage listing in the LEP and the possible immediate interim protection of items considered at risk i.e. the torpedo workshop and magazine.	<p><i>The Working Party has identified a number of other sites that are associated with RAAF, that may have heritage significance either individually or as a grouping.</i></p> <p><i>This is discussed in detail further in <b>Table 2</b> of the report.</i></p>
b.	The possible establishment of a suitable Memorial.	<p><i>The memorial would seek to commemorate the RAAF, RAF and American involvement in the Shoalhaven</i></p>

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		<p>during the Second World War.</p> <p>The Working Party identified that a suitable location for a memorial may be one of the BTU bunkers situated adjacent to the Animal Shelter and located on Council land.</p> <p>A preliminary quotation was provided at the first Working Party meeting relating to the restoration of this bunker. Further investigations will need to be undertaken in relation to the suitability of this site and the proposed quotation and will be considered separately by Council in due course.</p> <p>Council's Community Connections staff will continue to work with Working Party members to establish a suitable memorial.</p>
c.	The application for grants to establish a memorial.	Current and ongoing.
d.	The possible inclusion of some RN and American recognition.	Current and ongoing.
e.	Any other matters that relate to the subject proposal.	Current and ongoing.

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The first meeting of the resolved Working Group was held on 16 December 2021 and **Table 2** below outlines the recommendation from that meeting, which are supported by Council staff.

**Table 2: Recommendations from Working Party**

Working Party Recommendation		Staff Comment
1.	<p>Examine the significance of relevant sites adjacent to 50 BTU Road and within the local government area (LGA) relevant to RAAF, RN and RAN service and include these and the adjacent buildings on Council land to the Heritage Report.</p> <p>Additional sites could include (not exhaustive):</p> <ul style="list-style-type: none"> <li>• sites near Cabbage Tree Lane including the radio command room.</li> <li>• WW2 service to the west of 50 BTU Road.</li> <li>• the southern side of BTU Road,</li> <li>• to the north-west of the airfield (building on corner of Cabbage Tree Lane),</li> <li>• weapon pit to the south of Gannet Road (west of the airfield)</li> <li>• bunker/s to the south of the threshold of the airfield's runway 08.</li> </ul>	<p>Recommend that the review of the heritage significance of the adjacent/other sites proceeds, subject to funding.</p> <p>Refer to financial implications for further information.</p>

	<ul style="list-style-type: none"> <li>remnants of 107 Squadron RAAF at St Georges Basin.</li> </ul>	
2.	The Working Party (excluding Council staff) accumulate all knowledge on RAAF Nowra, RN and RAN occupation and service from that site and prepare a detailed record as an ongoing research resource.	<i>Recommend that Council support the Working Party's offer to undertake a detailed historical overview of the history of 50 BTU Road and associated sites, to accompany the Heritage listing and the Heritage Report prepared by Louise Thom.</i>
3.	Commence dialogue with HMAS Albatross in relation to information regarding relics and history that may be of assistance in the heritage investigations.	<p><i>This would include clarification regarding the following two documents in the current heritage inventory sheet for <a href="#">HMAS Albatross</a>:</i></p> <ul style="list-style-type: none"> <li><i>Conservation Management Plan</i></li> <li><i>Standard exemptions for works requiring Heritage Council approval</i></li> </ul>

### Community Engagement

Consultation has not been undertaken with the broader community at this point, as this generally occurs as part of the formal LEP amendment process; however, Council staff have had several conversations with the landowner of 50 BTU Road, Nowra Hill. Some initial engagement has also occurred with members of the resolved Working Party.

Broader community consultation will be undertaken as part of any resulting PP, as per legislative requirements.

### Policy Implications

The preparation of a PP to list 50 BTU Road will offer protection of the heritage significance of the site, which is a positive outcome.

Depending on the progression of the investigations of the other sites, further amendments to Shoalhaven LEP 2014 may result.

### Financial Implications

The report at **Attachment 1** was funded from within the existing Strategic Planning budget.

Due to the potential large scale of future investigations, should they be supported, an additional funding source will need to be identified by Council.

Should Council wish to proceed with a memorial in the future (subject to a future report), a funding source will need to be identified, which may include grant funding if available.

### Risk Implications

The current owner of 50 BTU Road appreciates the significance of the site and has committed to its conservation and listing within Shoalhaven LEP 2014. However, should the land ownership change, a future landowner may not have the same appreciation for the site's heritage significance. A heritage listing will provide greater certainty for the current landowners, future landowners and the broader community.

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27 October 2021

Shoalhaven City Council  
Peta Brooks  
Bridge Road  
Nowra NSW 2541

Dear Peta,

**PENTARCH NOWRA SAWMILL SITE**

With respect to our property and operations at 50 BTU Road South Nowra;

- Pentarch Forestry understands and respects the historical importance of the second world war buildings and structures located on our recently acquired Nowra site.
- Pentarch Forestry has no short or medium term plans to alter or demolish the old torpedo maintenance building (Mill #1).
- Pentarch Forestry fully understands and will comply with the zoning regulations dealing with major building modifications and demolition and will apply for an approved DA before any works is undertaken.
- If the Mill#1 area becomes operationally required, Pentarch will work with the Shoalhaven City Council (SCC) to salvage any identified structural elements of Mill #1 in order for them to be preserved and relocated from the site.
- Should there be a request to relocate these structural elements at an earlier date, Pentarch will work with SCC to manage this process.
- Pentarch Forestry has no plans to demolish or remove any of the "Nissan Hut" style concrete bunkers from the site.
- The concrete bunker closest to the sawmill has suffered unintentional minor damaged prior to our purchase of the site and Pentarch will use best endeavours to avoid any further damage.
- Pentarch Forestry will work with the SCC in a respectful manner to assist them to preserve the historical elements of the second world war buildings on the Nowra sawmill site.

Please feel free to contact Peter Robson Hardwood Engineering Manager Pentarch Forestry on 0482 694 369 if you require further information.

Yours sincerely,

Paul Heubner  
Chief Executive Officer

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ALLIED NATURAL WOOD ENTERPRISES PTY LTD

Level 1, 99 Coventry Street  
Southbank VIC 3006 Australia

Ph: +61 3 9621 7900  
Web: pentarch.com.au

ABN 65 607 144 089

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## CL22.63 Proposed Submissions - NSW Infrastructure Contributions Reforms

**HPERM Ref:** D21/535643

**Department:** Strategic Planning

**Approver:** Gordon Clark, Director - City Futures

**Attachments:** 1. Draft Submissions - Infrastructure Contribution Reform & IPART Submission (under separate cover) [↗](#)

### Reason for Report

Advise of the public exhibition by the NSW Department of Planning, Industry & Environment (DPIE) and IPART of the intended Infrastructure Contributions Reforms and obtain endorsement to make the submissions at **Attachment 1**.

**Note:** Due to NSW Government timeframes, it was not possible for these submissions to be reported to Council earlier as would normally be the case. As such the draft submissions were provided to the NSW Government to meet the comment periods, noting that they would be reported later for consideration/endorsement.

### Recommendation

That Council:

1. Adopt the draft submissions on the proposed Infrastructure Contributions Reforms (**Attachment 1**) so an endorsed copy can now be provided to the NSW Department of Planning, Industry & Environment (DPIE) and IPART for consideration.
2. Request further detailed and meaningful consultation and dialogue with DPIE on the proposed reforms before they are finalised.
3. Receive future reports, if required, to enable further comment on the detail of the proposed planning reforms.

### Options

1. As recommended.

Implications: This is the preferred option and will enable Council to provide endorsed submissions highlighting matters that should be considered in relation to the reforms.

2. Make changes to the draft submissions (**Attachment 1**) and submit it to DPIE and IPART.

Implications: This will still enable Council to provide submissions; however, the implications of any possible changes are unknown and may require closer consideration and refinement.

3. Not make any submissions.

Implications: This is not favoured as 'draft' submissions have already been provided and it will mean Council will not provide input on the proposed infrastructure contribution reforms which could have a range of implications.

## Background

The NSW Government recently publicly exhibited wide ranging proposed reforms to the existing NSW Infrastructure Contributions system in an attempt to create more certainty about how infrastructure is funded and delivered to support new and existing communities within NSW. The reforms, in part, seek to respond to the twenty-nine (29) recommendations outlined in the NSW Productivity Review of Infrastructure Contributions.

The reform package is extensive, but can be broken into three (3) key component parts containing the following details:

### 1. Local Contribution Changes (Section 7.11 And 7.12)

A Draft Bill proposes amendments to both Section (s) 7.11 and 7.12 Contribution Plans (CP's) as follows:

#### Section (s) 7.11 – Local Infrastructure Condition

- s7.11 contributions are to be known as a 'Local Infrastructure condition.'
- All s7.11 CP's prepared after 1 July 2024 are to use a 'template' on the Planning Portal.
- The draft Bill does not define s7.11 contributions as payment of money or dedication of land free of cost – it merely says that a reasonable contribution may be imposed.
- An essential works list (EWL) will now apply to all s7.11 Plans.
- The EWL will now include:
  - Strata space for community facilities; and
  - Borrowing costs to forward-fund infrastructure
- Cost of infrastructure items must be based on 'base level infrastructure' that can be efficiently designed and delivered.
- A 'value for money' assessment will be required when preparing CP works schedules.
- Benchmark costs are to be used except where this produces unreasonable estimates.
- Benchmark costs will be updated annually using the Roads and Bridges Producer Price Index.
- New requirement (s7.11(3)) that the cost of providing public amenities or public services must be calculated in accordance with the regulations and relevant Ministerial directions.
- The \$20 and \$30,000 per dwelling thresholds are proposed to be reviewed every 4 years, but will remain in place until at least July 2025.
- Plan administration costs will be benchmarked at 1.5% of the total value of works to be funded by local infrastructure contributions.
- An optional Land Value Contribution (LVC) can now be included within s7.11 CPs, as an alternative mechanism for funding infrastructure. Details of the LVC are as follows:
  - An LVC area is an area of land subject to a change in planning controls that results in an increased need for public amenities and services.
  - LVC is designed for 'greenfield' release areas.
  - A maximum of 20% of the land can be required for local infrastructure (the maximum LVC rate).

#### Section 7.12 – Local Levy Condition

- s7.12 contributions now to be known as 'local levy contributions.'
- A maximum \$ rate will now apply to various development types rather than calculated as a % of construction costs.
- Dwelling alterations and additions can be levied where extra bedrooms are proposed.

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## 2. Regional Infrastructure Contributions (RIC)

The RIC is due to commence on 1 July 2022 and is characterised as follows:

- The RIC is a broad-based state government charge that will apply to new development in 4 identified RIC regions: Greater Sydney, Lower Hunter, Illawarra-Shoalhaven and Central Coast
- The RIC will be implemented via a State Environmental Planning Policy (SEPP) and will fund regional infrastructure and replace the existing State Infrastructure Contribution (SIC).
- RIC contribution can consist of three (3) charges:
  - Base charge - which will be payable by all new development
  - Strategic Biodiversity Charge (SBC) - which is a variable charge applying to biodiversity offsets in certified areas, and
  - Transport Project Charge (TPC) - which is a cost recovery for specific major transport projects.
- The RIC will be payable on:
  - New dwellings (this includes dwellings that are demolished and replaced)
  - New non-residential floor space (including replacement floor space) and change of use floor space
  - New greenfield lots at subdivision certificate, and on other development at occupation certificate stage.
- The RIC will not apply to:
  - A dwelling, if the earlier subdivided lot paid a RIC, a SIC, or contributed under a State Planning Agreement
  - Super lots
  - Existing dwellings
  - Schools, places of worship
  - Concept plan DA's (where no detailed first or subsequent stages are part of the DA)
- The RIC obligations can be met via:
  - Paying a cash amount
  - Retiring existing SIC credits
  - Land dedication or via an Infrastructure Delivery Agreement (IDA), subject to approval from the Minister.

## 3. Land Use Planning Process Changes

Two key changes are proposed to the way land use contributions are made via two new Ministerial Directions:

1. As 'best practice', Contribution Plans will be prepared upfront (when needed) and exhibited at the same time as the rezoning proposal; and
2. Direction will be given about opportunities for dual use and shared use of open space.

Further detail on the three components discussed above and the extensive detail that sits in each can be viewed via the following links:

- [Local Contributions](#)
- [Regional Infrastructure Contributions \(New framework for state infrastructure contributions\)](#)
- [Infrastructure Contributions – Land Use Planning](#)

## Council Staff Comments

During the exhibition period, Council staff participated in a number of webinars relating to the proposed changes.

Council staff also reviewed the proposed changes in detail and relevant comments have been collated into the submissions which are provided as **Attachment 1** to this report.

There are several concerns in relation to the proposed changes and their potential impact on both Council and the broader community, including:

- Not all elements of the reform package were exhibited, this includes the Strategic Biodiversity Charge (SBC) and the Transport Project Charge (TPC), as well as the practice notes and worked examples. This makes it difficult to determine the full implications of the reforms.
- The Essential Works List (EWL) will now be applied to all s7.11 plans, where previously it only applied to IPART reviewed plans. This could/will have significant financial implications for Council, as funding for infrastructure will need to be sourced from elsewhere – i.e. rates. See Financial Implications for more details.
- Currently, Council allocates 5% of the CP income towards plan administration, including the funding of relevant staff salaries, for dedicated work on the plan and its ongoing administration, website design/maintenance and legal costs. Reducing this to 1.5% would have significant impacts on resourcing.
- The 'Best Practice Process' associated with PP's over-simplifies the process of preparing a PP and CP. It is unlikely that staff will be able to prepare a CP within 90 days, particularly in relation to proponent-initiated PP's. Additionally, the 12-month timeframe that is generally granted for the completion of PP's may no longer be sufficient where a CP (or VPA) also needs to be resolved/negotiated.
- The Land Value Contribution (LVC) approach is very 'metro-centric' and unlikely to benefit Councils like Shoalhaven, given we have relatively limited urban land available for expansion that is not already zoned for this purpose.
- The LVC Certificate requirement is likely to create additional resourcing issues for Council.
- Section 25L of the *draft Environmental Planning & Assessment (EP&A) Amendment (Infrastructure Contributions) Regulation 2021* relating to Land Value Index (LVI) needs reconsidering as LVI does not necessarily reflect purchase prices. Contributions are not linked to rating or unimproved values but rather the consumption of resources for community benefit. Shoalhaven has had an increase of 35.9% in the last 12 months with the Producer Price Index (PPI) June to September quarter only increasing by 1.1%.
- The RIC Framework gives NSW Government agencies the ability to spend their capital budgets in areas where there is growth. Greater detail is required regarding the equitable collection, prioritisation and distribution of RIC funds between the relevant Local Government Areas (LGA's) within a RIC region. If the distribution of funds is apportioned to population, Shoalhaven could or will miss out on significant funding, as it is smaller than Wollongong and Shellharbour.
- The introduction of the proposed RIC SEPP, solely covering contributions, is contradictory to the recent consolidation of forty-five (45) of the existing States SEPP's.
- There is no definition for what constitutes "public amenities and services".

Whilst there are a number of changes that raise concerns, the following changes are also generally supported:

- Overall, the desire to make development contributions easier is supported, as is the early identification of infrastructure needs.
- The requirement to submit a draft CP as part of a PP package to the Gateway is supported 'in principle'.
- The use of LVCs as an alternate mechanism for collecting contributions is has some merit and is also supported 'in principle', as it provides greater flexibility to Councils and is useful where there is fragmented ownership.
- Amendments to the pooling and borrowing of contributions are supported. The ability to include borrowing interest in contributions will assist in recouping some expended funds.
- Whilst Shoalhaven does not currently have a section 7.12 plan, the proposed changes to s7.12 are supported 'in principle' and provide the opportunity for Council to transition to a s7.12 plan in the future, if appropriate.
- The exemptions outlined within the *draft EP&A Amendment (Infrastructure Contributions) Regulation 2021* relating to public, social and affordable housing providers and development carried out on behalf of the State are supported.
- The proposed transition from the Shoalhaven SIC to the RIC is generally supported, subject to:
  - A review of the infrastructure identified to service the Regional Growth Area;
  - An update of infrastructure/project costs; and
  - The introduction of a forward funding and recoupment mechanism.
- The 2-year RIC review period is supported.

## Conclusion

There are a range of significant concerns associated with the proposed reforms, including the financial impact they could have on Council (and the broader community). As such it is essential that Council makes the submissions and continues to be involved as consideration of the reforms continues. This will also involve assisting Local Government NSW where needed with their advocacy on this important issue and continuing to request more detailed and meaningful engagement with local government as a key stakeholder in relation to this issue before the reforms are finalised and implemented.

## Community Engagement

The Infrastructure Contribution Reforms package was exhibited by DPIE from 28 October until 10 December 2021, to provide an opportunity for Council, the community and industry stakeholders to provide comments and feedback.

Due to NSW Government timeframes coinciding with the local government caretaker period, draft staff submissions (**Attachment 1**) were provided on 16 December 2021 as a 'placeholder'. The Council endorsed submissions will be provided following this meeting.

## Policy Implications

The Infrastructure Contribution Reforms have direct and indirect implications for Council's contributions framework, including the Shoalhaven CP 2019, which will require substantial amendments when the reforms are finalised, resulting in significant resource demands across the organisation.

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As not all elements of the reform package were exhibited, it is also extremely difficult for Council staff to determine the full implications of the reforms.

### Financial Implications

Infrastructure contributions are a key source of funding for Councils, yet some of the changes associated with the reforms i.e. the implementation of the Essential Works List (EWL), will significantly reduce the income available for the provision of infrastructure and community facilities.

As a result, Councils will need to reconsider their commitment to the delivery of certain infrastructure or find alternate funding sources. It is anticipated that Council may need to find approximately \$71.1 million to deliver or repay infrastructure that is expected to be deleted from the CP due to the implementation of the EWL. Council will need to consider a replacement funding source for relevant contributions projects or project elements that will ultimately be deleted from the CP. As many of these CP projects have already been delivered, grant funding is not an option.

Alternate funding options potentially include a significant rate rise, special rate variation or reallocation of funds from other budgets. Each of these options would mean existing ratepayers would be paying for infrastructure that has no direct benefit to them (i.e. no nexus) and is a direct result of new development.

### Risk Implications

In addition to the financial implications, the application of the EWL will significantly and practically reduce the provision of new/upgraded community facilities and infrastructure to meet the demand created by new development. The EWL is inconsistent with the infrastructure identified in Council's adopted [Community Infrastructure Strategic Plan](#) (CISP), as well as our communities' expectation for the provision and standard of infrastructure/community services to be provided.

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## CL22.64 Update - Employment Zones Reform - Shoalhaven Local Environmental Plan 2014

**HPERM Ref:** D22/12790

**Department:** Strategic Planning  
**Approver:** Gordon Clark, Director - City Futures

**Attachments:**

1. Employment Zones Reform FAQ - DPIE December 2021 [↓](#)
2. DPIE's Implementation plan - Employment Zone Reform [↓](#)
3. DPIE's Preliminary Land Use Tables for Shoalhaven LEP 2014 (under separate cover) [⇒](#)

### Reason for Report

Provide an update on the Employment Zones Reform project being undertaken and implemented by the NSW Department of Planning, Industry and Environment (DPIE) as part of the ongoing broader NSW planning reform program.

### Recommendation

That Council receive the update on the Employment Zones Reform for information.

### Options

1. Receive for information, as recommended.

Implications: Council will continue to be updated as this reform process progresses and follow-up reports provided as appropriate.

2. Take alternative action.

Implications: There are no obvious alternatives at this point. The reform process is well underway and timeframes are being driven by the NSW Government.

### Background

The NSW Government is progressing with their Employment Zones Reform as part of the ongoing reforms to the NSW planning system. This reform involves replacing the existing five Business (B) and four Industrial (IN) zones in the *Standard Instrument Principal Local Environmental Plan (2006)* (SI LEP) with five new Employment (E) zones and three supporting zones.

DPIE exhibited a Proposed Employment Zones Position Paper in May/June 2021. A detailed report on DPIE's Position Paper outlining the proposed changes was considered by Council on 13 July 2021. In response, Council resolved (MIN21.456) to make a submission on the proposed changes, noting as part that the proposed renaming of the existing environment protection zones and the introduction of the 'E' employment zones was not supported.

### About the Employment Zones Reform

The reform was initially announced in late 2020 as a response to recommendations by the NSW Productivity Commission, and to various trends that have been exacerbated by the COVID-19 pandemic, including the growth of online retail, reliance on freight and logistics,

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the importance of local centres, flexible working arrangements and the continued rise of multi-use businesses and the experience economy.

The reform seeks to:

- Maximise productivity while minimising land use conflicts and ensuring they are fit for purpose;
- Address current barriers within the planning system that limit the ability of businesses to establish, expand or adapt; and
- Better support councils in the delivery of the strategic vision contained in their Local Strategic Planning Statements and background studies.

The eight existing *business* (B) and four *industrial* (IN) zones in the SI LEP are in the process of being replaced with five *employment* (E) zones and three supporting zones:

- On 1 December 2021, DPIE amended the Standard Instrument LEP Order to introduce five employment zones and three supporting zones – see *Table 1*.
- DPIE is now coordinating the translation of LEP amendments and is proposing a centralised public exhibition of all resultant LEP amendments in April 2022 for six weeks, linking back to Council's exhibition webpage.
- The new zones must be in place within Councils LEP's by 1 December 2022 when the existing Business (B) and Industrial (IN) zones will be repealed from the SI LEP Order.

