

Ordinary Meeting

Meeting Date: Monday, 14 March, 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.

Statement of Ethical Obligations

The Mayor and Councillors are reminded that they remain bound by the Oath/Affirmation of Office made at the start of the council term to undertake their civic duties in the best interests of the people of Shoalhaven City and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act or any other Act, to the best of their skill and judgement.

The Mayor and Councillors are also reminded of the requirement for disclosure of conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with the Code of Conduct and Code of Meeting Practice.

Agenda

1. Acknowledgement of Country
2. Moment of Silence and Reflection
3. Australian National Anthem
4. Apologies / Leave of Absence
5. Confirmation of Minutes
 - Ordinary Meeting - 21 February 2022
6. Declarations of Interest
7. Presentation of Petitions
8. Mayoral Minute
9. Deputations and Presentations
10. Call Over of the Business Paper
11. A Committee of the Whole (if necessary)

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Notices of Motion / Questions on Notice

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15. Confidential Reports

Reports

CCL22.8	Tenders - Replacement of four timber bridges with concrete structures as part of the Fixing Country Bridges Program - Round 1 <i>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.</i> <i>There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests.</i>
CCL22.9	Tenders - Panel for Tree Services for Bushfire Road Verge Cleanup <i>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.</i> <i>There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal</i>

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.

CL22.115 Report of the Nowra CBD Revitalisation Strategy Committee - 16 February 2022

HPERM Ref: D22/86263

Attachments: 1. CBD22.6 - Draft Contract of Engagement [↓](#)
2. CBD22.7 - DRAFT Terms of Reference - Nowra CBD Revitalisation Strategy Committee [↓](#)

CBD22.2 Election of Chairperson and Notification of Council Resolution

HPERM Ref:
D22/51095

RECOMMENDATION

That the Committee:

1. Receive the report regarding Council's Resolution in relation to the re-establishment for information (CL22.30 Nowra CBD Revitalisation Strategy Committee - MIN22.27);
2. Elect James Caldwell as Chairperson for the period to September 2022, noting that will be reaffirmed by Council.

CBD22.6 Nowra CBD Revitalisation Strategy Project Management Services Contract

HPERM Ref:
D22/46158

RECOMMENDATION

That the Committee adopt the CONTRACT OF ENGAGEMENT for Project Management Services as presented (attached) noting that;

1. The Executive that will act as the Principal's Agent is to be;
 - The CBD Committee Chair – James Caldwell
 - A Committee Member – Alison Henry
 - The Director City Services
2. The Contract will be managed and amended as required by the Principal's Representative – Manager of Technical Services, to achieve the Contract objective.
3. The Project Manager will be appointed by the Principle's Representative on the recommendation of the Principal's Agent
4. Project Updates will be provided via the Project Update Report that is received by the Committee at each meeting.

CBD22.7 Review of Terms of Reference - Nowra CBD Revitalisation Strategy Committee

HPERM Ref:
D22/45676

RECOMMENDATION

That:

1. Council adopt the Draft Terms of