**Table 1 – New employment zones and supporting zones in the Standard Instrument LEP**

Employment Zones	Supporting Zones
E1 Local Centre	MU1 Mixed Use
E2 Commercial Centre	W4 Working Waterfront
E3 Productivity Support	SP4 Enterprise
E4 General Industrial	
E5 Heavy Industrial	

A set of Frequently Asked Questions (FAQ) produced by DPIE on the Employment Zones Reform is provided as **Attachment 1**, and DPIE's implementation plan is also provided as **Attachment 2**.

DPIE has prepared a 'preliminary translation of the employment zones land use tables' for the Shoalhaven Local Environmental Plan 2014 (SLEP 2014) – see **Attachment 3** and requested that Council complete a Return Translation Detail document by 28 January 2022. Council staff have sought a short extension in this regard to allow staff to properly review the translation of the zones alongside the broader suite of employment zones, to ensure that the new zones are consistent with Council's existing strategic planning and a response in this regard had not been received at the time of preparing this report.

## Conclusions

The reform covered in this report is one of a number of significant reforms to the NSW Planning System that are being proposed and implemented by the NSW Government. It is concerning that a number of these reforms were released in late 2021 with response or comment times that did not consider the Local Council Elections and the Christmas/New Year period. As such there is concern amongst Councils about the nature of some of the reforms, this one included, and the potential for unintended consequences or unnecessary changes. These general issues continue to be raised with DPIE and specific issues are highlighted in the submissions that are made. There is however a concern that the feedback

being provided is not being listened to. Council made a submission on this reform raising a number of issues or concerns; however the NSW Government are pressing ahead with the proposed changes and Council staff will provide the necessary feedback on the zone transitions.

### **Community Engagement**

DPIE's implementation plan indicates that the proposed LEP amendments across the State will be publicly exhibited in April 2022.

### **Policy Implications**

There is a risk that the employment zone reforms could have negative policy implications, including unintended consequences, as such it is important that the proposed land use zone tables (LUT's) for the new zones are critically reviewed.

## Employment Zones

### Frequently Asked Questions



## Implementing employment zones

*Answers to common questions about the new employment zones.*

### What changes are being introduced?

[The Standard Instrument \(Local Environmental Plans\) Amendment \(Land Use Zones\) Order 2021](#) (Amending Order) was published on 5 November 2021. The Amending Order introduces the new employment zones alongside the existing business and industrial zones and enables the implementation into individual local environmental plans (LEP) to begin.

Changes are also being made to the Standard Instrument LEP Dictionary and Direction 5 to accommodate the new employment zones and other associated land use amendments. These land use term changes commence 1 December 2021 except for the changes to 'local distribution premises' which commences 30 June 2022. The changes to 'local distribution premises' were delayed as part of [Standard Instrument \(Local Environmental Plans\) Further Amendment \(Land Use Zones\) Order 2021](#) (Further Amending Order). Ahead of that commencement date, councils will need to identify any open zones where local distribution premises should not be permitted with consent so that consequential amendments to those zones can be made. For further information councils should refer to the Return Translation Detail emailed to councils end of October/early November.

An open zone is one where a broad variety of land use can be considered. An open zone is identified in the Land Use Table with the words 'Any development not specified in Item 2 or 4'. A closed zone is one where the diversity of land uses is more restrictive, meaning development types are chosen primarily from only one or two 'key' group terms. A closed zone is identified in the Land Use Table with the words 'Any development not specified in Item 2 or 3'. More information about open and closed zones is available [here](#).

### What are the changes to Pond-based and Tank-based aquaculture?

The Amending [Order](#) will make changes to the existing permissibility of Pond-based and Tank-based aquaculture in all councils LEPs. These changes will come into effect on 1 December 2021. The changes will remove the mandated prohibition of Pond-based aquaculture from the B1-B8, IN1-IN3 and RU5, RU6 and R3 zones and Tank-based aquaculture in the R4 zone. Councils are being asked to determine whether they want to 'permit with consent' or 'prohibit' Pond-based and Tank-based aquaculture in those zones.

Until the amendments are made to every councils' LEP, a development application will be required for any open zones where Pond-based or Tank-based aquaculture becomes 'permitted with consent'.

## Employment Zones

### Frequently Asked Questions



### What are the land uses changes within the Amending Order?

The Amending [Order](#) introduces new land uses into the Standard Instrument Order Direction 5 and Dictionary. The Dictionary now includes definitions for Creative industries, Data centres and Goods repair and reuse premises. Additionally, amendments have been made to the following existing land use terms: Business premises, Crematorium, High technology industry, Home based child care, Kiosk, Light industry, Local distribution premises, Neighbourhood shop, School based child care, Shop top housing, Storage premises and Warehouse or distribution centre. Most of these changes are consequential to changes to parent terms, to improve clarity or to remove redundant land use functions.

### What do councils need to provide back to the department after review of the preliminary translation detail?

Councils will need to provide the Employment zones team the 'Return Translation Detail' document which details changes to the permissibility of local land uses, additional permitted uses, local provisions, and mapping amendments. Councils should discuss proposed changes to the translation of land use zones **prior** to providing the Return Translation Detail document.

Any changes that council is proposing to mapping must be discussed with the Employment zones team as soon as practicable and before any draft GIS detail being prepared and forwarded to the ePlanning team. Councils who have flagged changes to the land use zone translation should get in touch with the Employment zones team before the end of 2021.

### When should council endorsement be sought?

Councils have until the end January 2022 to review and finalise the land use tables, additional permitted uses, local provisions, and mapping, and return it to the Employment zones team. Councils should consider whether they will need the translation detail endorsed by Council ahead of public exhibition. Councils may not need to have this detail endorsed if the substance of the proposed LEP change remains unchanged and if key aspects of the LEP have been recently endorsed such as for a comprehensive LEP or as part of the endorsement of a recent employment lands strategy.

In instances where a council resolution will be necessary, councils should identify a March council meeting, list the matter as an agenda item and prepare a business paper based on the returned translation detail.

Following exhibition of the LEP amendment, again councils should determine whether they will need a further council resolution to finalise the translation detail before the department in consultation with councils commences legal drafting. It is envisaged that this would need to be a meeting in June or July 2022.

### What will be exhibited?

A self-repealing State Environmental Planning Policy (SEPP) Explanation of Intended Effect (EIE) will be exhibited in April 2022. The SEPP EIE will outline each council's proposed LEP amendment. The department is building a web platform so that communities can readily identify their local changes and make a specific submission on the proposed translation and associated detail relevant to their local areas.

## Employment Zones

### Frequently Asked Questions



### How will exhibition submissions be received and reviewed?

The purpose of the web platform is to focus submissions relevant to each council and the areas subject to zone translation. This will enable both councils and the department to review the detailed feedback and enable policy finalisation for each LEP amendment. The department will share all submission detail with councils relevant to their LEP. Post exhibition changes to the LEPs will be agreed to by council and the Employment zones team.

### Will all LEP amendments be made under the one Self Repealing SEPP?

It is likely that the majority of LEP amendments will form part of a single Self Repealing SEPP. However, in instances where councils are currently preparing a comprehensive or consolidated LEP, councils can exhibit their translation as part of that process, if this is an option for your council please get in contact with the employment zones teams as soon as practicable. The department will work with individual councils who have complex translation matters that require additional considerations and to support them to meet implementation timeframes while also ensuring satisfactory policy resolution. Again, if your council falls into this category please get in touch with the employment zones team before the end of 2021.

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## Employment Zones Reform Implementation Plan



CL22.64 - Attachment 2

## Contents

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2	Overview of the implementation plan .....	2
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## 1 Introduction

The Department of Planning, Industry and Environment (the Department) is reviewing and rationalising the business (B1–B8) and industrial (IN1–IN4) zones under the Standard Instrument Principal Local Environmental Plan (SI Principal LEP). The reform will better accommodate the changing needs of businesses, better support state and local strategic planning, increase investment, and boost jobs growth. The proposed changes to the business and industrial zones are outlined [here](#).

This document outlines the implementation approach and key steps to deliver the new employment zones framework. The implementation approach will balance State-wide consistency with local tailoring. Councils will be actively supported throughout the employment zones reform.

### State-wide consistency with local tailoring

The Department will publish the new employment zones framework in an Amendment Order to the SI Principal LEP. The Amendment Order enables councils to include additional permitted land uses, objectives and local provisions to further refine the strategic intent of their Local Environmental Plans (LEPs). The Department will support each council by creating a first draft land use table (LUT), and mapping through the spatial viewer for each LEP. This will be informed by existing LEPs, existing local strategic plans and conversations the Department has held with individual councils.

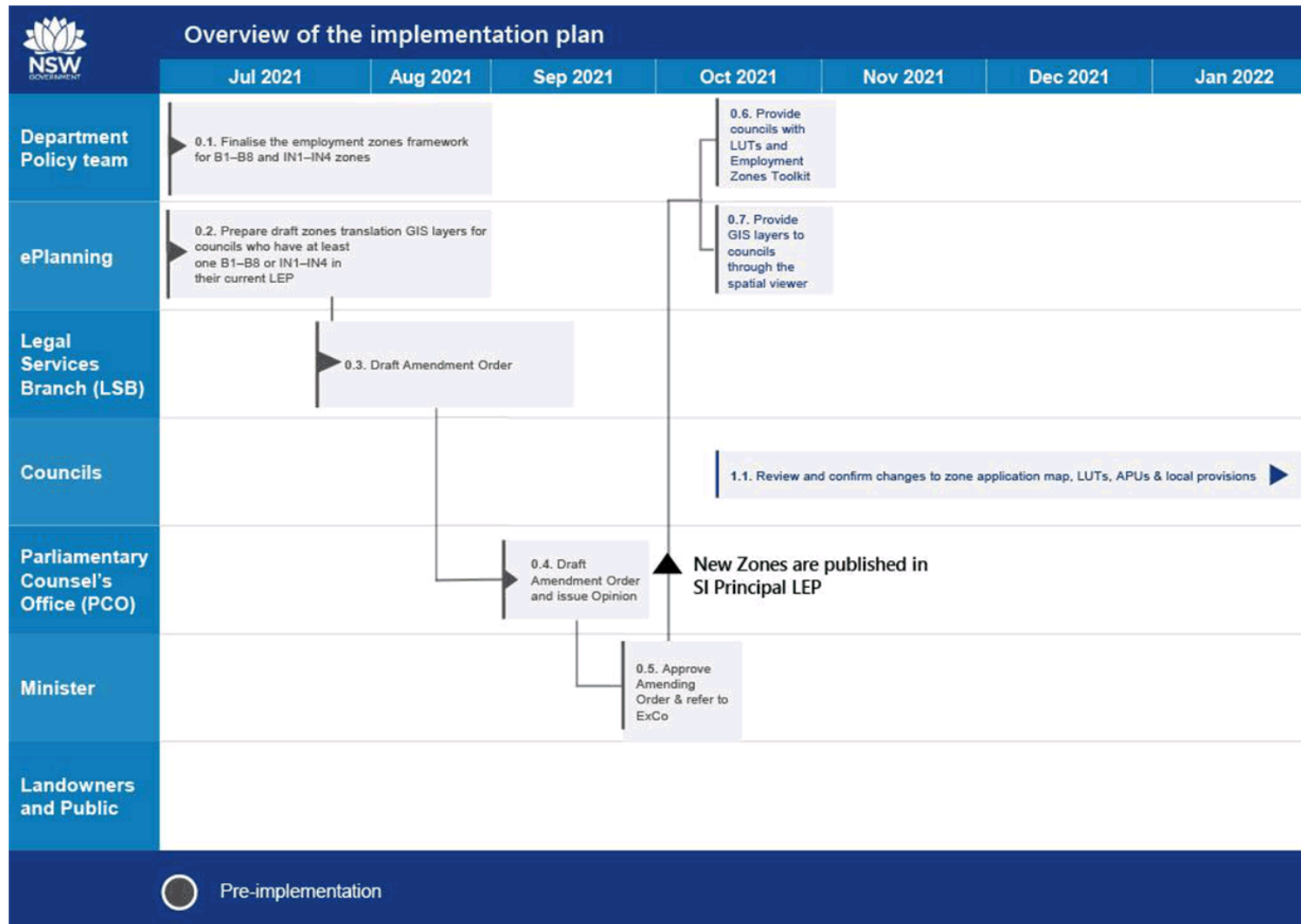
The Department will utilise a self-repealing State Environmental Planning Policy (SEPP) to amendment of individual LEPs to introduce the new zones. Councils will be able to continue to introduce new local provisions with the translation of employment zones. This will remove the need for councils to prepare individual Planning Proposals, though still allow councils to review, edit and sign off on tailorable aspects of their LEP before they are made. While the councils will have input in all stages of the implementation, the Department will require a resolution from councils in the following two stages:

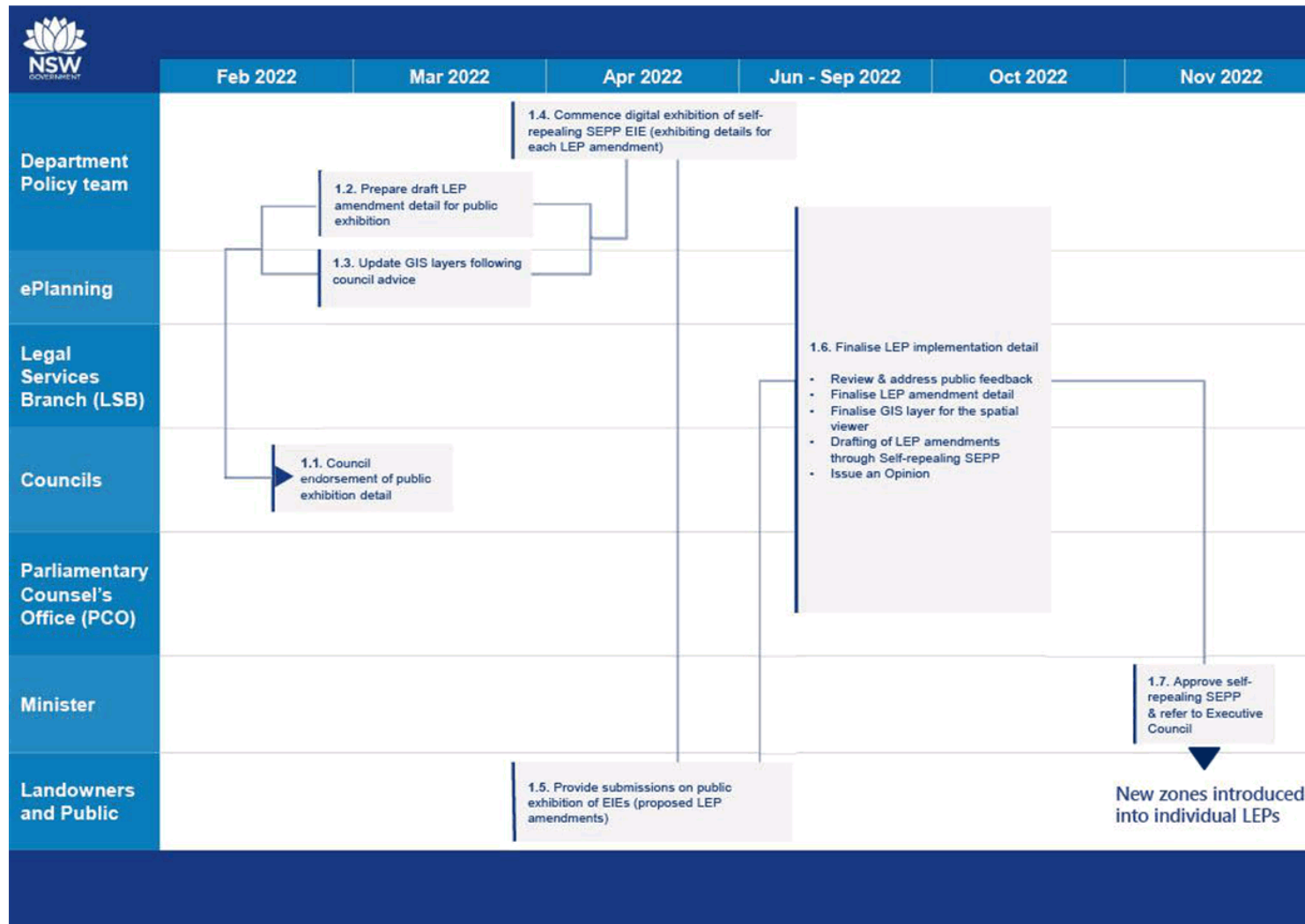
- **Before the exhibition of proposed changes to employment zones in LEPs.** Councils will have four months to review the draft LUTs and maps and provide any additional permitted or prohibited uses, objectives, or local provisions. This review will be supported by an Employment Zones Toolkit that will be provided to guide the translation of existing zones into the new framework.
- **Before final employment zones are gazetted.** Aligned with the current planning process, councils will have the ability to review and decide the final employment zones translation (as approved by the Department) for their council prior to publishing the final amendments to LEPs.

### Support for councils

The Department will support councils by:

- Mapping anticipated zone conversion so councils can focus on validating the conversion and refining additional permitted uses, local provisions and precincts by exception that are proposing a non-conventional conversion.
- Providing communications documentation for councils to use to brief councillors about the reform and its implementation, and providing support by clarifying questions, including through published FAQs.
- Providing an Employment Zones Toolkit that councils can use to:
  - Interpret the new zones and their strategic intent
  - Guide their review of translation details provided by the Department
  - Update the Geographic Information System (GIS) maps and LUT
  - Craft local objectives, additional permitted uses and local provisions.
- Coordinated exhibition of individual LEP amendment detail that is locally focused. Public exhibition will include locally facing website content and detail to support councils and communities to understand the translation of the employment zones framework at a local level.
- Updating the GIS layers after the councils' initial review of translations provided by the Department if additional capacity or capability is required. More information on how to seek support from ePlanning will be provided in the Employment Zones Toolkit.





## 2 Further detail on implementation plan actions

The following table provides further detail on the actions in the implementation plan – **TO BE UPDATED**

Ref #	Action	Key outputs	Responsible	Timeline
0.1	<ul style="list-style-type: none"> <li>✓ Exhibit, seek feedback and finalise the draft employment zones framework for B1–B8 and IN1–IN4.</li> <li>✓ Provide informal direction to councils on timelines, likely changes to zones and land uses.</li> <li>✓ Finalise Amendment Order once the employment zone framework has been finalised.</li> </ul>	Draft employment zones framework Briefing note with final Amending Order and PCO Opinion	Employment Zones Policy Team	Prior to 1 Oct 2021
0.2	<ul style="list-style-type: none"> <li>✓ Prepare draft zone translation GIS layers (for spatial viewer delivery) for all councils who have at least one B1–B8 or IN1–IN4 in their current LEP.</li> </ul>	Spatial viewer with proposed zone conversion	ePlanning	
0.3	<ul style="list-style-type: none"> <li>✓ Draft the Amendment Order and issue an Opinion.</li> </ul>	Draft Amending Order PCO Opinion	PCO	
0.4 & 0.5	<ul style="list-style-type: none"> <li>✓ Approve Amendment Order and refer to Executive Council.</li> </ul>	Final Amendment Order Updated Principal SI LEP	Minister	Mid Sep 2021 – early Oct 2021
0.6	<ul style="list-style-type: none"> <li>✓ Publish new employment zones within SI Principal LEP.</li> <li>✓ Share employment zones translation detail including land use tables, zone application map, Schedule 1 and local provisions with councils for review</li> <li>✓ Provide an Employment Zones Toolkit for all councils who have at least one current B1–B8 or IN1–IN4 in their SI LEP.</li> </ul>	Employment zones framework Employment Zones Toolkit for councils	Employment Zones Policy Team	Mid Oct 2021
0.7	<ul style="list-style-type: none"> <li>✓ Provide GIS layers through the spatial viewer for all councils who have at least one current B1–B8 or IN1–IN4 in their LEP. It is estimated that this will capture, on average, 70% of zone conversions for each council.</li> </ul>	Share test environment spatial viewer with proposed zone conversion	ePlanning & Employment Zones Policy Team	Mid Oct 2021
1.1	<ul style="list-style-type: none"> <li>✓ Review LEP translation detail.</li> <li>✓ Confirm and/or update GIS layers provide the updated shape file for the spatial viewer to the Department.</li> <li>✓ Confirm and/or update LEP (LUTs, additional permitted uses and local provisions).</li> <li>✓ Seek GIS support from ePlanning if additional capacity or capability is required to update GIS layers. The</li> </ul>	Updated GIS layers/shapefiles Updated LEP (e.g., LUTs, Schedule 1 Additional permitted uses & local provisions)	Councils	Mid Oct 2021–Mar 2022

Ref #	Action	Key outputs	Responsible	Timeline
	Employment Zones Toolkit will provide additional information on how to access support. ✓ Seek council endorsement for exhibition detail	Endorsed LEP detail for exhibition		
1.2	✓ Review councils' amendment to LEPs and prepared detail for public exhibition. ✓ Iterative clarification, as required, to ensure State-wide consistency. ✓ Iterative verification with the Department's regional teams. ✓ Prepare EIE documentation for exhibition. The EIE summarises the proposed amendments to the council LEPs.	Drafted EIE	Employment Zones Policy Team	Nov 2021–Mar 2022
1.3	✓ Update GIS detail in spatial viewer based on council advice and local tailoring. ✓ Ensure State-wide consistency and alignment.	Draft Spatial Viewer exhibition maps for employment zones	ePlanning	Nov 2021–Mar 2022
1.4 & 1.5	✓ Commence digital exhibition of self-repealing SEPP EIE with details for each LEP amendment. As per the Department's Community Participation Plan, the exhibition will be for six weeks. ✓ Provide submissions on the public exhibition of EIEs (proposed LEP amendments). ✓ Review feedback from the public as it is submitted and respond to it as appropriate. This includes referring council-specific feedback to the relevant council and seeking their advice where required.	EIE exhibition collateral Digital exhibition	Employment Zones Policy Team  Landowners and public  Councils	Mar/Apr 2022 – May 2022
1.6	✓ Address public feedback through an iterative process and finalise the self-repealing SEPP and GIS layers. Aligned with the current planning process, councils will be responsible for making the final decision on adopted zoning, as approved by the Department. ✓ Finalise LEP amendment detail including mapping. ✓ Seek council endorsement of finalised LEP amendment detail ✓ Drafting instructions to PCO to draft LEP amendment ✓ Obtain PCO Opinion on the final self-repealing SEPP	Finalised LEP detail, GIS mapping & endorsed detail  PC Opinion  Minister's approval & ExCo package	Employment Zones Policy Team  Councils  ePlanning  LSB  PCO	Jun - Oct 2022
1.7	✓ Minister approval and refer to Executive Council.	Publish self-repealing SEPP making the LEP amendments	Minister PCO	Nov 2022

The success of the implementation plan will require all activities to be completed on schedule, as every step is dependent on the completion of the previous step. This means that councils will be asked to provide their required changes to their LEPs within allocated time frames. Extensions to the timelines established in this implementation plan will not be possible.

### 3 Glossary

Term	Definition
<b>Employment Zone Framework</b>	The proposed zones that will replace the previous business and industrial zones known as the 'employment zones'. These new zones will be hosted in the Principal Standard Instrument – Local Environmental Plan.
<b>Environmental Planning Instrument (EPI)</b>	EPI is the collective name for Local Environmental Plans, State Environmental Planning Policies and Regional Environmental Plans. The collective term also covers the Environmental Planning and Assessment Act and Environmental Planning and Assessment Regulation and their amendments. A full list of these is <a href="#">here</a> .
<b>Explanation of Intended Effect (EIE)</b>	An EIE outlines the impact of proposed amendments to the NSW planning system. It summarises proposed amendments to Standard Instruments, Orders and State Environmental Planning Policies, and their intended effects.
<b>Geographic Information System (GIS) maps and layers</b>	A GIS map overlays many different layers of spatial location to show different data points in a single visualisation. This has the advantage of creating and sharing interactive maps of land zones through an online spatial viewer instead of offline pictures or PDF documents.
<b>Land Use Table (LUT)</b>	LUTs are part of a council's Local Environmental Plan and describe what land uses are: permitted without consent; permitted with consent; and prohibited for each zone. There are mandated land uses for each of these categories set under the Standard Instrument – Local Environmental Plan.
<b>Local Environmental Plan (LEP)</b>	LEPs guide planning decisions for local government areas. The zoning and development standards within the LEP provide a framework for the way land can be used. LEPs are the primary local planning legislation (an Environmental Planning Instrument) to shape the future of communities and ensure appropriate local development.
<b>Parliamentary Counsel's Office (PCO)</b>	The PCO is responsible for drafting most of the legislation for NSW. This includes all Bills for Acts required for introduction into Parliament. The PCO also draft a wide range of statutory instruments, including regulations, rules, proclamations, orders and Environmental Planning Instruments. The PCO also manage the NSW legislation website, which provides public access to legislation.
<b>Self-repealing State Environmental Planning Policy (SEPP)</b>	SEPPs are environmental planning instruments that deal with matters of state or regional environmental planning significance. SEPPs are also used as a tool by the Minister for Planning to make operational changes to other lower order Environmental Planning Instruments such as Local Environmental Plans. A self-repealing SEPP can cover amendments to Local Environmental Plans and be removed from legislation (repealed) once this purpose is complete. This mechanism removes the need for a council to prepare a planning proposal to amend their Local Environmental Plan.
<b>Principal Standard Instrument – Local Environmental Plan (Principal SI LEP)</b>	The Principal SI LEP prescribes the sections that are mandatory or optional to include in a council LEP and provides a standard response under each section. Each council can tailor the content in each section as they see fit, or maintain the standard instructions present in the Principal SI LEP.

## CL22.65 Report Back - Lot 29 DP874275, Seascope Close, Narrawallee - Requested Purchase and National Park Addition

**HPERM Ref:** D22/20091

**Approver:** Gordon Clark, Director - City Futures

**Attachments:**

1. Copy - Ministerial Response, Nov 2021 - Narrawallee Land Acquisition Request [↓](#)
2. Copy - NSW NPWS Response, Jan 2022 - Narrawallee Land Acquisition Request [↓](#)

### Reason for Report

Report back on the outcome of Council's representations during 2021 regarding the requested acquisition of the subject land by the NSW Government for addition to the National Park system and to determine what further action to take.

### Recommendation

That Council

1. Work with the local community, local interest groups and the Local Member, Hon Shelley Hancock MP, to collectively explore opportunities to bring the subject land into public ownership and undertake required advocacy in this regard.
2. Write to the new NSW Minister for the Environment & Heritage, James Griffin MP, requesting that the NSW Government actively assist with or acquire the subject land, given its high conservation value.

### Options

1. Working with the local community, local interest groups and the Local Member (Hon Shelley Hancock MP) to continue to strongly advocate through representations to the new NSW Minister for the Environment & Heritage that the NSW Government actively assist with or acquire the subject land, given its high conservation value, for addition to the Garrad Reserve.

Implications: This would involve making further approaches to the NSW Government requesting that the Government proceed to acquire the subject land or actively assist with efforts to acquire it and work with Council on its future management/maintenance.

2. Resolve to proceed to purchase the subject land, including pursuing options to assist with the purchase and generate an ongoing conservation income to assist with its management and maintenance.

Implications: Council will need to find the funding required to acquire the property and see what funding opportunities exist to support this. It is noted that the subject land was previously listed for sale at \$2.5 million.

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3. Receive the report for information.

Implications: This will effectively mean that no further action is taken by Council at this time and the subject land will remain in private ownership. This could result in the property being sold privately and a new owner pursuing development of the site in accordance with its existing zones and the planning agreement that applies to the land.

### Background

The subject land (Lot 29 DP 874275) is privately owned, 14ha in size and is located adjacent to Seascope Close on the western edge of Narrawallee. The land is currently zoned part E2 Environmental Conservation, part R2 Low Density Residential and part R1 General Residential under Shoalhaven Local Environmental Plan (LEP) 2014. Part of the E2 land is also identified on the 'scenic protection' and 'terrestrial biodiversity' (part of a habitat corridor) overlays in the LEP.

Lot 29 is linked via a Voluntary Planning Agreement (VPA) to Lot 300 DP 792411, Ross Avenue, Narrawallee (6.5ha) that is mainly zoned E2 and contains Garrads Lagoon.

Council made representations during 2019 and 2020 to the NSW Government requesting the acquisition of the land given its high conservation value and for possible addition to the adjacent Garrads Reserve (owned and managed by Council as an existing Bio Bank site). These representations were unsuccessful.

In mid-2021 the subject land was again listed for sale with a price of \$2.75 Million. Council received community representations, including from the National Parks Association of NSW, regarding the subject land and its public acquisition.

Following consideration of a Mayoral Minute, Council resolved on 25 May 2021 to:

*Write to the Minister for the Environment The Hon Matt Kean in regards to possible transfers of land to the National Park to include the following:*

- a. Lot 2 DP 1087105 Leo Drive Narrawallee (Garrads Reserve)
- b. Lot 5 DP 1087106 Garrads Lane Narrawallee (Garrads Reserve)
- c. Lot 29 DP 874275 Seascope Close Narrawallee (For purchase by NSW Government and consistent with previous minutes)

*Acknowledge that the three blocks as outlined above are contiguous with National Park land holding Narrawallee Creek Nature Reserve and would bring overall value to the National Parks estate as previously identified by the NSW State Government.*

In addition to this resolution, Council also considered a Notice of Motion and resolved at the same meeting to:

1. *Write to the NSW State Government and again request that the property known as Lot 29 DP 874275 Seascope Close Narrawallee be brought into public / Council ownership for conservation purposes and potential addition to the existing Garrads Reserve Biobanking site as a matter of urgency.*
2. *If necessary, to assist with a successful outcome, Council's in-principle support to contribute to the purchase (limited to a maximum of \$500,000) and / or be involved in any negotiations that would result in the property coming into public/Council ownership be noted in Council's letter of request to the State Government.*

This second resolution followed discussions with NSW Government staff regarding a possible acquisition option that emerged and also foreshadowed Council's willingness to contribute to a possible NSW Government acquisition of Lot 29.

When read together these resolutions indicated that Council was:

- Requesting that the NSW Government acquire Lot 29 and is keen to work with the NSW Government to achieve what would be a well-received outcome in this regard.
- Prepared to consider the associated transfer of the Council owned land that makes up the adjacent Garrads Reserve or other relevant Council owned land that is already adjacent to the NSW Government's Narrawallee Creek Nature Reserve.
- Prepared to contribute to the purchase, up to a maximum of \$500,000.

The then NSW Minister for Energy & Environment, Matt Kean MP was advised in writing of this resolution on 3 June 2021.

Following the letter to the Minister there was ongoing staff level dialogue, including the provision of additional supporting background information.

The Minister was sent a follow up letter on 13 September 2021 asking for an urgent formal response to Council's request. This was again followed up by correspondence from the Mayor to Hon Shelley Hancock MP in October 2021.

The Minister's response was then received on 12 November 2021 (see **Attachment 1**). The Office of Hon Shelley Hancock MP also provided a copy of a separate response (see **Attachment 2**) received from the NSW National Parks & Wildlife Service regarding the subject land.

Both the responses received from the NSW Government acknowledged the conservation significance of the subject land, but essentially advised that they are not in a position to progress acquisition of the subject land.

## Discussion

There is still strong community interest in the seeing the land publicly acquired given its vegetated nature and conservation significance, including noting that it adjoins the existing Garrads Reserve 'biobank' site.

Council's representations to the NSW Government during 2021 requesting that they proceed to acquire the site or work on options to acquire the site were ultimately unsuccessful, with the most recent correspondence in this regard received in January 2022. The letters received in response, whilst noting the conservation significance of the land, indicate that the NSW Government is not able to assist with its purchase.

At the time of writing this report, the subject land was still listed for sale, with no listed price ('contact agent').

In late 2021, as part of the NSW Governments ministerial changes, James Griffin MP was appointed as the new Minister for Environment & Heritage. As such there may be some merit in making fresh representations to the new Minister, but given the responses received from the NSW Government to date, it is likely that their position will remain unchanged (i.e. not able to purchase).

## Community Engagement

There has been no direct community engagement yet in this regard. It is however, acknowledged that there is strong community interest in seeing this land brought into public ownership and managed for conservation.

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**Policy Implications**

The land is currently covered by a planning agreement that seeks to bring another area, in the same ownership, into public ownership if the subject land is ever subdivided.

**Financial Implications**

Depending on the option taken, there could be a direct financial implication for Council if it decides to pursue acquisition of the land that has not been budgeted for. When put together with other suggested acquisitions of similar land this could be problematic or difficult to fund in a budgetary sense and also create precedent expectations.

It is noted that the subject land was previously listed for sale at \$2.5 Million.



**The Hon. Matt Kean MP**  
Treasurer  
Minister for Energy and Environment

42484E (D21/228535)  
MD21/3454

Mr Stephen Dunshea  
Chief Executive Officer  
Shoalhaven City Council  
PO Box 42  
NOWRA NSW 2541

By email: [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au)

Dear Mr Dunshea

Thank you for your letters on behalf of Shoalhaven City Council about acquiring Lot 29 Seascape Close, Narrawallee, for addition to the national parks estate. I appreciate the offer to transfer council-owned Garrad Reserve in support of a reservation outcome for Lot 29. I apologise in the delay in responding.

The National Parks and Wildlife Service (NPWS) has completed a preliminary assessment of Lot 29 to determine its suitability for addition to the national parks system. This assessment considers the NSW Government's conservation objectives, my current land acquisition priorities and available funding.

Many properties are considered by NPWS each year for addition to the reserve system. I am advised that, despite the conservation values identified for Lot 29 and Garrad Reserve, they are not in the highest priority category for acquisition. This assessment takes into account the relatively high level of existing protection afforded to both properties, current uses and future management requirements, and the price expectations for Lot 29.

I appreciate the desire of Council and local residents to see this land conserved and held for public use. While NPWS is not in a position to progress acquisition of Lot 29 at this time, I hope that Council will use its powers to ensure appropriate ongoing protection for the land.

I understand the Australian Government is considering proposals for the use of unspent land acquisition funds. I am advised the Department of Planning, Industry and Environment and Council have identified a proposal that may see Lot 29 acquired for addition to Garrad Reserve in exchange for other council-owned land being added to Narrawallee Creek Nature Reserve. I have asked NPWS to provide me with a more detailed brief in this regard, if this proposal proceeds.

If you have any further questions, please contact Mr Todd Duffy, Manager, Reserve Establishment, NPWS, on 6841 0937 or at [todd.duffy@environment.nsw.gov.au](mailto:todd.duffy@environment.nsw.gov.au).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'MK'.

**Matt Kean MP**  
Treasurer  
Minister for Energy and Environment

11.10.21



Your ref: SH/ac 060821  
Our ref: MD21/4839

The Hon Shelley Hancock MP  
Member for South Coast  
PO Box 1436  
NOWRA NSW 2541

By email: [southcoast@parliament.nsw.gov.au](mailto:southcoast@parliament.nsw.gov.au)

Dear Ms Hancock

Thank you for your correspondence to the Treasurer and former Minister for Energy and Environment, the Hon Matt Kean MP, on behalf of Shoalhaven City Council, about the potential acquisition of Lot 29 Seaspray Close in Narrawallee. Your email was referred to the National Parks and Wildlife Service (NPWS) and I have been asked to reply. I apologise for the delay in responding.

I have been advised that Lot 29 is currently under offer and I am aware this has raised considerable community concern. NPWS carried out a preliminary assessment of Lot 29 to determine its suitability for addition to the national parks system. The assessment considered the NSW Government's conservation objectives, current land acquisition priorities and available funding.

Despite the conservation values that were identified for Lot 29 and the adjoining Council-owned Garrad Reserve, they are not considered high priorities for acquisition. This decision has been informed by the relatively high level of existing protection afforded to both properties, current uses, future management requirements and price expectations.

You may be aware that the Government's current priorities for acquisition include properties that contain ecosystems, habitats and species that are not well sampled in the national parks system, secure habitat and landscape connectivity for koalas, or that will support improved management for the existing national parks system.

I appreciate Council's offer to transfer Garrad Reserve in support of a reservation outcome for Lot 29, and the desire of Council and local residents to see this land conserved and held for public use. However, at this time NPWS is not in a position to progress acquisition of Lot 29.

If you have any further questions about this matter, please contact Mr Paul Donnelly, Team Leader Land Assessments, NPWS on 9585 6095 or at [paul.donnelly@environment.nsw.gov.au](mailto:paul.donnelly@environment.nsw.gov.au).

Yours sincerely

**Kristy LAWRIE**  
**Acting Director Biodiversity and Ecological Health**  
**National Parks and Wildlife Service**

14/01/2022

## CL22.66 Appointment - New Members - Shoalhaven Tourism Advisory Group - 2022

**HPERM Ref:** D21/523823

**Department:** Tourism

**Approver:** Gordon Clark, Acting Director - City Futures

**Attachments:** 1. DRAFT Terms Of Reference 2022 [↓](#)  
2. Current Terms Of Reference [↓](#)

### Reason for Report

Formally appoint new members to the Shoalhaven Tourism Advisory Group (STAG) in accordance with the Terms of Reference for the Group.

### Recommendation

That Council:

1. Appoint the following local tourism representatives to the Shoalhaven Tourism Advisory Group (STAG) for a two-year term (31 October 2021 to 27 October 2023) in line with the Terms of Reference for the Group:
  - a. Michelle Bishop
  - b. Sandra Gray
  - c. Juliet Barr
  - d. Brenda Sambrook
2. Formally thank retiring member, James Lin, for his service to the Shoalhaven Tourism Industry as a member of the STAG.
3. Adopt the draft changes to the Terms of Reference for STAG as detailed in Attachment 1 to this report and finalise.

### Options

1. As recommended.

Implications: The updated Terms of Reference reflect the practical working relationship and are not considered a significant change. They also formally recognise the River Festival Committee and its relationship to the STAG as previously resolved by Council.

2. Not accept the recommended members or changes to the Terms Of Reference.

Implications: This would not be consistent with the current working relationship with the Committee and may impact relationships with the Tourism Industry.

### Background

The STAG has a long standing positive and proactive relationship with Council and Council's Tourism team.

As outlined in the existing Terms of Reference, a maximum of nine (9) industry members are appointed for a 2-year term, with half changing over every year.

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Current membership and expiry dates are detailed below.

Role	Name		Representing	Expiry
Member	David	Goodman	Sports Board	Ongoing
Member	Neil	Rodgers	Industry	Oct-22
Chair (Expired Dec 2021)	Robert	Crow	Industry	Oct-22
Member	David	Duffy	NPWS	Ongoing
Member	<b>Brenda</b>	<b>Sambrook</b>	Industry	<b>Oct-21</b>
Member	<b>Dr James</b>	<b>Lim</b>	Industry	<b>Oct-21</b>
Member	<b>Juliet</b>	<b>Barr</b>	Industry	<b>Oct-21</b>
Deputy Chair (Expired Dec 2021)	Mark	Thirlwall	Industry	Oct-22
Member	David	Fleeting	Industry + Chair of the Shoalhaven River Festival Committee	Oct-22
Member	Mat	Lock	Industry	Oct-22
Casual Member	<b>Michelle</b>	<b>Bishop</b>	Industry	<b>Oct-21</b>
Casual Member	<b>Sandra</b>	<b>Gray</b>	Industry	<b>Oct-21</b>

### Casual Members recommended to be appointed as Members

After the resignation of former member Kylie Pickett, a recruitment was held to fill the vacant position in 2021 with a casual member to be appointed for the remainder of the term (due to expire the end of October 2021).

Interviews were held with interested industry members by a Panel, consisting of Council's Tourism Manager, STAG Chair and STAG Deputy Chair. During the recruitment, the Panel recommended that two industry casual members be appointed, both equally qualified, rather than only one as was originally intended. As such, these casual appointments were accepted by the STAG and adopted by Council in August 2021, with the positions due to expire in October 2021.

It is now recommended that these casual members be appointed to member positions for a two-year period, from November 2021 to October 2023.

### New Member Recruitment

As per the STAG Terms of Reference, a recruitment was run to fill the remaining two vacant positions on the group, this was promoted via Council's website and sent to the Tourism Industry via 'Tourism Talk' emails.

Interviews were held with the Acting Tourism Manager, the Chair and Deputy Chair on 16 December 2021 and it is recommended by the panel that the following industry members be appointed to the remaining vacant positions from November 2021 to October 2023.

- a. Juliet Barr
- b. Brenda Sambrook

If accepted by Council, the STAG industry membership for the next 12 months will be as follows, with the election of office bearers at the first meeting in 2022.

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Role	Name		Representing	Expiry
Member	David	Goodman	Sports Board	Ongoing
Member	Neil	Rodgers	Industry	Oct-22
Chair (Expires Dec21)	Robert	Crow	Industry	Oct-22
Member	David	Duffy	NPWS	Ongoing
Member	Brenda	Sambrook	Industry	Oct-23
Member	Juliet	Barr	Industry	Oct-23
Deputy Chair (Expires Dec21)	Mark	Thirlwall	Industry	Oct-22
Member	David	Fleeting	Industry + Chair of the Shoalhaven River Festival Committee	Oct-22
Member	Mat	Lock	Industry	Oct-22
Member	Michelle	Bishop	Industry	Oct-23
Member	Sandra	Gray	Industry	Oct-23

### Community Engagement

The STAG plays an important role in the development of tourism related strategic plans and activities and provides critical input through industry representatives in this process.

Roles were advertised via the Council website and via tourism business networks. This occurs on an annual basis when the two (2) year term of STAG members comes to an end.

Existing STAG members can either retire or reapply through the application and interview process and are considered alongside other new potential recruits.

### Policy Implications

Draft changes to the STAG Terms of Reference have been prepared in consultation with the Chair and Deputy Chair – see **Attachment 1**. The current Terms of Reference are provided as **Attachment 2**. The proposed changes better reflect the working relationship that exists with Council and Council staff and are supported by the industry members.

It is recommended that the updates be to the Terms of Reference be accepted and if adopted will be an updated policy.

### Financial Implications

There are no direct financial implications as a result of this report.

CL22.66



**City Administrative Centre**  
Bridge Road (PO Box 42), Nowra NSW Australia 2541 - DX 5323 Nowra  
Phone: (02) 4429 3111 - Fax: (02) 4422 1816

**Southern District Office**  
Deering Street, Ulladulla - Phone: (02) 4429 8999 – Fax: (02) 4429 8939

Email: [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au)

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

For more information contact the City Futures Directorate

## Terms of Reference - Shoalhaven Tourism Advisory Group

**Policy Number:** POL17/62 • **Adopted:** 29/07/2014 • **Amended:** 19/05/2015, 23/05/2017 • **Minute Number:** MIN14.511, MIN15.306, MIN17.431 • **File:** 1490E • **Produced By:** City Futures • **Review Date:** 1/10/21

### 1. ROLE AND PURPOSE OF THE ADVISORY GROUP

- Inform the development, implementation, and review of council priorities through the Shoalhaven Destination Management Plan
- Represent the tourism industry providing advice and making recommendations to Council on matters relating to tourism, the development of tourism and the future of tourism in the Shoalhaven.
- Promote the direct and in-direct value and benefits of tourism within the Shoalhaven and on a regional, state and national basis.

### 2. RELATIONSHIP TO COUNCIL

The Shoalhaven Tourism Advisory Group is an Advisory Group of Council.

### 3. DELEGATED AUTHORITIES

#### Tourism Advisory Group

- Make recommendations on actions and priorities in Destination Management Planning
- Provide feedback on marketing and events support programs
- Appoint suitable representatives to fill casual vacancies
- Inform and recommend policy for tourism related funding programs

#### Shoalhaven Tourism Manager

Separate to the delegation of STAG, the Shoalhaven Tourism Manager, as an employee of Council will:

- Develop and implement activities to achieve objectives in line with STAG recommendations, Shoalhaven Tourism Destination Management Planning and Councils corporate plans
- Expend budget as authorised under delegated financial authority as defined by Council

*Shoalhaven City Council – Shoalhaven Tourism Advisory Group – Terms of Reference*

- Review and allocate or decline funding program applications in line with approved policies and guidelines
- Bring to the STAG reports on key issues or opportunities for the tourism industry for feedback and guidance.

**4. MEMBERSHIP**

The membership shall comprise of the following delegates:

- All Councillors (2 with voting rights as determined by Council)
- A maximum of 9 skills based Industry Representatives
- A representative of National Parks & Wildlife Service
- Chairperson of the Shoalhaven Sports Board
- The Mayor

Members will be formally appointed by Council.

**5. ELECTION/APPOINTMENT****Industry Representatives**

- Appointment to the Advisory Group will occur every 2 years
- Vacancies will be advertised locally via media, Council communication channels and industry networks
- Applications will be actively sought from appropriately skilled industry representatives
- Council will manage the application process
- An interview panel will consist of the Tourism Manager, suitably qualified and independent representatives (Minimum of 2 others) to assess the applications and make recommendations for appointments to Council

**Councillors**

Council will advise STAG of its appointed representatives. Council at its discretion can replace representatives at a time of its choosing.

**6. CASUAL VACANCIES**

Should there be a casual vacancy; the Advisory Group will seek applications by appropriate means to fill these vacancies.

**7. TERM OF APPOINTMENT**

- Appointments will be for a term of 2 years
- 50% of the industry representatives will be required to stand for reappointment every 2 years

*Shoalhaven City Council – Shoalhaven Tourism Advisory Group – Terms of Reference*

**8. EXPECTATIONS OF ADVISORY GROUP MEMBERS**

- Represent whole of industry
- Actively participate in working groups
- Represent the Advisory Group at events
- Advisory Group members will undertake the prescribed Induction process, run by the Tourism Manager.
- Pecuniary Interest Returns are required on appointment and annually as required by the Office of Local Government and Council

**9. EXECUTIVE POSITIONS**

The Advisory Group will appoint a Chairperson and Deputy Chairperson on an annual basis by a vote of members of the Advisory Group.

The role of Chairperson is:-

- To chair the meeting and exercise functions, as determined by STAG.
- To be the spokesperson for the committee, as directed by STAG.
- To advocate for STAG and represent its decisions.
- To call Extraordinary meetings of the Advisory Group
- The role of the Deputy Chairperson is to act as Chair when the Chair is not present at meetings.

**10. SUB COMMITTEES/WORKING GROUPS/PORTFOLIOS**

The Advisory Group will have the right to establish working groups as deemed appropriate to assist in fulfilling their role and purpose.

The Group to co-opt individuals as and when required, to contribute to an expert panel or special reference group.

**10.1 THE SHOALHAVEN RIVER FESTIVAL**

The STAG is a parent committee to the Shoalhaven River Festival, which is covered by its own Terms of Reference - *POL21/49*. Formally minute meetings and accounts are provided to the STAG as outlined in their Terms of Reference

The first Shoalhaven River Festival was held in October 2013 following the following resolution of the Council on 21 June 2013:

*"That Council:*

- a) Establish a Management Committee formed under Section 355 of the Local Government Act to progress and deliver the Shoalhaven River Festival*
  - i. The Committee be named the Shoalhaven River Festival Committee*

*Shoalhaven City Council – Shoalhaven Tourism Advisory Group – Terms of Reference*

- ii. *The membership of the Committee be formed from the Shoalhaven Tourism Board and co-opted community members as required*
- iii. *The Tourism Manager act as Executive Officer of the Committee and report to the Shoalhaven Tourism Board on the activities of the Committee*
- b) *Allocate \$20,000 to the Shoalhaven River Festival Committee from the Strategic Projects Reserve for planning, Development Application and other fees and charges for the running of the event*
- c) *Provide support in-kind in the form of a dedicated promotional website, secretariat, meeting space and event liaison assistance"*

Further the Council resolved (interalia) on 24 April 2018 (MIN18.321)

*"That Council... continues to provide the following support to the Shoalhaven River Festival Committee:*

- a) *Continue to provide \$20,000 funding and support in line with what Council originally resolved on 21 June 2013, provided that the Shoalhaven River Festival Committee is properly constituted.*
- b) *Council (including Elected Members) assist the Committee in promoting the event through broader community and industry networks to assist in increasing volunteer numbers and local business support.*
- c) *Council staff continue to work with and provide advice to the Committee to improve the sustainability of the event through the review of the ongoing format of the event to identify potential revenue opportunities and manage event costs.*
- d) *The committee consider a name change such as Shoalhaven Music and River Festival"*

**11. ADVISORY GROUP MEETINGS**

- Formal Advisory Group Meetings will be held no less than quarterly in a form and format as determined by STAG
- Topics for the Agenda are to be forwarded to the Chairperson no later than 14 days prior to the meeting.
- Agenda and minutes from previous meetings will be circulated to members at least 7 days prior to the meeting.
- Members must declare in writing, or during the meeting, any interest in any report tabled at the meeting in line with the Code of Conduct.
- Informal Advisory Group meetings or special meetings will be held as and when required or set by the Advisory Group.
- Costs associated with conducting meetings will be borne by Council on approval of the Tourism Manager.

**12. QUORUM**

The Quorum is half the total of industry members total plus one, for example, if there are 10 industry members, the quorum is 6 (5 (*half*) plus 1).

**13. VOTING AND RECOMMENDATIONS**

- Voting and Recommendations are made by consensus and all decisions must be stated precisely for the inclusion of the minutes
- Where a consensus cannot be reached at two consecutive meetings, then the majority of 60% of those present can adopt a recommendation
- Alternative views and general key discussion points are to be minuted
- Where the Tourism Manager deems an item requires Advisory Group guidance, an electronic vote via email will be conducted. Members will be required to vote within 72 hours of the vote request. Quorum rules apply in this instance. Results to be advised to the Advisory Group.

**14. COMMUNICATION**

- Members of the Advisory Group are not permitted to speak to the media as representatives of the Advisory Group unless approved by the Chairperson
- Where approval has been given by the Chairperson, views and opinions expressed are those of the Advisory Group and not of Shoalhaven City Council
- Where endorsement is required from Shoalhaven City Council, approval must be sought through the formal processes.

**15. PARENT ADVISORY GROUP**

Ordinary Council.

**16. CODE OF CONDUCT**

All members of the Committee are to abide by Council's Code of Conduct, including declaration and management of all conflicts of interest

Members cannot obtain private benefit because of their involvement in decision making as a member of the Committee

**17. RECORD OF MINUTES**

The Advisory Group shall ensure that an agreed written record of each of their meetings is forwarded to Council.

**18. STAFF ATTENDANCE**

Executive staff are normally required to attend the meetings of the Advisory Group. Other staff at the Directors' discretion or at the Advisory Group's request can attend meetings as required.

**19. RESPONSIBILITY OF COUNCIL**

Council will provide secretarial support to arrange meetings and take minutes and provide professional officer support where required.

*Shoalhaven City Council – Shoalhaven Tourism Advisory Group – Terms of Reference*

Council at its discretion may review and change the Terms of Reference, Role and Structure of the Advisory Group.

**20. REVIEW**

After each election of Council.

CL22.66 - Attachment 1



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For more information contact the Finance Corporate & Community Services Group

## Terms of Reference - Shoalhaven Tourism Advisory Group

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### 1. ROLE AND PURPOSE OF THE ADVISORY GROUP

- Inform the development, implementation and review of council priorities from the Shoalhaven Tourism Master Plan and councils corporate plan
- Represent the tourism industry and advise and make recommendations to Council on matters relating to tourism, the development of tourism and the future of tourism in the Shoalhaven.
- Promote the direct and in-direct value and benefits of tourism within the Shoalhaven and on a regional, state and national basis.

### 2. RELATIONSHIP TO COUNCIL

The Shoalhaven Tourism Advisory Group is a Section 355/377 Committee of Council.

### 3. DELEGATED AUTHORITIES

#### Tourism Advisory Group

- Make recommendation on the expenditure of the annual Shoalhaven marketing budget as provided by Council.
- Appoint suitable representatives to fill casual vacancies
- Inform and recommend policy for tourism related funding programs, and where required by Council, vote on related matters.

#### Shoalhaven Tourism Manager

Separate to the delegation of STAG, the Shoalhaven Tourism Manager, as an employee of Council will:

- Develop and implement activities to achieve objectives in line with STAG recommendations, the Shoalhaven Tourism Master Plan and Councils corporate plan
- Expend budget as authorised under delegated financial authority as defined by Council
- Review and allocate or decline funding program applications in line with approved policies and guidelines

**4. MEMBERSHIP**

The membership shall comprise of the following delegates:

- All Councillors (2 with voting rights as determined by Council)
- A maximum of 9 skills based Industry Representatives
- A representative of National Parks & Wildlife Service
- Chairperson of the Shoalhaven Sports Board
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Members will be formally appointed by Council.

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- Applications will be actively sought from appropriately skilled industry representatives
- Council will manage the application process
- An interview panel will consist of the Tourism Manager and suitably qualified and independent representatives (Minimum of 3 others) to assess the applications and make recommendations for appointments to Council

**Councillors**

Council will advise STAG of its appointed representatives. Council at its discretion can replace representatives at a time of its choosing.

**6. CASUAL VACANCIES**

Should there be a casual vacancy; the Advisory Group will seek applications by appropriate means to fill these vacancies.

**7. TERM OF APPOINTMENT**

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- Advisory Group members will undertake the prescribed Induction process

*Shoalhaven City Council – Shoalhaven Tourism Advisory Group – Terms of Reference*

- Pecuniary Interest Returns are required on appointment and annually as required by the Office of Local Government and Council

**9. EXECUTIVE POSITIONS**

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The role of Chairperson is:-

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- To be the spokesperson for the committee, as directed by STAG.
- To advocate for STAG and represent its decisions.
- To sign off minutes endorsed by STAG.
- To call Extraordinary meetings of the Advisory Group

The role of the Deputy Chairperson is to act as Chair when the Chair is not present at meetings.

**10. SUB COMMITTEES/WORKING GROUPS/PORTFOLIOS**

The Advisory Group will have the right to establish sub groups as deemed appropriate to assist in fulfilling their role and purpose.

The Group to co-opt individuals as and when required, to contribute to an expert panel or special reference group.

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- Members must declare in writing any interest in any report tabled at the meeting.
- Informal Advisory Group meetings or special meetings will be held as and when required or set by the Advisory Group.
- Costs associated with conducting meetings will be borne by Council on approval of the Tourism Manager.

**12. QUORUM**

The Quorum is seven (7) members.

*Shoalhaven City Council – Shoalhaven Tourism Advisory Group – Terms of Reference***13. VOTING AND RECOMMENDATIONS**

- Voting and Recommendations are made by consensus and all decisions must be stated precisely for the inclusion of the minutes
- Where a consensus cannot be reached at two consecutive meetings, then the majority of 60% of those present can adopt a recommendation
- Alternative views are to be minuted
- Where the Tourism Manager deems a funding application requires Advisory Group guidance, an electronic vote via email will be conducted. Members will be required to vote within 72 hours of the vote request. Quorum rules apply in this instance. Results to be advised to the Advisory Group.

**14. COMMUNICATION**

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- Where endorsement is required from Shoalhaven City Council, approval must be sought through the formal processes

**15. PARENT ADVISORY GROUP**

Ordinary Council.

**16. CODE OF CONDUCT**

All members of the Advisory Group are to abide by Council's Code of Conduct.

**17. RECORD OF MINUTES**

The Advisory Group shall ensure that an agreed written record of each of their meetings is forwarded to Council.

**18. STAFF ATTENDANCE**

Executive staff are normally required to attend the meetings of the Advisory Group. Other staff at the Directors' discretion or at the Advisory Group's request can attend meetings as required.

**19. RESPONSIBILITY OF COUNCIL**

Council will provide secretarial support to arrange meetings and take minutes and provide professional officer support where required.

Council at its discretion may review and change the Terms of Reference, Role and Structure of the Advisory Group.

*Shoalhaven City Council – Shoalhaven Tourism Advisory Group – Terms of Reference*

**20. REVIEW**

After each election of Council.

CL22.66 - Attachment 2

## CL22.67 Tenders - Ulladulla Harbour Berthing Facility

HPERM Ref: D22/28781

Department: Economic Development

Approver: Gordon Clark, Acting Director - City Futures

### Reason for Report

Inform Council of the tender process, the evaluation and proposed awarding of contracts for the Ulladulla Harbour Berthing Facility.

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

### Recommendation (Item to be determined under delegated authority)

That Council consider a separate confidential report "Tenders – Ulladulla Harbour Berthing Facility" in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993.

### Options

1. Consider the separate confidential report.

Implications: Full details of the tendering process is provided in the confidential report to enable Council to make an informed decision in this regard.

2. Alternative recommendation.

Implications: No opportunity to assess and make an informed decision on the tender process and results.

### Background

Council recently called tenders to undertake the various aspects of constructing the "Ulladulla Harbour Berthing Facility". Tenders were advertised on 18 December 2021 and closed at 10:00am on 18 January 2022 for the following:

- Rock Excavation & Disposal
- Design and Construction of Pilings and Pontoons

Grant funding has been secured by Council for this work from:

- Australian Government – Community Development Program
- NSW Crown Lands – Maritime Infrastructure Delivery Office contribution
- Bushfire Local Economic Recovery Fund Phase 1 – Restart NSW
- Better Boating - Maritime Infrastructure Delivery Office

Ulladulla Harbour provides locals and tourists with an access point for recreation and commercial boating. The harbour is also of key importance to the local fishing industry. In order to cater for increased demand within the community for recreational boating, commercial fishing and tourism, a new berthing facility is to be built which would cater for vessels which at present have little opportunity to get a mooring in the harbour.

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The facility would mainly cater for motor cruisers but there is anticipated to be provision for at least one berth for deep keeled yachts. With assistance from the Australian Government, Transport for NSW and Regional NSW (Restart NSW), Council will deliver the project, to facilitate and encourage the operation of private charter and commercial vessels.

In all, up to 19 wet berths will be created of varying sizes and these will be leased out at commercial rates to operating businesses.

Specific details relating to the project are available at:

<https://business.shoalhaven.nsw.gov.au/essential-information/news-media/details/ulladulla-harbour>

Details relating to the evaluation of the tender(s) are contained in the associated confidential report.

### **Community Engagement**

This project has been proposed on a number of occasions by the NSW Government, however, never gained the momentum to bring it to fruition. Council has generally been an observer in the earlier proposals, then joined with NSW Crown Lands to move the project into the development phase.

During this evolution of the proposal, the media and Ulladulla community have been engaged in providing support at the various stages. Key stakeholders like the Ulladulla Fishermen's Co-op, Marine Rescue and Ulladulla Game Fishermen's Club have also been supportive along with a number of key government agencies that manage the Ulladulla harbour precinct.

### **Policy Implications**

The project forms one of a number of Economic Development projects across the city to create employment, stimulate economic activity and provide tourism infrastructure that will grow the built tourism sector.

### **Financial Implications**

The project with an estimated total budget \$3,427,442 is substantially grant funded, utilising various governmental funding programs. Funding, including \$400,000 from Council's Maritime Infrastructure Reserve.

### **Risk Implications**

The construction of this project is being undertaken under a joint Project Control Group comprising representatives of Council and mainly State agencies.

The risk implication have been examined and are provided in the Review of Environmental Factors for the project

## CL22.68 Half Yearly Review for Compliance Matters

**HPERM Ref:** D21/394712

**Department:** Certification & Compliance

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

**Attachments:** 1. Penalty Notices & Warnings Issued - Quarterly Review - City Development - July to December 2021 [↓](#)

### Reason for Report

At Council's Ordinary meeting held on 13 November 2018 it was resolved to receive a detailed quarterly report on compliance activities (MIN18.907).

Due to the November 2021 caretaker mode of the Council, the last quarterly report could not be provided in time for the meeting schedule. This report therefore provides information on the period from 1 July 2021 to 30 December 2021 (first and second quarter 2021/2022).

### Recommendation

That Council receive the quarterly report on compliance matters for information.

### Options

1. Council receives the report for information.

Implications: Nil

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

Implications: Any changes or additional matters can be added to future reports.

### Report

Compliance activities are completed by the following Teams within City Development:

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

This report provides Councillors with an update on the penalties issued (number, type, and ticket value), penalty reviews dealt with by the Review Panel and any Local or Land and Environment Court matters determined or progressing.

This report relates to July - December 2021 (first and second quarter).

Penalties Issued During the Period A combined total of 2,477 penalty notices were issued by the teams during the period. These penalties have a face value of \$560,773. Historically Council stands to receive approximately 70% of this ticketed figure.

A total of 217 warnings were issued during the period.

Attachment 1 to this report provides a breakdown of the penalties and cautions issued.

The following is a summary of the penalties issued from each team:

Team	Number Issued	Total Amount	% of total amount	Warnings issued
Compliance	22	\$41,530	7%	106
Compliance – Fire Safety	0	0	0%	0
Compliance – Pools	9	\$3,190	0.37%	5
Environmental Health	8	\$33,660	5%	0
Rangers – Animal Issues	372	\$138,950	27%	46
Rangers – Environmental Issues	18	\$19,720	3%	3
Parking	2,046	\$323,063	57%	56
Sewer Management Facility	2	\$660	0.6%	1
<b>Total</b>	<b>2,477</b>	<b>\$560,773</b>	<b>100%</b>	<b>217</b>

CL22.68

#### Penalties Related to Compliance issues

The following details are provided in relation to compliance penalty notices issued during the period:

1. Tomerong (\$6,000):- Two penalty notices were issued to the owner for development not in accordance with consent (any other case) for the removal of trees required to be retained as per a consent condition.  
  
A further two warning notices were issued to the owner for separate breaches of the consent which would have equated to \$6,000 if issued as penalty notices.
2. Ulladulla (\$550):- One penalty notice was issued to a licenced plumber for failing to provide a notice of work to Council as the regulator and in relation to unauthorised development.  
  
A further three warning notices were also issued to the plumber which would have equated to \$2,750 if issued as penalty notices.
3. Ulladulla (\$3,000):- One penalty notice was issued to a licenced builder for development without consent (class 1a or 10 building) for construction of timber decks and extensive internal dwelling alterations.  
  
A further four warning notices were also issued to the builder which would have equated to \$12,000 if issued as penalty notices.
4. Basin View (\$3,000):- One penalty notice was issued to a licenced builder for development without consent (class 1a or 10 building) for construction of timber decks and extensive internal dwelling alterations.  
  
A further four warning notices were also issued to the builder which would have equated to \$12,000 if issued as penalty notices.
5. Mollymook Beach (\$1,500):- One penalty notice was issued to a licenced carpenter for development without consent (class 1a or 10 building) for construction of a timber deck.

- One warning notice was also issued to the carpenter which would have equated to a further \$1,500 if issued as a penalty notice.
6. Vincentia (\$1,500):- One penalty notice was issued to a licenced builder for development without consent (class 1a or 10 building) for construction of a first-floor timber deck and roof.  
  
One warning notice was also issued to the builder which would have equated to \$1,500 if issued as a penalty notice.
  7. Narrawallee (\$880):- Two penalty notices were issued to a licenced plumber for not providing notice of work to Council as plumbing regulator and installing a waste management system without approval.  
  
A further three warning notices were also issued to the licenced plumber which would have equated to \$5200 if issued as penalty notices.
  8. Burrill Lake (\$1,500):- One penalty notice was issued to a licenced builder for development without consent (class 1a or 10 building) for construction of a first-floor timber deck and external alterations to a boatshed.  
  
One warning notice was also issued to the builder which would have equated to \$1,500 if issued as a penalty notice.
  9. South Nowra (\$1,100):- One penalty notice was issued to a licenced plumber for not ensuring work was accessible for inspection.  
  
One warning notice was also issued to the plumber for failing to notify Council as the regulator that work was ready for inspection which would have equated to \$1,100 if issued as a penalty notice.
  10. Sussex Inlet (\$4,940):- Five penalty notices to the owner for development without consent and breaches of the Swimming Pools Act for offences relating to the construction of a secondary dwelling and installation of swimming pools without consent.  
  
A further 31 warning notices were issued for additional identified breaches. These would have equated to \$46,500 if issued as penalty infringement notices.
  11. Sussex Inlet (\$1,720):- Four penalty notices were issued to previous owners of a property for development without consent and breaches of the Swimming Pools Act for construction of a secondary dwelling and failing to register a pool.  
  
A further 34 warning notices were issued for additional identified breaches and would have equated to \$51,000 if issued as penalty notices.
  12. Vincentia (\$3,000):- Two penalty notices issued for development without consent for the conversion of a shed to tourist and visitor accommodation.  
  
A further two warning notices were issued for other identified breaches which would have equated to \$3,000 if issued as penalty notices.
  13. Kangaroo Valley (\$6,000):- One penalty notice issued to the owner for development without consent for the conversion of a farm shed to tourist and visitor accommodation.  
  
A further three warning notices were issued to the owner for other identified breaches which would have equated to \$18,000 if issued as penalty notices.
  14. Callala Bay (\$1,100):- Two penalty notices issued to the owners for failing to comply with a Direction issued under the Swimming Pools Act.  
  
A further four warning notices were issued for other identified breaches of the Swimming Pools Act which would have equated to \$2,200 if issued as penalty notices.
  15. Bellawongarah (\$550):- One penalty notice issued to a licenced plumber for failing to notify work to Council as the regulator.

A further three warning notices were also issued for other identified breaches of the Plumbing and Drainage Act which would have equated to \$2,200 if issued as penalty notices.

16. Callala Bay (\$1,500):- One penalty notice issued to the owner for development without consent for the conversion of a garage to a habitable room.

A further two warning notices were also issued to the owner for other identified breaches of legislation which would have equated to \$3,000 if issued as penalty notices.

17. Shoalhaven Heads (\$6,000):- Two penalty notices were issued to a licenced builder for development without consent for construction of a first-floor covered deck.

A further three warning notices were also issued to the builder or further identified breaches of legislation which would have equated to \$9,000 if issued as penalty notices

18. Barrengarry (\$3,000):- Two penalty notices issued to the owners for development without consent for a conversion of an existing dairy to a habitable building.

A further two warning notices were issued for other identified breaches of legislation which would have equated to \$3000 if issued as penalty notices.

19. Little Forest (\$550):- One penalty notice issued to the owner for failing to comply with a Direction under the Swimming Pools Act.

A further one warning notice was issued for a separate breach under the Swimming Pools Act which would have equated to \$550 if issued as a penalty notice.

Warnings Related to Compliance issues A total of 111 warning notices were issued for compliance matters in the period and these have no dollar value. Potentially the Compliance Team could have issued a further \$194,000 in penalties for the period. The caution rate is approximately 81% of the total potential.

#### Penalty Infringement Panel Reviews

During the period, the review panel met on two occasions:

1. 4 August 2021 - to consider two penalty infringement notices:

2 x Development without development consent – class 1a or 10 – Individual - \$1,500

One (1) penalty infringement notice was issued to each owner for the construction of timber retaining walls on the boundary and over Council's sewer asset.

The panel review committee considered the submission and determined both penalties were to stand.

2. 10 November 2021 to consider one penalty infringement notice.

Carry out development prohibited on land – any other case – Individual - \$3,000 – Coolangatta

A penalty notice was issued to the owner for operating a caravan and boat storage facility, a land use not permissible in the zone.

The panel review committee considered the submission and determined the penalty should stand.

#### Court Elected Penalties:

1. Local Court Nowra – 1 October 2021:- The owner of the premises at Burrill Lake, Court elected two penalty notices for development without consent (Total penalty notice value of \$3,000).

The owner was convicted on two charges each of development without development consent. One for the construction of a shed and one for construction of timber retaining walls over Council's sewer asset.

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The Court fined the owner \$2,000 on each charge and ordered him to pay costs in the amount of \$1,905.20. A total cost of \$5,905.20.

2. Local Court Nowra – 15 October 2021:- The owners of the premises Court elected one penalty notice each for development without consent at their property located at Sanctuary Point (Total penalty notice value of \$3,000).

Both owners pleaded guilty to the charge. The Court fined one \$2,000 and ordered him to pay costs in the amount of \$350. A total cost of \$2,350).

The Court accepted the plea of guilty from the other and dismissed the offence pursuant to s10(1)(a) of the Crimes (Sentencing procedures) Act 1999 citing the penalty as duplicitous.

3. Local Court Nowra – 30 November 2021:- Sussex Inlet – Former owner of premises court elected a penalty notice issued for failing to comply with a Formal Order given under the EP&A Act. The matter has been adjourned to 09/02/2022.

Compliance Merits received this quarterThe Compliance Team received 191 Merits, and these are detailed in the following table.

Type of Merits Received	Number Received	Percentage of total
Asbestos Issues	2	1
Building Works - Not In Accordance Consent	29	15
Building Works - Without Consent	89	47
Defective Building Works	5	3
Earthworks - Without Consent	6	3
Erosion Control - Building Sites	2	1
Erosion Control - Subdivision Sites	3	1
Land Use - Without Consent	15	8
Sewerage Management Facility	8	4
Special Event – Without Consent	0	0
Stormwater Runoff - Building Site	9	5
Swimming Pool Fencing Inspection	23	12
Vegetation Clearing - Without Consent	0	0
<b>TOTALS</b>	<b>191</b>	<b>100%</b>

Development without consent remains the highest percentage of all complaints received (47%). Development not in accordance with consent (15%) is also high and this reflects the expectation of the community to keep developments true to the approval.

Swimming Pool Fencing Inspection merits have risen with a high number of referrals from private certifiers whereby owners of properties for sale in the Shoalhaven are choosing to not repair their pool barriers and opting to pass the responsibility onto the new owners. Private Certifiers are correctly passing these to Council to issue orders on the new owners.

Compliance have received a high volume of storm water complaints due to the wet spring quarter. These complaints are often not provided with supporting evidence and can generally be difficult to investigate with staff often requesting further information from customers. A large portion of these complaints do not progress to merit investigation requests due to a lack of information.

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Compliance have also been receiving a high volume of complaints relating to ‘tiny houses’ and other moveable dwellings which are being installed across the LGA without development consent. These installations can often be in areas of high bushfire risk and without effective waste management controls and pose a threat to the health, safety and amenity of the people and environment.

#### Ranger activities

1. Total Merits Received:- Ranger Services received 2,021 merits during the reporting period.
2. Dog Attacks:- Rangers received and attended 83 reports of dogs attacking during the period. Of these reports, 45 investigations have been completed with 15 penalty notices issued (i.e. 15 x \$1,320 = \$19,800). A further 38 matters remain under investigation.
3. Animal Registrations:- As part of the monthly mailout to notify owners that lifetime registration is due, a search of the Companion Animals Register identified 64 animals were not lifetime registered as required. Notices were sent to each owner requiring registration within 14 days. A total of 15 penalty notices were issued for noncompliance. This figure is reflected in the penalty notice table under “Rangers – Animal issues”. There were 50 penalty notices issued by Rangers for this offence outside of the monthly mailout.
4. Beach Patrols:- Rangers completed 1,028 beach patrols during this quarter. A number of dog owners have been spoken to during this period. A total of ten penalty notices and 27 warnings have been issued.
5. Community Events And The Pop-Up Ranger Stall:- Rangers attended five community drop-in sessions in July and five workshops (second round) in October with the focus groups to workshop the review of the Access Areas for Dogs policy being managed by Social Infrastructure Planning.

#### Animal Shelter

1. Adoptions And Reclaims:- The Shoalhaven Animal Shelter recorded 258 adoptions and 157 reclaims for the reporting period and the Animal Shelter Facebook page now has more than 16,600 followers.
2. Animal Desexing Vouchers Given To Pensioners:- The animal shelter collaborated with many external units and was able to obtain continued support for the animal desexing program. This saw more than 60 animal desexing vouchers provided free to pensioners.
3. Donations Given By “Amanda’s All Natural Dog Treats”:- Amanda prepares and sells all natural dog treats at many of the local markets. The profits of this venture is donated to the Animal Shelter by way of part payment off dog adoptions. This makes the adoption more affordable to low income residents. During the period, Amanda paid \$200 off five dog adoptions being a total of \$1,000 in donations. The Shelter would like to publicly acknowledge “Amanda’s all natural dog treats” for their generosity.
4. Donations from Frankie’s Coffee Van:- Frankie’s Coffee Van donated \$3,000 from the profits of the business to buy food, treats and toys for animals at the Shelter. The Shelter would like to publicly acknowledge “Frankie’s Coffee Van” for this kind donation and support.
5. The Shelter Annual Christmas Giving Tree:- The Shelter Annual Christmas Giving Tree saw hundreds of dollars’ worth of treats and toys donated to the Shelter. Many thanks to all those community members who have contributed to this space.
6. The Shelter “Did You Know” Posts:- The Shelter “Did you know?” posts covered topics such as pet obesity, paralysis tick information and pet mental health. These posts are very popular with our followers and offer great information to all pet owners.

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7. Shelter Leads The Way In Sustainability:- Flow Power installed a large solar system on the roof of the Animal Shelter providing green energy to the site. Coupled with the water tanks and worm farm, the Shelter is a leader in sustainability for shelters in NSW.
8. Animal Shelter Pet Expo Is Coming:- Plans are underway to hold the bi-annual Shoalhaven Animal Shelter Pet Expo in 2022.

## Penalty Notices and Warnings Issued & Beach Patrols Undertaken

List of penalties issued from 1 July to 31 December 2021 via offence Code

Team	Offence Code	Number issued	Offence penalty	Total amount
Compliance Compliance	Carry out development forbidden on land - any other case - Individual	1	3000	3000
Compliance	Development not accord consent - class 1a or 10 building - Individual	1	1500	1500
Compliance	Development without development consent - any other case - Corporation	1	6000	6000
Compliance	Development without development consent - class 1a or 10 building - Corporation	2	3000	6000
Compliance	Development without development consent - class 1a or 10 building - Individual	11	1500	16500
Compliance	Not provide notice of work to plumbing regulator	2	550	1100
Compliance	Development not accord consent - any other case - Individual	2	3000	6000
Compliance	No prior approval waste management activity-item 6 Part C	1	330	330
Compliance	Not present and ensure work accessible for inspection	1	1100	1100
Compliance Pools	Not comply with written direction - Owner	3	550	1650
Compliance Pools	Residential pool not have complying barrier - Owner	1	550	550
Compliance Pools	Fail to erect prescribed warning notice - Occupier	1	110	110
Compliance Pools	Fail to ensure registration information entered on Register	4	220	880
Enviro Health	Development without development consent - any other case - Corporation	5	6000	30000
Enviro Health	Development without development consent - any other case - Individual	1	3000	3000
Enviro Health	Fail to comply with order number 21 (safety/health of land/premises)	2	330	660
Parking	Disobey motor bike parking sign	4	117	468
Parking	Disobey no stopping sign	43	272	11819
Parking	Disobey no stopping sign (in school zone)	2	352	704

Parking	Not parallel park in direction of travel	5	275	1375
Parking	Not park wholly within parking bay	23	83	1931
Parking	Not position front/rear of vehicle correctly - 90 degree angle parking	1	84	84
Parking	Not position rear of vehicle correctly - 45 degree angle parking	42	83	3524
Parking	Not stand vehicle in marked parking space	15	84	1260
Parking	Parallel park close to dividing line/strip	1	275	275
Parking	Park continuously for longer than indicated	50	84	4200
Parking	Park vehicle for longer than maximum period allowed	431	83	36196
Parking	Stop at side of road with continuous yellow edge line	1	275	275
Parking	Stop in bus zone (in school zone)	2	352	704
Parking	Stop in bus zone (not clearway or transit/bus lane)	4	275	1100
Parking	Stop in disabled parking area without current permit displayed	28	581	16430
Parking	Stop in loading zone	3	196	588
Parking	Stop in taxi zone	6	196	1176
Parking	Stop on path/strip in built-up area	20	275	5500
Parking	Stop on/across driveway/other access to/from land	9	275	2475
Parking	Stop near fire hydrant/indicator/plug indicator	1	117	117
Ranger Parking	Disobey motor bike parking sign	19	117	2223
Ranger Parking	Disobey no parking sign	50	117	5850
Ranger Parking	Disobey no stopping sign	75	272	20619
Ranger Parking	Disobey no stopping sign (in school zone)	9	352	3168
Ranger Parking	Double park	1	275	275
Ranger Parking	Fail to comply with terms of notice erected by council (driving/parking/use of vehicle)	86	110	9460
Ranger Parking	Not angle park as on parking control sign or road marking	16	84	1344

Ranger Parking	Not parallel park in direction of travel	45	272	12372
Ranger Parking	Not parallel park near road side	1	117	117
Ranger Parking	Not park wholly within parking bay	10	84	840
Ranger Parking	Not position front/rear of vehicle correctly - 90 degree angle parking	78	83	6549
Ranger Parking	Not position rear of vehicle correctly - 45 degree angle parking	215	83	18055
Ranger Parking	Not stand vehicle in marked parking space	7	84	588
Ranger Parking	Parallel park close to dividing line/strip	1	275	275
Ranger Parking	Park continuously for longer than indicated	135	83	11337
Ranger Parking	Park vehicle for longer than maximum period allowed	219	84	18396
Ranger Parking	Stop at side of road with continuous yellow edge line	171	272	47022
Ranger Parking	Stop in bus zone (clearway or transit/bus lane)	1	275	275
Ranger Parking	Stop in bus zone (in school zone)	23	352	8096
Ranger Parking	Stop in bus zone (not clearway or transit/bus lane)	20	272	5494
Ranger Parking	Stop in disabled parking area without current permit displayed	47	587	27589
Ranger Parking	Stop in loading zone	6	196	1176
Ranger Parking	Stop in taxi zone	21	196	4116
Ranger Parking	Stop on path/strip in built-up area	55	272	15122
Ranger Parking	Stop on/across driveway/other access to/from land	5	275	1375
Ranger Parking	Stop within 10 metres of an intersection (no traffic lights)	20	352	7040
Ranger Parking	Stop in loading zone longer than 30 minutes	1	196	196
Ranger Parking	Obstruct access to ramp/path/passageway in school zone	1	352	352
Ranger Parking	Stop heavy/long vehicle longer than 1 hour	1	117	117
Ranger Parking	Not park at 90 degree angle	1	84	84
Ranger Parking	Not parallel park in direction of travel (road related area)	2	117	234

Ranger Parking	Disobey no parking sign (in school zone)	2	196	392
Ranger Parking	Stop at/near bus stop (in school zone)	2	352	704
Ranger Parking	Stop within 10 metres of an intersection (no traffic lights) - school zone	3	469	1407
Ranger Parking	Stop in restricted parking area	3	84	252
Ranger Parking	Stop on traffic island	1	117	117
Ranger Parking	Stop near postbox	2	117	234
Ranger Animal	Companion animal (other) not registered as prescribed - first offence	56	330	18480
Ranger Animal	Companion animal (other) not registered as prescribed - second or subsequent offence	9	330	2970
Ranger Animal	Fail to comply with nuisance dog order - 1st offence	1	275	275
Ranger Animal	Fail to prevent dog from escaping - not dangerous/menacing/restricted dog	53	220	11660
Ranger Animal	Fail to state full name/residential address	1	330	330
Ranger Animal	In charge of dog not under control in public place	6	330	1980
Ranger Animal	In charge of dog which rushes at/attacks/bites/harasses/chases any person/animal	6	1320	7920
Ranger Animal	Not comply notice re registration (other) - first offence	160	305	48800
Ranger Animal	Not identify companion animal as prescribed - not dangerous/menacing/restricted dog	1	180	180
Ranger Animal	Owner of dog in prohibited public place	14	330	4620
Ranger Animal	Owner of dog not under control in public place	34	330	11220
Ranger Animal	Owner of dog which rushes at/attacks/bites/harasses/chases any person/animal	15	1320	19800
Ranger Animal	Fail to comply with menacing dog control requirements	3	1760	5280
Ranger Animal	Companion animal (other) not registered if required by regulations - first offence	1	305	305
Ranger Animal	Not comply notice re registration (other) - prior offence	2	305	610
Ranger Animal	Former owner not notify change of ownership	1	180	180
Ranger Animal	Not notify change in registration/identification information - not dangerous/menacing/restricted dog	7	180	1260

Ranger Animal	Owner of menacing dog not under control in public place	1	1760	1760
Ranger Animal	Not notify change in registration or identification information - restricted dog	1	1320	1320
Ranger Environment	Abandon a motor vehicle in a public place	4	550	2200
Ranger Environment	Deposit litter from vehicle no exclusions - Individual	1	250	250
Ranger Environment	Fail to comply with terms of notice erected by council	3	110	330
Ranger Environment	Owner transport etc waste to unlawful facility - class 1 officer - Individual	1	2000	2000
Ranger Environment	Transport etc waste to unlawful waste facility - class 1 officer - Individual	3	2000	6000
Ranger Environment	Deposit litter from vehicle no exclusions - Corporation	1	500	500
Ranger Environment	Fail to comply with terms of notice erected at public place	2	110	220
Ranger Environment	Fail to comply with clean-up notice - class 1 officer - Individual	1	4000	4000
Ranger Environment	Transport etc excess waste to unlawful facility - class 1 officer - Individual	1	4000	4000
Ranger Environment	Fail to comply with order number 27 (prevent deposit of/remove matter/article/object - public place)	1	220	220
<b>Grand Total</b>		<b>2477</b>		<b>560773</b>

**Warnings issued from 1 July to 31 December 2021 via offence Code**

<b>Compliance</b>	<b>106</b>
Carry out development forbidden on land - any other case - Individual	3
Commence building no principal certifying authority - class 1a/10 building - Corporation	2
Commence building no principal certifying authority - class 1a/10 building - Individual	13
Commence building not give 2 days notice - class 1a/10 building - Corporation	3
Commence building not give 2 days notice - class 1a/10 building - Individual	11
Commence building not notify inspections required - class 1a/10 building - Corporation	2
Commence building not notify inspections required - class 1a/10 building - Individual	10
Commence building without appointed principal certifying authority - any other case - Corporation	1
Commence building without construction certificate - class 1a/10 building - Corporation	3
Commence building without construction certificate - class 1a/10 building - Individual	19
Development not accord consent - any other case - Individual	2

Development not accord consent - class 1a or 10 building - Individual	1
Development without development consent - any other case - Individual	4
Development without development consent - class 1a or 10 building - Individual	17
Fail to provide certificate of compliance within required period	1
Fail to provide copy of certificate of compliance as prescribed	1
Fail to provide sanitary drainage system plan to plumbing regulator - Individual	1
Not notify plumbing regulator when work ready for inspection	3
Occupy or use building without occupation certificate - class 1a/10 building - Individual	9
<b>Compliance Pools</b>	<b>5</b>
Fail to maintain child-resistant barrier effective and safe	2
Residential pool not have complying barrier - Owner	3
<b>Parking</b>	<b>15</b>
Not position rear of vehicle correctly - 45 degree angle parking	1
Stop in disabled parking area without current permit displayed	3
Stop in taxi zone	1
Stop on path/strip in built-up area	10
<b>Ranger Parking</b>	<b>41</b>
Disobey no parking sign	7
Disobey no stopping sign	4
Fail to comply with terms of notice erected by council (driving/parking/use of vehicle)	1
Not angle park as on parking control sign or road marking	1
Not parallel park in direction of travel	2
Park continuously for longer than indicated	1
Stop at side of road with continuous yellow edge line	2
Stop in bus zone (not clearway or transit/bus lane)	1

Stop in disabled parking area without current permit displayed	3
Stop in loading zone	2
Stop on path/strip in built-up area	12
<b>Ranger Animal</b>	<b>46</b>
Fail to prevent dog from escaping - not dangerous/menacing/restricted dog	23
In charge of dog not under control in public place	2
Not notify change in registration/identification information - not dangerous/menacing/restricted dog	1
Owner of dog in prohibited public place	2
Owner of dog not under control in public place	17
Owner of dog which rushes at/attacks/bites/harasses/chases any person/animal	1
<b>Ranger Environment</b>	<b>3</b>
Fail to comply with terms of notice erected at public place	1
Owner transport etc waste to unlawful facility - class 1 officer - Individual	1
Unlawfully remove plant/animal/rock/soil from public place	1
<b>SMF</b>	<b>1</b>
Pollute Waters – class 1 officer – Individual	1
<b>Grand Total</b>	<b>217</b>

**Beach Patrols – 1 July to 31 December 2021 (all of the data for December has not been entered as yet due to workload at this busy time)**

Row Labels	Count of Beach	Sum of # Dogs – breaches	Sum of # Dogs – no breaches	Sum of Penalty Notice	Sum of Warning
Basin View Boat Ramp Reserve - Off Leash 24 hrs	2	0	1	0	0
Bawley Beach	8	0	0	0	0
Bawley Point Avenue Beach	1	0	1	0	0
Bawley Point Cormorant Beach	2	0	0	0	0
Bawley Point Gannet Beach	2	0	0	0	0
Bawley Point Murramarang Beach	2	0	1	0	0
Bawley Point North Beach	1	0	0	0	0
Bendalong Beach	1	0	0	0	0
Bendalong Boat Harbour Beach	8	0	0	0	0
Bendalong Boat Harbour Rocks	4	0	0	0	0
Bendalong Dee Beach	13	0	0	0	0
Bendalong Flat Rock Beach Prohibited	5	0	0	0	0
Bendalong Monument Beach	3	0	0	0	0
Bendalong Washerwomans Beach Off Leash 24 hrs	7	0	25	0	0
Berrara Beach Spit Prohibited	2	0	0	0	0
Burrill Lake Burrill Beach	4	0	0	0	0
Burrill Lake Entrance Beach	1	0	0	0	0
Callala Bay	13	1	9	0	0
Callala Bay Bicentennial Park	10	0	12	0	0
Callala Bay Wowly Creek	1	0	0	0	0
Callala Beach East End	10	0	14	0	0

Callala Beach Prohibited Area	15	2	0	0	0
Callala Beach West End	10	3	10	0	1
Crookhaven Boat Ramp	11	3	0	0	0
Cudmirrah Beach - South	1	0	0	0	0
Culburra Beach North On Leash	3	0	0	0	0
Culburra Beach South Off Leash timed	10	2	31	1	2
Culburra Beach Tilbury Cove	11	1	7	1	1
Culburra Lake Wollumboola Prohibited	11	0	0	0	0
Culburra Warrain Beach	17	1	2	0	0
Cunjarong Beach	1	0	0	0	0
Cunjarong Point	2	0	0	0	0
Curarong Abrahams Bosom Beach	31	5	10	0	0
Curarong Beach Off Leash timed	9	1	14	0	0
Curarong Kinghorn Point	20	0	1	0	0
Curarong Warrain Beach	12	0	2	0	0
Dolphin Point	3	0	0	0	0
Durras North - NPWS	1	0	0	0	0
Erowal Bay Boat Ramp	5	0	0	0	0
Greenwell Point Foreshore Reserve	18	1	25	0	0
Huskisson Beach Off Leash timed	14	1	10	0	1
Huskisson Currumbene Creek Prohibited	1	0	0	0	0
Huskisson Moona Moona Beach / Creek	54	0	0	0	0
Huskisson Shark Net Beach Prohibited	57	0	0	0	0
Hyams (Seamans) Beach	28	0	18	0	0

Hyams Beach Chainman's Beach - NPWS	25	2	0	0	0
Hyams Beach Little Hyams Beach	29	0	6	0	0
Kioloa Beach	6	0	2	0	0
Kioloa Racecourse Beach 2	1	0	0	0	0
Kioloa Shelly Beach	1	0	0	0	0
Lake Conjola Cunjurong Beach Shore Birds	3	0	0	0	0
Lake Conjola Ocean Beach Spit Prohibited	2	0	0	0	0
Lake Conjola Shell Grit Beach	1				
Lake Tabourie Meroo Beach	2	0	0	0	0
Lake Tabourie Tabourie Beach	1	0	0	0	0
Manyana Beach	2	0	0	0	0
Merry Beach	6	0	0	0	0
Mollymook Beach North Prohibited	25	2	0	0	2
Mollymook Beach On Leash 24 hrs	13	0	0	0	0
Mollymook Beach South Prohibited	21	0	0	0	0
Mollymook Colliers Beach Off Leash 24 hrs	1	0	2	0	0
Mollymook Unknown Beach nth of Colliers	2	0	0	0	0
Myola Breakwall NPWS	5	0	0	0	0
Myola Spit Prohibited	27	4	3	2	2
Narrawallee Beach North Prohibited	23	2	0	0	0
Narrawallee Beach Off Leash timed	11	0	9	0	0
Narrawallee Beach South Prohibited	16	5	10	0	5
Narrawallee Spit Prohibited	7	1	0	1	0
Orient Point Foreshore Reserve Orama Crescent	2	0	0	0	0

Sanctuary Point Paradise Beach Reserve	3	0	0	0	0
Sanctuary Point Ray Brooks Reserve (Boat Ramp to Stairs) Prohibited	15	0	0	0	0
Shoalhaven Heads River Road Reserve Off Leash 24 hrs	6	0	6	0	0
Shoalhaven Heads Seven Mile Beach Off Leash 24 hrs / on leash	55	9	121	2	11
Shoalhaven Heads Spit Prohibited	91	6	19	3	1
Swan Lake - Ski Club boat ramp to Yaroma Ave Boat Ramp Off Leash timed	1	0	0	0	0
Vincentia Barfleur Beach	11	0	3	0	0
Vincentia Blenheim Beach Prohibited	46	3	0	0	1
Vincentia Collingwood Beach Prohibited	89	0	0	0	0
Vincentia Nelsons Beach Off Leash timed	18	1	23	0	0
Vincentia Orion Beach	11	0	1	0	0
Vincentia Plantation Point	17	0	0	0	0
Woollamia Boat Ramp	2	1	4	0	0
<b>Grand Total</b>	<b>1042</b>	<b>57</b>	<b>402</b>	<b>10</b>	<b>27</b>

## CL22.69      **Answers to Questions on Notice - Tomerong Quarry**

**HPERM Ref:**      D21/513124

**Department:**      Certification & Compliance

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

**Attachments:**    1. Consent Conditions - Including Original and Modified Conditions (under separate cover) [⇒](#)

### **Purpose / Summary**

At Council's Ordinary meeting held on 26 October 2021 it was resolved to receive responses to Questions On Notice concerning Tomerong Quarry (CL21.211). This report provides responses to the questions asked.

### **Recommendation**

That Council:

1. Receive this report providing responses to the Questions on Notice concerning Tomerong Quarry.
2. Note that the Mayor, CEO and Acting Director City Development have accepted an invitation to attend the Tomerong Community Forum meeting on 8 February to respond to questions from the community relating to the Tomerong Quarry.

### **Options**

1. As recommended.

Implications: Nil

2. Council adopt an alternative recommendation

Implications: Staff will respond to the alternative recommendation

### **Background**

In 1990 Shoalhaven City Council granted consent for the quarrying and processing of shale at Tomerong Quarry (DA90/1912). There were nineteen conditions on the development consent, and this is included together with the modified conditions of consent (see attachment 1).

### **Questions On Notice And Response**

The Questions On Notice are lengthy and many have several parts. For ease of presentation and completeness, each question is dealt with separately. The questions appear in bold text and the response is in plain text.

For clarification the preamble to the Notice of Motion stated the following:

**The Director – City Services supplied written advice to Councillors Nina Digiglio and John Levett dated 17 June 2021 (the response) in regard to our previous Questions On Notice submitted on 11 May 2021 that were deemed to be inadmissible by the CEO under the Code of Meeting Practice.**

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We have tendered some revised and hopefully acceptable questions based on the response and the DA90/1912 itself.

**Question 1:**

The response stated ***“Council has confirmed the Development Approval DA90/1912 (DS02/1087, DS03/1325 & DS06/1039) “...has not and cannot expire. It continues to exist and is capable of being modified into the future”.***

- (a) **What is the basis of the answer in the response that the approval of DA 90/1912; “has not and cannot expire”, that is, what is the statutory or legal basis of this continuation and is it based on a particular condition or clause in the DA?**

Response: - Independent legal advice obtained by Council referenced Section 4.53 of the Environmental Planning & Assessment Act (EP&A Act). As the quarrying land use commenced within the 5-year period from the granting of consent, the consent was activated and does not expire. It is the operation of the quarry that ceased on 06/11/2020.

- (b) **Is this continuation or non-expiry standard for DA’s approved by Council or is it peculiar to this DA?**

Response: - This is not a peculiarity of this DA. Section 4.53 of the EP&A Act applies equally to all consents.

- (c) **Given that the actual quarrying activities as part of the DA have expired, what specific sections of the DA are not subject to expiry?**

Response: - The advice indicates the consent conditions do not expire. Condition 3 of the consent restricts the approved use to the 06/11/2020 and this is subject to any further application.

- (d) **Is it the contention of the Council that the DA remains in effect in perpetuity?**

Response: - The legal advice confirms the consent does not expire and is potentially capable of being modified. If the consent was to expire this would impede Council’s ability to enforce post quarrying conditions such as Condition 6 which relates to rehabilitation.

Given the recent findings of *Buyozo v Ku-ring-gai Council* concerning the modification of Development Applications, Council is seeking further legal advice to determine whether or not the extension of time for operating the quarry can be done as a modification application. If not, then a new Development Application will be required, and the owner will be advised accordingly.

- (e) **Under what circumstances can the DA be revoked or terminated?**

Response: - The concept of “termination” does not exist within the relevant legislation. The revocation or modification of development consent, by a consent authority, is contained in section 4.57 of the EP&A Act.

The overarching reasons relate to the provisions of State Environmental Planning Policy or Local Environment Plan. Neither of these are relevant to this scenario.

If revocation were possible, it would not be in the interest of Council nor the community to terminate or revoke the consent for the reasons detailed in the legal advice provided to Council that included the following statement:

*“If the development consent could “expire” and cease to be of any effect or operation following the passing of the time limit for the use, Council could not undertake any compliance action to require the Applicant to comply with the post-use components of the consent, such as the implementation of the site rehabilitation management plan, because no*

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*consent would relevantly exist. This would clearly be an absurd result in the circumstances”.*

- (f) **If the DA remains in effect in perpetuity, what is the timeframe Council is using to enforce the rehabilitation requirements at the site?**

Response: - Council is currently working with the owner and their consultants to submit a suitable rehabilitation plan. Covid-19 restrictions have impacted on the ability of consultants to attend the site. Working within current guidelines, it is hoped a rehabilitation plan will be submitted in February or March 2022. Council's Compliance staff will continue to work with the owner and their consultants to resolve this issue.

**The response advised “As at 10/06/2021 Council officers are still in discussions with In-Ja-Ghoondji Lands Inc regarding an application to modify the consent and a further application is expected.”**

Response: - This statement is true. Informal advice provided to Council Compliance staff indicate In-Ja-Ghoondji Lands Inc still propose to make an application to Council for the continued processing and removal of won material from the quarry floor. Their consultant is also working on a revised remediation and landscape plan.

**Question 2:**

- (a) **Council in April 2018 stated they were undertaking surveys to ascertain the extent and depth of the quarry in relation to the submitted approved plans. Has that survey been completed, and can Council advise Councillors the siting/status of the excavated area against the plans.?**

Response: - This statement is incorrect. The previous advice indicated In-Ja-Ghoondji were to provide a survey, and this has not been supplied.

Compliance Staff have recently discussed this with a representative of the In-Ja-Ghoondji where it was established the survey that they held was inconclusive, however, the quarry floor was within 0.5 metre of the final permitted depth. Council still does not have a copy of any survey.

- (b) **If the quarry is shown to be extensively mined out and hence not “significantly the same” as the approved area under the existing DA will a new application be required to be a full new DA and not a s4.55 modification**

Response: - This would depend on the application submitted to Council. As there remains already won materials on the quarry floor, that was extracted under the approved consent, the processing and removal of this material could in all likelihood be considered “significantly the same” and allow consideration of a modification application.

**Question 3:**

**The response advises in his response regarding penalties for breaches that “In an email to all Councillors dated 10/10/2017, Council advised that 19 penalty notices to the value of \$114,000 were sent to the Quarry Operators on 09/10/2017 (D17/332411). In general terms, the penalties are as follows”:**

- i. Exceed monthly tonnage (EP&A breach - 6 penalties at \$6K each = \$36K)**
- ii. Import waste (EP&A breach - 4 penalties at \$6K each = \$24K)**
- iii. Early starts (EP&A breach - 1 penalty at \$6K = \$6K).**
- iv. Unlawful transport and deposit of waste (PoEO breach – 4 penalties at \$4K each = \$16K)**
- v. Use place as waste facility (PoEO breach – 4 penalties at \$8K each = \$32K)**

**With specific regards to items ii,iv,and v above in bold, can Council advise:**

**(a) Did Council ever deposit broken concrete, kerbing etc at Quarry?**

Response:- There is an unverified statement from the Quarry Operator in August 2012 that Council or its contractors had deposited 3 loads of broken kerb and gutter at the quarry for later transfer to the Company's Wollongong recycling facility.

This was brought to the attention of Council's Development Services Manager and he immediately instructed that this practice cease. Having regard to this action it is reasonable to take it the deposition occurred.

**(b) Did Council ever deposit material suitable for overburden/rehabilitation at Quarry?**

Response: - There is correspondence to indicate Council transported 315 tonnes of certified virgin excavated natural material (VENM) to the quarry in early May 2013. This was taken from a development in Owen Street Huskisson. The was to be used for rehabilitation purposes.

**(c) Did Council ever purchase / remove overburden from the Quarry?**

Response: - There is some suggestion by the Quarry Operator in August 2012 that Council purchased some overburden from the Quarry to use as cover at the Sussex Inlet Landfill site.

This was brought to the attention of Council's Development Services Manager and he immediately instructed Council staff that VENM is not to leave the site. It can only come onto the Quarry site for rehabilitation purposes.

**Question 4.**

**In regard to the issue of material being imported into the quarry as residents have reported numerous times to Council since 2011, the response "*The importation, blending and exporting of fly ash (Qenos ash) were the subject of investigation and resulted in the issuing of penalty notices.*"**

**(a) Did Council ever use this particular product or any other "blended" product in their roadworks?**

Response: - The use of blended products for roadworks is common industry practice and relevant standards are applicable. There is correspondence to indicate Council used a blended shale for the Parnell Road rehabilitation in 2016 and there would invariably be other situations where blended materials have been used.

Fly ash is also known as coal ash (by-product of coal combustion). There is an EPA Resource Recovery Order and Exemption (The Coal Wash Order 2014 And The Coal Wash Exemption 2014). The generator is to undertake sampling of the material to prove that the material meets all chemical and other material requirements for coal ash or blended coal ash, which are required on or before the supply of coal ash or blended coal ash under 'The Coal Ash Order 2014'. The chemical thresholds have been set to consider human health.

**(b) Did Council as part of their Tender process, request / invite / condone the use of blended products from Shoalhaven Quarries (Tomerong Quarry) in their roadworks?**

Response: - As per above, Council has sourced blended material from the quarry which included siltstone as well as a slag / ballast mix for use in the formation of road pavements

**Question 5.**

In response to who is responsible for rehabilitation the response reported:

- (a) *At this time the In-Ja-Ghoondji will be required to rehabilitate the site. Council has issued orders under the EP&A Act requiring In-Ja-Ghoondji Lands Inc to submit the details. While plans have been submitted, they have not been of a standard Council could accept and In-Ja-Ghoondji Lands Inc are required to prepare and resubmit plans.*
- (b) *In the event the In-Ja-Ghoondji default on the order Council has a number of options available to obtain compliance with the order. These include*
  - i. Class 4 action in the Land and Environment Court seeking a Court order for the works to be completed: or*
  - ii. Enter upon the land, complete the works and seek a Court order for payment.*

*As at 10/06/2021 Council officers are still in discussions with In-Ja-Ghoondji Lands Inc regarding an application to modify the consent and a further application is expected.*

How can Council issue orders to prepare a rehabilitation plan whilst in discussions with the landowners to modify the consent and submit a further application? These statements appear to be conflicting; can Council please clarify?

Response: - Council issued a Notice of Intention to Serve an Order (NISO) on 03/09/2019 and an Order on 04/10/2019 requiring a detailed landscape and rehabilitation plan to be submitted for Council approval. The owners submitted a rehabilitation plan on 22/10/2019 and therefore they technically complied with the order. This plan was reviewed and found to be unacceptable and additional information was sought.

Council is still in negotiations with the owner regarding the submission of a rehabilitation plan of an acceptable standard. Informal advice provided to Council by a representative of In-Ja-Ghoondji Lands Inc, is that a rehabilitation plan is being prepared as part of their impending application.

In the event an application is not submitted by the end of March 2022, Council's Compliance Officers will issue a new order requiring a rehabilitation plan to be submitted.

**Question 6.**

**Condition 6 (c) "Overburden to be used to revegetate the quarry walls"**

As the DA is acted over the land, the landowner is ultimately responsible for the outcome of the rehabilitation and this overburden set aside for rehabilitation was, by its own admission, sold by the Quarry Operator and advertised on its webpage. Such sale is also evidenced by Google photographs of stockpiles diminishing. Letters from Council advising the operator to desist from selling this material as well as numerous letters of concern from Community groups and residents are on file advising of potential risks to landowners and ratepayers. When asked if Council had consulted with landowner over this the response stated, *"The landowners were not included in the discussion for over-burden because this requirement rested with the person in charge of the consent (i.e., the Quarry Operator)."*

- (a) Can Council please advise what action it took with the Quarry Operator (before the DA was handed back to In-ja-Ghoondji Lands Inc) over this sale and removal, since 2010 or earlier of material set aside as per consent conditions?

Response: - Council records indicate the sale of overburden took place in 2012. Due to the time lapse since the breach, Council was statute-barred, even in 2017.

- (b) Does this removal of overburden have financial implications for the landowner or ratepayers?

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Response: - The issue of how much material is required to rehabilitate the site will be dependent on an approved rehabilitation plan. Until such time as an acceptable rehabilitation plan is submitted and approved, the quantity of materials required cannot be calculated.

**(c) Why did Council in the \$114,000 suite of fines not include any fine for the sale of overburden from the site?**

Response: - The sale of overburden occurred in 2012 and Council was statue-barred from issuing penalties in 2017. When the penalty notices were issued in 2017, there was no evidence that overburden was being sold at that time.

**Question 7.**

**Bank Guarantee (refer to Page 1 Condition 13)**

***“to ensure that long-term site rehabilitation is carried out, the applicant shall enter into an irrevocable Bank Guarantee for the amount of \$30,000 together with a landscape and rehabilitation completion and maintenance deed of agreement. Such documents shall be completed and submitted with the building application.”***

**Can Council please confirm the existence and registration of the above-mentioned Irrevocable Bank Guarantee and Deed of Arrangement and that it is held by Council.?**

Response: - The issue of the Bank Guarantee was addressed previously on pages 7 and 8 of the Development Committee Report dated 18 July 2011. There it stated, “...an initial view from Legal Services Section indicates that the Bank Guarantee appears to have been returned to Mr Herbert ...”. (D11/165607)

The records are not clear on the reasons why the Bank Guarantee was returned. However, it is clear the Bank Guarantee was returned to Mr Herbert in 1998.

**Question 8**

**Model Litigant Penalties**

The response addressed this issue in various parts as listed.

- ***Manager- Certification & Compliance and Director – City Development had initial discussions concerning the likelihood of success in the Local Court given that no prior regulatory action or formal warnings had been given to the operators.”***
- ***“Mayor Amanda Findley was briefed, however was not part of any decision-making process.”***
- ***No specific legal advice was obtained. The matter was considered under delegation and was driven by the Manager- Certification & Compliance following discussions with the Director – City Development. Both, have appropriate knowledge, skills and experience in these matters.***

**Comment:** Community members were told in Council, by a person involved in the investigation, that the maximum number of penalties incurred were in the vicinity of \$2 - \$3 Million dollars and were issued under the above model litigant approach at \$114,000. Council through the Director – City Development stated that Council must always take this Model Litigant approach.

**(a) Did Council take into account the existence of the following documents before their investigation concluded that no formal warnings had been issued to the operators of the quarry;**

- i. **Letter from S. McDiarmid advising of legal prosecution for breach of daily haulage**

- ii. **Matrix of complaints to SCC legal dept from S. McDiarmid seeking advice on prosecution**
- iii. **Advice from SCC legal dept stating Matrix is very good and acceptable to institute Court Orders**
- iv. **Letter from S. McDiarmid re illegal dam and potential removal of a state and federal endangered species**
- v. **Court 15 Orders issued for repeatedly breaching daily exportation rates (condition 14 (h))**
- vi. **Court 15 Orders issued for failing to construct new creek crossing despite it being a consent condition for 3 sec 96 modifications effectively giving the quarry a 17-year operational extension.**

Response: - Council's Compliance Officer considered all the information available as a result of the investigation. As no previous penalties had been issued the amount of \$114,000 for several offences was considered appropriate. It should be noted that in issuing the subject penalties, Council relied on documentation, weighbridge activity statements, provided by the operators to Council.

- (b) Does Council consider the issues above formal warnings?**

Response: - They would be considered warnings in their own right and therefore Council proceeded to issue penalties rather than additional warnings.

- (c) Given the high profile of this issue, why wasn't the Investigation Report of the Manager- Certification & Compliance brought to a confidential meeting of Councillors with a recommendation for consideration?**

Response: - The matter, being operational, was dealt with under Delegated Authority.

- (d) Legal advice was recently sought regarding the expiration of the DA. Why was no specific legal advice obtained in regard to the penalties/investigation?**

Response: - Legal advice was not considered necessary as the breaches were confirmed and the penalty notices are a quick and cost-effective remedy. To take this to Court would have been a protracted matter and the outcome may have been significantly less than the \$114,000.

- (e) Can Council please confirm that a similar model litigant approach was employed in the Court Action between SCC & SCCCCR and that appropriate formal warnings were issued to SCCCCR?**

Response: - It is believed that this refers to court proceedings which occurred in 2007-2008 at a time when penalty notice amounts were significantly lower and in the order of about \$600 - \$750. The increase in penalty notice amounts in recent years reflects the Government's commitment to ensuring these matters are dealt with expeditiously and the message to offenders is significant. The penalty notice remedy frees up the Court.

The model litigant guidelines were released by the NSW government in 2016. Council Officers could not have followed this approach in the referenced cases as the court case occurred prior to 2016.

#### **Question 9.**

##### **Asbestos**

The Asbestos buried outside the quarry extraction area is on part of the land leased by Shoalhaven Quarries. A s9.22 report under the EPA Act of 1979 No 203 on the asbestos was presented to Council, in which it was reported that the Operations Manager of the parent company of the Quarry Operators was responsible for the commercial quantities of asbestos being buried around the adjoining area outside the quarry excavation. Asbestos was found in 5 of the 6 test holes.

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The response states: *“The asbestos dumping sites were not associated with the quarrying activities and are being dealt with separately with the landowners. Council has issued orders in relation to this issue, and it remains an on-going compliance matter”*.

- (a) **Can Council confirm they investigated the 9.22 report fully and instigated 119J duty to declare information on the alleged offender or company?**

Response: - The responses to the 119J notices failed to provide any information that could be used to establish an offender. The source of the allegation was not provided to Council officers. It was an anonymous informant to the Tomerong Community Forum and as such there was no ability for Council Officers to obtain any statements that could be used to progress a prosecution.

Under the Act, Council has 18 months to investigate and commence prosecution after a complaint is lodged.

- (b) **If not, what action did Council take to fully investigate the matter and protect the landowner from possible repatriation costs?**

Response: - As indicated above, the 119J did not provide sufficient evidence to establish an offender. The landowner is ultimately responsible and will be required to clean up the site.

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## CL22.70 Request for Plaques and Memorials

**HPERM Ref:** D22/5319

**Department:** Community Planning & Projects  
**Approver:** Jane Lewis, Director - City Lifestyles

**Attachments:** 1. Detailed Information - Request for Plaques and Memorials - February 2022 (councillors information folder)

### Reason for Report

To seek Council approval via a resolution for the requests for Nine (9) plaques to be installed within the public domain in Narrawallee, Bendalong, Ulladulla, Huskisson, Currarong, Vincentia, Sussex Inlet (x2) and Sanctuary Point in accordance with the Plaques and Memorials Policy.

### Recommendation

That Council:

1. As per the Plaques and Memorials Policy:
  - a. Approve the request for a new seat and plaque at Surfers Avenue, Narrawallee.
  - b. Approve the request for a new seat and plaque at the boat ramp, Bendalong.
  - c. Approve the request for a plaque only at Ulladulla Coastal Patrol.
  - d. Approve the request for a new seat and plaque at Moona Moona Creek Reserve, Huskisson.
  - e. Approve the request for a new seat and plaque at Dolphin Reserve, Currarong.
  - f. Approve the request for a new seat and plaque at Orion Beach, Vincentia.
  - g. Approve the request for a plaque only at Jacob Ellmoos Reserve, Sussex Inlet.
  - h. Approve the request for a new seat and plaque at Jacob Ellmoos Reserve, Sussex Inlet.
  - i. Approve the request for a new seat and plaque in Ray Brooks Reserve, Sanctuary Point.
2. Advise the applicants of Council's determination of the requests.

### Options

1. Adopt the recommendation.

Implications: This is consistent with the adopted Plaques and Memorials Policy and will allow staff to advise the applicants of the outcome of their request.

2. Adopt an alternative recommendation.

Implications: An alternative recommendation may be inconsistent with the Plaques and Memorials Policy.

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## Background

As per the adopted Plaques and Memorials Policy (POL19/70), Council staff have received requests to install a plaque in memory of a person on Council owned and/or managed land. This report summarises these requests received, identifies whether they are for new infrastructure or existing and whether the request is consistent with the adopted Policy.

The requests received are located in various areas within Shoalhaven City Council Local Government Area and are addressed in the next section of this report. In accordance with the adopted Plaques and Memorials Policy (POL19/70), a Council resolution is required to approve the installation of a plaque or memorial.

## Consideration of Requests - Plaques and Memorials Policy

Council has received nine (9) requests for plaques on Council owned and / or managed land. These are summarised in *Table 1* below. Additional detail of the individual requests is provided within the **Councillors Information Folder** to ensure that these requests are managed sensitively.

*Table 1 – Summary of Requests for Plaques*

	Infrastructure Request	Preferred Location	Consistent With Policy
1	New Seat and Plaque	Surfers Avenue, Narrawallee	Yes
2	New Seat and Plaque	Bendalong Boat Ramp	Yes
3	Plaque Only	Ulladulla Coastal Patrol	Yes
4	New Seat and Plaque	Moona Moona Creek, Huskisson	Yes
5	New Seat and Plaque	Dolphin Reserve, Currarong	Yes
6	New Seat and Plaque	Orion Beach, Vincentia	Yes
7	Plaque Only	Jacob Ellmoos Reserve, Sussex Inlet	Yes
8	New Seat and Plaque	Jacob Ellmoos Reserve, Sussex Inlet	Yes
9	New Seat and Plaque	Ray Brooks Reserve, Sanctuary Point	Yes

## Policy Implications

The requests received have been considered in line with the criteria contained within the adopted Plaques and Memorials Policy.

As per the approval process of the Policy, a Council resolution is required to approve the installation of the plaque or memorial.

Each application is consistent with the Plaques and Memorials Policy and is therefore recommended to be supported by Council. Where applications have been for 'townships', Council staff have negotiated with the applicant to determine a specific location and this is detailed in the attachment.

## Financial Implications

As per the adopted Plaques and Memorials Policy, the delivery of the requests will be funded by the applicant, however Council will be responsible for maintenance and operational costs.

The Asset Custodian for each of the preferred locations of each request has considered each individual request and noted that the maintenance and operation of the new infrastructure will be managed within existing Operational Budgets.

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## CL22.71 Towards Net Zero Emissions - Annual Energy Review 2020-21

**HPERM Ref:** D21/508883

**Group:** Shoalhaven Water

**Attachments:** 1. Annual Energy Review 2020/2021 (under separate cover) [⇒](#)

### Reason for Report

At the Strategy & Assets Committee meeting on 12 November 2019, it was resolved that Council “*Endorse the preparation of Annual Energy Review reports to track Council’s performance against energy and emission reduction targets established in Council’s Sustainable Energy Policy*” (MIN19.845).

Also, in response to a Resolution received from the Ordinary Council Meeting held on 13 November 2018, Directors were asked to prepare a report for future Strategy and Assets Committee meetings as to what each department has pursued or is currently pursuing in the sustainable energy space.

This report and attached Annual Energy Review 2020-21 covers off both resolutions.

### Recommendation

That the Committee receive and note the energy initiatives outlined in the 2020-21 Annual Energy Review Report presented as Attachment 1.

### Background

Shoalhaven City Council’s Sustainable Energy Policy (POL18/44) was adopted at the 28 May 2019 Ordinary Meeting (MIN19.354). The Policy sets out targets for the reduction of fossil-fuelled grid energy and carbon emissions from Council corporate operations.

The attached Towards Net Zero Emissions - Annual Energy Review 2020-21 report includes Council’s broader energy (e.g. electricity, gas and fleet fuel) consumption, costs, renewable energy generation and greenhouse gas emissions. Some of these indicators have agreed performance targets in the Sustainable Energy Policy and can therefore be tracked and monitored on an annual basis in the report. Included in the review is a full analysis against all the recommended initiatives listed in Council’s Sustainable Energy Strategy 2020-2025.

### Summary of 2020-21 Annual Energy Review Report

- There were 12 new solar PV systems installed/commissioned on Council assets in 2020-21 totalling an additional 391 kW of behind-the-meter electricity. The systems installed were as follows:

SITE	SIZE in kWp
Vincentia Wastewater Treatment Plant	95
Sussex Inlet Wastewater Treatment Plant	31
Ulladulla Wastewater Treatment Plant	23
Flat Rock Water Treatment Plant	31

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Shoalhaven Heads Wastewater Treatment Plant	21
Bomaderry Works Depot - Automotive Workshop	31
Nowra Library	31
Shoalhaven Indoor Sports Centre	60
Nowra Aquatic Centre	38
Kioloa Community Centre	10
Callala Community Centre	10
Huskisson Community Centre	10

An additional 200 kW of installed solar PV is in progress in 2021-22 across a number of Council sites.

- The Revolving Energy Fund (REFund) added a new project in 2020-21 to upgrade the internal lighting of the SEC with energy savings LEDs. The REFund received an additional 'top-up' allocation from Council of \$237,000 from the 'up-front' lease income for the solar farm at South Nowra. This additional finance will see further energy efficiency and renewable energy projects commence in 2021-22.
- Replacement of 3,641 residential streetlights with energy savings LED lamps across 2020-21, part-funded by the NSW Government. This accelerated lighting upgrade now saves around \$235,000 per year in energy costs and 1,313 tonnes of carbon emissions per year. Around 59% of Council's streetlights are now energy-saving LEDs, with further upgrades planned in 2021-22.
- Installation of solar PV, battery and generator connection points commenced on 19 community halls to supply secondary power systems during grid outages, as part of Council's Recovery into Resilience project.
- Council commenced investigations into securing a long-term (7-10 years) renewable Power Purchase Agreement (PPA) to achieve its sustainable energy targets; hedge against future price hikes in power and most likely achieve cost savings on electricity for Large Sites and Street Lighting.
- Although on a steady decline since 2016-2017, this past year 2020-21 showed an 11% increase in greenhouse gas emissions compared to the previous year. Much of this increase was due to the large increase in diesel consumption in fleet fuel which jumped from 2,000 tonnes CO<sub>2</sub>-e in 2019-20 to almost 6,000 tonnes CO<sub>2</sub>-e in 2020-21. There was also an increase in the past financial year in landfill gas emissions which rose from 11,107 tCO<sub>2</sub>-e to 13,397 tCO<sub>2</sub>-e. All other sources of Council's carbon emissions also increased slightly over this same period. To achieve Council's net-zero emissions and interim reduction targets, greater effort in all these areas will taken to actively reduce greenhouse emissions from Council's operations.

## Recommendations

The following sustainable energy actions are priorities for implementing throughout 2021-22 for Shoalhaven City Council:

- Formalise additional energy efficiency projects for the Revolving Energy Fund (REFund) making use of the top-up funds approved by Council from the South Nowra Solar Farm up-front lease payment;
- Subject to approval, seek tenders for a long-term (7-10 years) renewable PPA for Council's Large Sites and Street Lighting electricity supply to achieve sustainability targets, hedge against future expected price hikes and achieve likely cost savings;

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- Move 550+ Small Sites to the new NSW Government contract 3062 commencing 1 July 2022 for significant cost savings;
- Identify additional sites and funding opportunities for further solar PV at Council assets;
- Investigate grant funding for fleet EV discounts and for installing EV Fast Charging Stations at the SEC, Jervis Bay and Ulladulla tourist hotspots;
- Partner with Endeavour Energy for the remaining 41% of residential streetlights to be replaced with energy savings LEDs;
- Work with Endeavour Energy to facilitate the new Bawley Point/Kioloa community microgrid project;
- Develop an engaging Council webpage on sustainable energy for improved community engagement on local sustainability and energy actions, including the benefits of installing residential and business solar PV.

## CL22.72 Acquisition of Land & Sewer Easement - 112 Bells Lane Meroo Meadow

**HPERM Ref:** D21/507119

**Department:** Technical Services

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

**Attachments:** 1. Proposed Acquisition Plan - URA - Sewer Pump Station - 112 Bells Lane Meroo Meadow - Lot 2 DP 1134376 [↓](#)

### Reason for Report

To seek Council's concurrence for the acquisition of land for a sewer pumping station and an easement for sewer 5 metres wide over part of Lot 2 DP1134376, No. 112 Bells Lane Meroo Meadow, from Garry & Judith Mackrell.

The easement is marked (E1) and highlighted on the attached draft survey plan, over that part of Lot 2 DP1134376. The part of the proposed land for the sewer pumping station is marked as Lot 22 DP1134376 on the attached plan.

### Recommendation

That Council:

1. Acquire an Easement for Sewer 5 metres wide over part of Lot 2 DP1134376, No. 112 Bells Lane Meroo Meadow, marked (E1) and highlighted on the attached draft survey plan.
2. Acquire 2,400 sqm of Land over part Lot 2 DP 1134376 for the proposed sewer pumping station.
3. Pay compensation of \$360,000 (plus GST if applicable) and reasonable costs associated with the acquisitions, in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1993, from the Water Fund.
4. If applicable, adjust the compensation in accordance with the area of the easement determined by the final registered survey plan.
5. Authorise the affixing of the Common Seal of the Council of the City of Shoalhaven to any documents required to be sealed and that the Chief Executive Officer (Executive Manager Shoalhaven Water) be authorised to sign any documents necessary to give effect to this resolution.

### Options

1. As recommended.

Implications: The land and easement is needed for infrastructure required for the Moss Vale Road Urban Release Area. It will provide Council with legal rights to the access, operation & maintenance of the infrastructure.

2. Not resolve as recommended and provide further directions to staff.

Implications: Failure to acquire the land and easement will likely lead to a delay in the delivery of the required infrastructure for the Moss Vale Rd Urban Release Area.

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**Background**

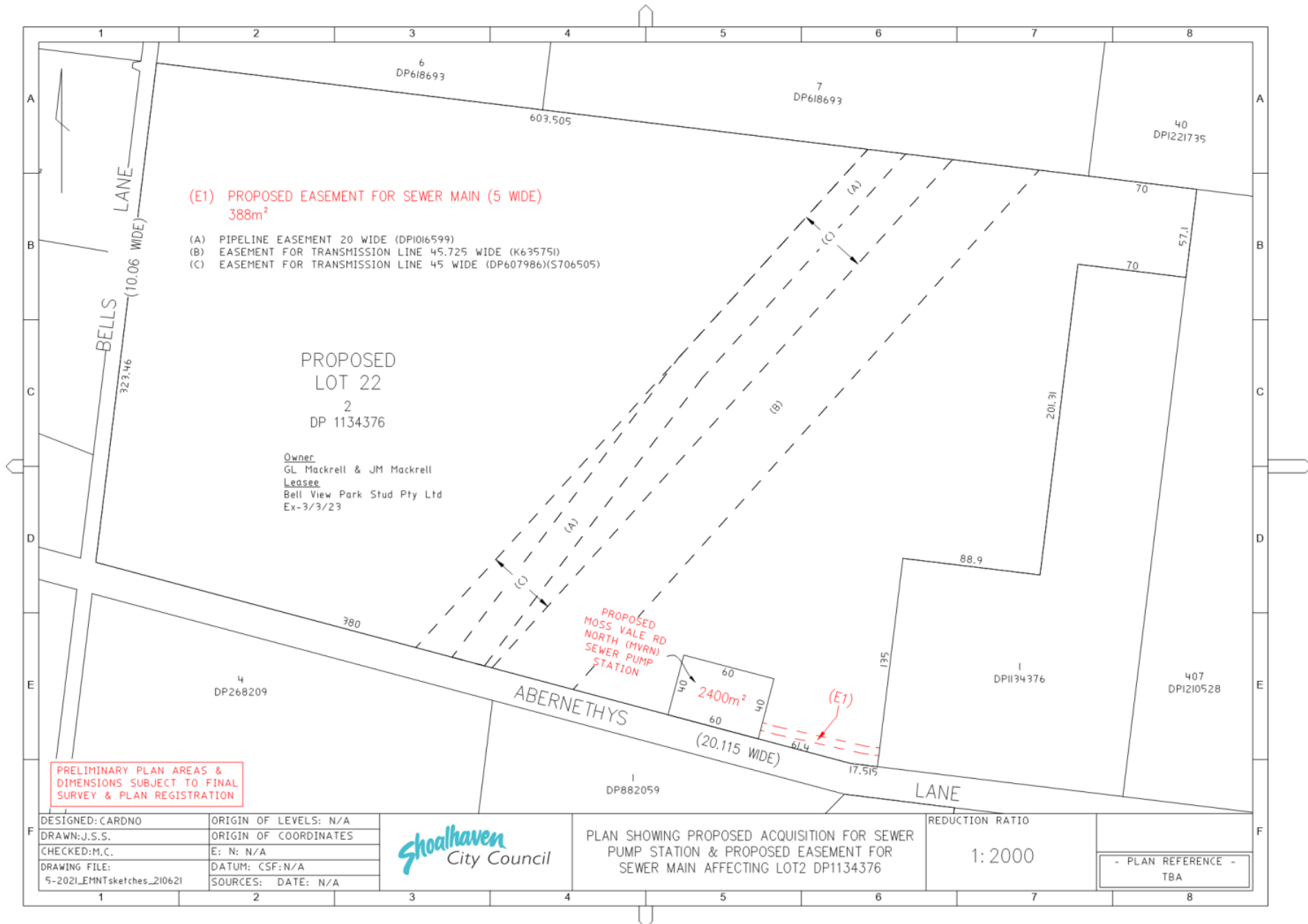
The land and easement are required to facilitate construction and future operation/maintenance of a sewer pump station for the Moss Vale Road Urban Release area to service the proposed residential subdivisions in the area.

A valuation was undertaken on behalf of Council by Walsh & Monaghan Valuers Pty Ltd and Opteon Property Valuers where agreement was between the valuers was made in the amount of \$360,000 Plus GST if applicable.

**Risk Implications**

Acquisition of the land and easement is necessary to secure Shoalhaven Water's legal rights to construct, access, operate and maintain essential public infrastructure. The proposed action is administrative only and has no environmental impact.

CL22.72



## CL22.73 Acquisition of Sewer Easement - 19 Daley Crescent North Nowra

**HPERM Ref:** D21/548407

**Department:** Technical Services

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

**Attachments:** 1. Deposited Plan DP 232903 [↓](#)  
2. Plan of Proposed Easement DP 644296 [↓](#)

### Reason for Report

To seek Council's concurrence for the acquisition a Sewer Easement 3 metres wide over part of Lots 7,9 & 10 DP 232903, No. 19 Daley Crescent North Nowra, from Ronald Innes-Will.

The easement is highlighted on the attached deposited plan, over the part of Lots 7,9 & 10 DP 232903 in plan of proposed easement Deposited Plan 644296.

### Recommendation

That Council:

1. Acquire an Easement for Sewer 3 metres wide over part of Lots 7,9 & 10 DP 232903, No. 19 Daley Crescent North Nowra, highlighted on the attached registered Proposed Easement Deposited Plan 644296.
2. Pay compensation of \$22,500 (plus GST if applicable) and reasonable costs associated with the acquisition, in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1993, from the Sewer Fund.
3. If applicable, adjust the compensation in accordance with the area of the easement determined by the final registered survey plan.
4. Authorise the affixing of the Common Seal of the Council of the City of Shoalhaven to any documents required to be sealed and that the Chief Executive Officer (Executive Manager Shoalhaven Water) be authorised to sign any documents necessary to give effect to this resolution.

### Options

1. As recommended.

Implications: Acquisition of the easement is required to formalise existing Shoalhaven Water sewer infrastructure.

2. Not resolve as recommended and provide further directions to staff.

### Background

The subject sewer rising main was constructed in 1973 over private land, being Lots 7,9 & 10 DP 232903. At that time, no legal entitlement was created to benefit Council for future repair, maintenance and protection of this Shoalhaven Water asset.

CL22.73

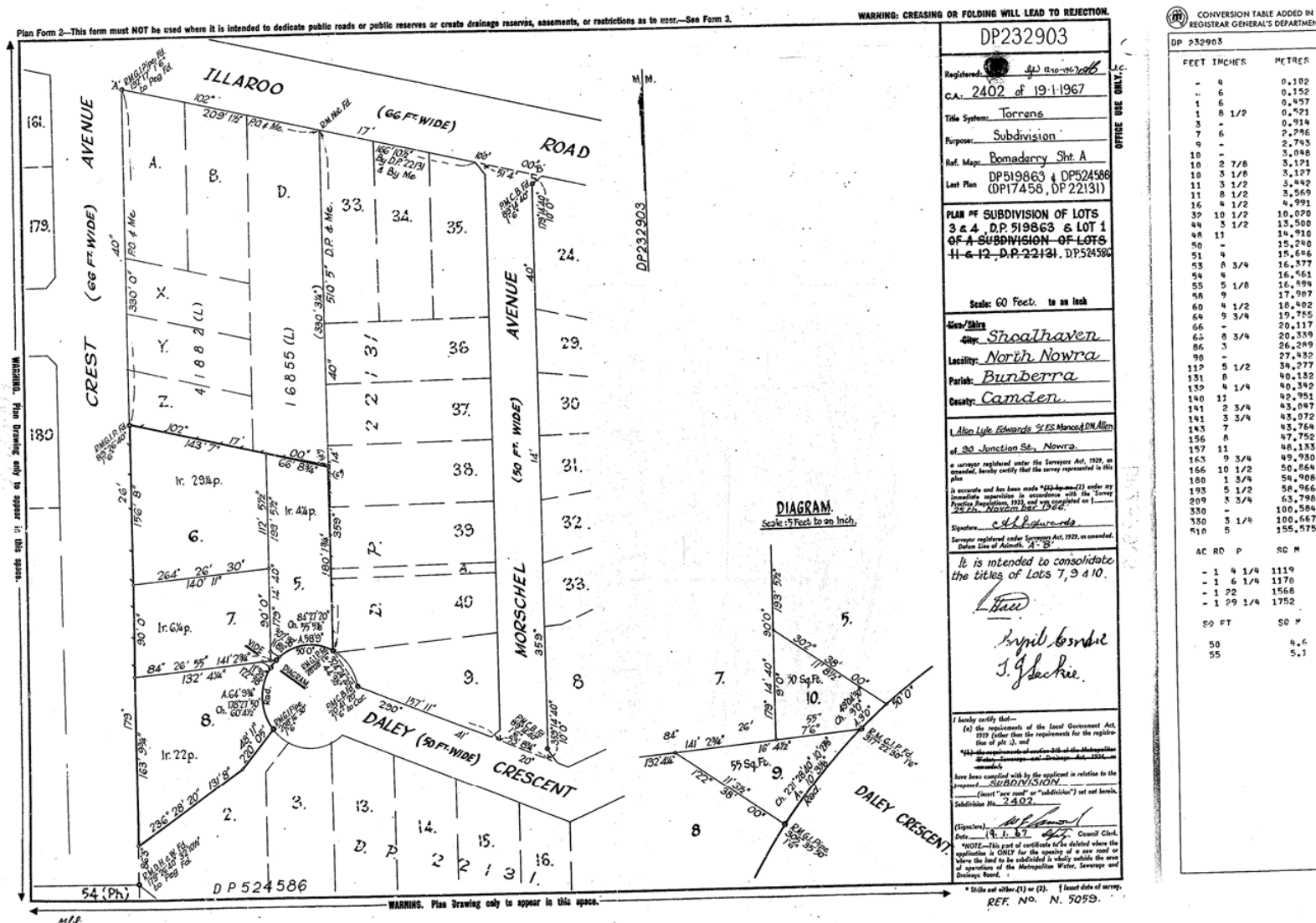
A valuation has been obtained on behalf of Council by Walsh & Monaghan Pty Ltd and Opteon Property Solutions where agreement was made and they have assessed compensation for the easement acquisition at \$22,500 excluding GST.

A conditional offer was made at that amount, plus reasonable costs associated with the acquisition. The owner has advised that the offer is acceptable.

**Risk Implications**

Acquisition of the easement is necessary to secure Shoalhaven Water's legal operation and maintenance of essential public infrastructure. The proposed action is administrative and has no environmental impact.

CL22.73



I, Bruce Richard Davies, Registrar General for New South Wales, certify that this negative is a photograph made as a permanent record of a document in my custody this 27th day of June, 1977

1

**PLAN FORM 2**

Plan Drawing only to appear in this space

**OFFICE USE ONLY**

**DP 644296**

Registered: 15-2-1991

CA N° 6916 OF 21.11.1990

Toto System: TORRENS

Purpose: EASEMENT

Ref. Map: W5540-93#  
W5540-94#

Last Plan: DP22191, DP232903

**PLAN OF PROPOSED EASEMENT OVER LOTS 17-21 INCL. D.P.22191 & LOTS 7,9 & 10 D.P.232903.**

Lengths in metres Reduction Ratio: 1:800

Municipality: SHOALHAVEN  
City: NORTH NOVIKA  
Parish: BUNBERGA  
County: CAMDEN

This is shown in all my plans (Details of map(s) only)

I, **ROSS JAMES DOUGLAS**, of 10, BIRCH GARDEN, CAMDEN, NSW, as a surveyor registered under the Survey Act, 1980, as amended, hereby certify that the survey represented in this plan is accurate and has been made in accordance with the Survey Act, 1980, and the regulations made thereunder, and was completed on 27th AUGUST, 1990.

Signature: *[Signature]*  
Surveyor registered under the Survey Act, 1980, as amended. Number 100 of Survey.

Plans used in preparation of survey/compilation:  
5850 sub. D.P. 22191, D.P. 232903  
D.P. 58524, D.P. 58526, D.P. 58527  
D.P. 58528, D.P. 58529, D.P. 58530  
D.P. 644296

PANEL FOR USE ONLY for statements of intention to dedicate public roads or to create public reserves, drainage reserves, easements or restrictions as to use.

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R/R 1:125

**DIAGRAM 407**  
R/R 1:125

**DIAGRAM 408**  
R/R 1:125

**DIAGRAM 409**  
R/R 1:125

**DIAGRAM 410**  
R/R 1:125

**DIAGRAM 411**  
R/R 1:125

**DIAGRAM 412**  
R/R 1:125

**DIAGRAM 413**  
R/R 1:125

**DIAGRAM 414**  
R/R 1:125

**DIAGRAM 415**  
R/R 1:125

**DIAGRAM 416**  
R/R 1:125

**DIAGRAM 417**  
R/R 1:125

**DIAGRAM 418**  
R/R 1:125

**DIAGRAM 41**

## CL22.74 Acquisition of Easement - Sewer Purposes - 1 Pitt Street Nowra

**HPERM Ref:** D21/548934

**Department:** Technical Services

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

**Attachments:** 1. Deposited Plan 644297 - Easement Highlighted [↓](#)  
2. Deposited Plan 264082 [↓](#)

### Reason for Report

This report is submitted to seek Council approval to acquire an Easement for sewerage purposes 3 metres wide over Lot 2 DP 264082, No. 1 Pitt Street North Nowra.

The easement is required for an existing sewer pipeline and is shown on the attached plan of proposed easement in DP 644297.

### Recommendation

That Council:

1. Acquire an Easement for sewerage purposes 3 metres wide over part of Lot 2 DP 264082, No. 1 Pitt Street North Nowra as shown on attached copy of DP 644297.
2. Pay compensation of \$17,000 plus GST if applicable, reasonable legal and valuation costs associated with the acquisition to the owner in accordance with the provision of the Land Acquisition (Just Terms Compensation) Act 1991, from Council's Sewer Fund.
3. Authorise the affixing of the Common Seal of the Council of the City of Shoalhaven to any documents required to be sealed and that the Chief Executive Officer (Executive Manager Shoalhaven Water) be authorised to sign any documents necessary to give effect to this resolution.

### Options

1. Resolve as Recommended

Implications: Acquisition of the easement is required to formalise existing Shoalhaven Water sewer infrastructure, enabling access for operation and maintenance of the infrastructure.

2. Not resolve as recommended and provide further directions to staff.

### Background

The subject sewer rising main was constructed in 1982 over private land, being Lot 2 DP264082. At that time, no legal entitlement was created to benefit Council for future repair, maintenance and protection of this Shoalhaven Water asset.

A valuation for compensation has been obtained on behalf of Council by Walsh & Monaghan Pty Ltd and presented to the landowner. The compensation for the easement acquisition was valued at \$17,000 excluding GST.

A conditional offer was made to the landowner at that amount, plus reasonable costs associated with the acquisition. The owner has advised that the offer is acceptable.

**Risk Implications**

Acquisition of the easement is necessary to secure Shoalhaven Water's legal operation and maintenance of essential public infrastructure. The proposed action is administrative and has no environmental impact.

CL22.74

PLAN FORM 2

Plan Drawing only to appear in this space

OFFICE USE ONLY

DP 644297

Registered: 7-2-1991

CA: NO 6924 OF 21-11-1990

Title System: TORRENS

Purpose: EASEMENT

Ref Map: PARISH\*, W 5540-91\*

Last Plan: DP 644082\* DP 788822\* DP 714096

PLAN OF PROPOSED EASEMENT OVER LOTS 2 & 14-29 INCL. D.P. 644082, LOT 24 D.P. 714096 & LOT 113 D.P. 788822.

Lengths are in metres. Reduction Ratio 1:800

Shoalhaven City  
Locality: NORTH NOWRA  
Parish: ILAROO  
County: CAMDEN (24)

This is sheet 1 of my plan in 2 sheets.  
(Delete if inapplicable)

I, ROSE JAMES DOUGLAS  
of PO Box 641, NOWRA, 2541  
a surveyor registered under the Surveyors Act, 1930, as amended, hereby certify that the survey represented on this plan  
is accurate and has been made in accordance with the Survey Practice Regulations, 1932 and any special requirements of the Department of Lands, and was completed on 27th AUGUST, 1990.  
Signature: [Signature]  
Caption: Rose James Douglas  
Date of survey: [Date]

Plans used in preparation of survey/compilation:  
D.P. 644082  
D.P. 7071414  
D.P. 714096  
D.P. 788822

PANEL FOR USE ONLY for statements of intention to dedicate public roads or to create public reserves, drainage reserves, easements or restrictions as to user.

Crown Lands Office Approval

PLAN APPROVED: [Signature]  
Authorised Officer

Land District: [Blank]  
Paper No: [Blank]  
Field Book: [Blank]

Council Clerk's Certificate

I hereby certify that:  
the requirements of the Local Government Act, 1919 (other than the requirements for the registration of plans) and  
the requirements of Part 3 Division 7 of the Water Board Act 1957 and the Water Supply Authorities Act 1987  
have been complied with by the applicant in relation to the proposed EASEMENT  
(Insert "new road" "water" or "consolidated lot") set out herein  
Subdivision No: 0904  
Date: 21 November 1990  
(Signature): [Signature]  
Council File No: [Blank]

\*This part of certificate to be deleted when the application is only for a consolidated lot or the opening of a new road or where the land to be subdivided is wholly outside the area of operation of the Metropolitan Water, Sewerage and Drainage Board and the Hunter District Water Board.

1 Date of registration

PROPOSED EASEMENT FOR SEWERAGE PURPOSES 3 WIDE.

COCONUT DRIVE

PITT STREET

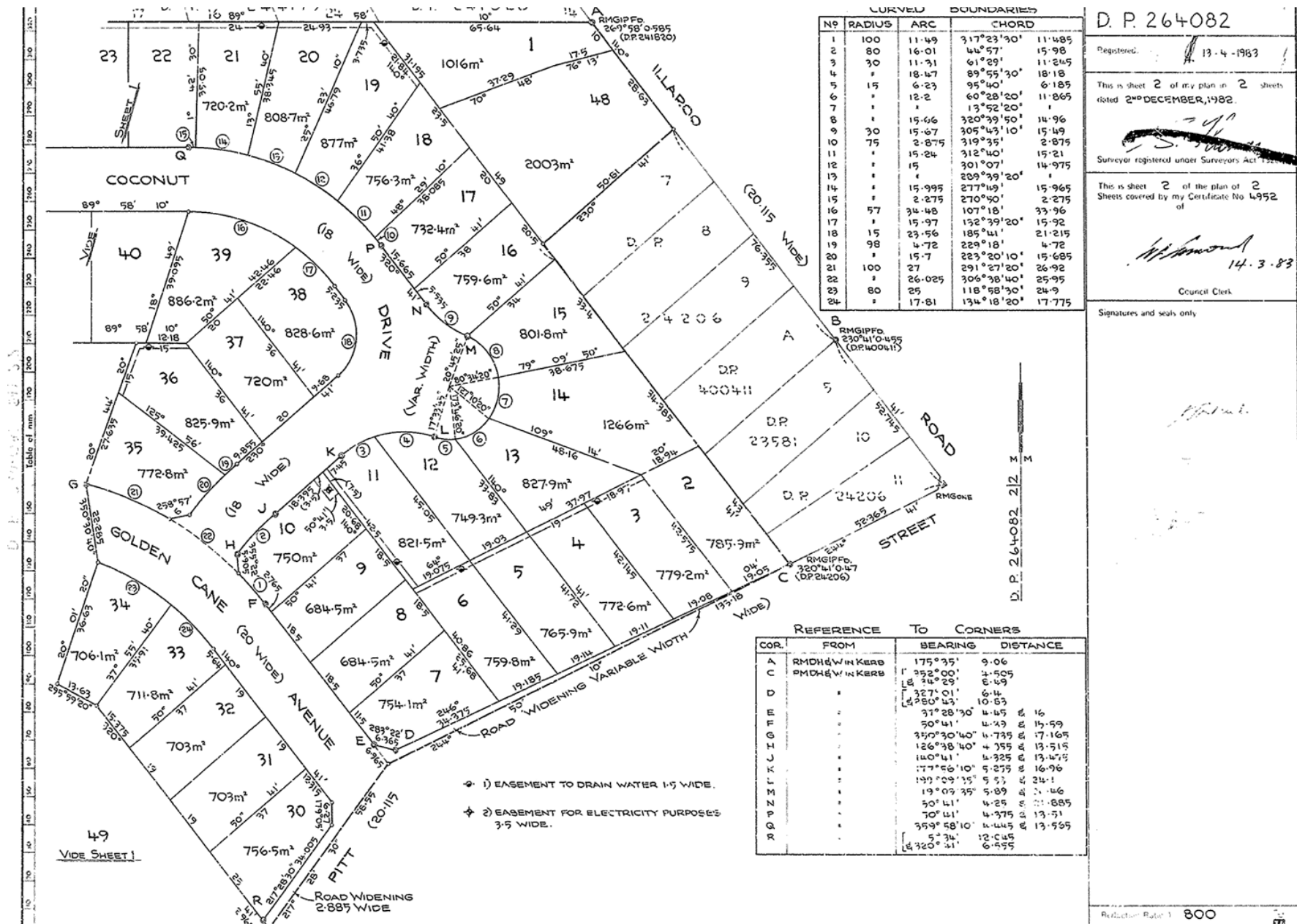
10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 160 170 180 190 200 210 220 230 240 250 260 270 280 290 300 310 320 330 340 350 360 370 380 390 400

Table of mm

10 20 30 40 50 60 70 Table of mm 110 120 130 140

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

This negative is a photograph made as a permanent record of a document in the custody of the Registrar General this day. 8th February, 1991



## CL22.75 Acquisition of Sewer Easement Lot 8 DP 1256748, Taylors Lane Cambewarra

**HPERM Ref:** D22/10174

**Department:** Technical Services

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

**Attachments:** 1. Sewer Easement Sketch Lot 8 DP 1256748 [↓](#)

### Reason for Report

To seek Council's concurrence for the acquisition of a sewer easement for sewer 5 metres wide over part of Lot 8 DP 1256748 – Taylors Lane Cambewarra which is owned by John W Evison Pty Ltd.

The easement is marked S1 and highlighted blue on the attached draft survey plan over that Lot 8 DP 1256748.

### Recommendation

That Council:

1. Acquire an Easement for Sewer 5 metres wide over part of Lot 8 DP 1256748, Taylors Lane Cambewarra, marked (S1) and highlighted on the attached draft survey plan.
2. Pay compensation of \$4,000 (plus GST if applicable) and reasonable costs associated with the acquisition, in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1993, from the Water Fund.
3. If applicable, adjust the compensation in accordance with the area of the easement determined by the final registered survey plan.
4. Authorise the affixing of the Common Seal of the Council of the City of Shoalhaven to any documents required to be sealed and that the Chief Executive Officer (Executive Manager Shoalhaven Water) be authorised to sign any documents necessary to give effect to this resolution.

### Options

1. As recommended.

Implications: The easement is required for infrastructure to service the Moss Vale Road Urban Release Area. It will provide Council with legal rights to the access, operation & maintenance of the infrastructure.

2. Not resolve as recommended and provide further directions to staff.

Implications: Failure to acquire the land and easement will likely lead to a delay in the delivery of the required infrastructure for the Moss Vale Rd Urban Release Area.

### Background

The sewer easement is required to facilitate construction and future operation/maintenance of a sewer main for the Moss Vale Road Urban Release Area to service the proposed residential subdivisions in the area.

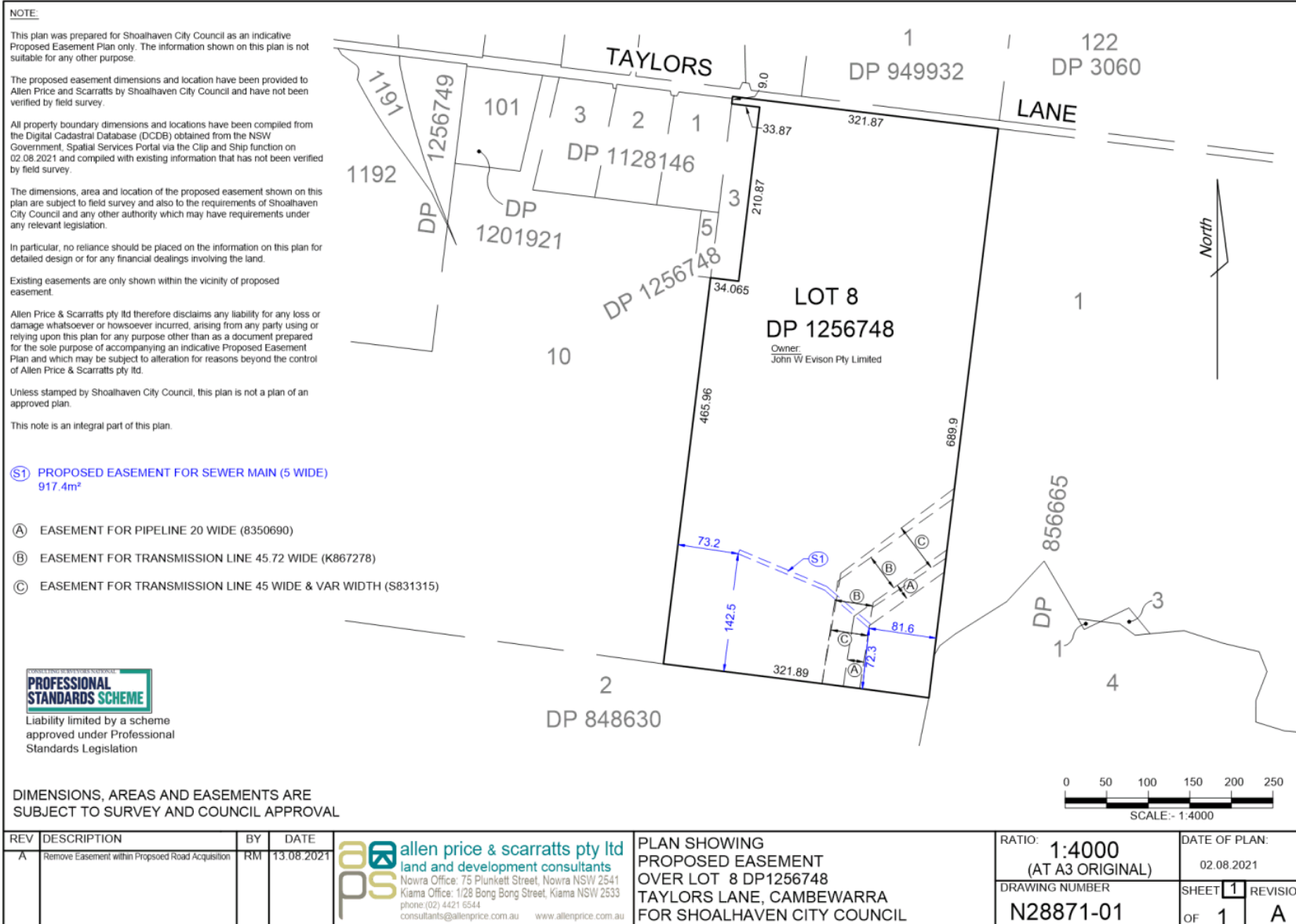
CL22.75

A valuation was undertaken on behalf of Council by Walsh & Monaghan Valuers Pty Ltd assessed compensation for the easement at \$1,500 excluding GST. An offer at that amount was made to the owner, which was rejected. The owners representative negotiated with Councils representative, where agreement was reached with the available evidence, that a valuation in the amount of \$4,000 could be supported. This was based on more recent settled sales information of nearby land.

**Risk Implications**

Acquisition of the easement is necessary to secure Shoalhaven Water's legal rights to construct, access, operate and maintain essential public infrastructure. The proposed action is administrative only and has no environmental impact.

CL22.75



## 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.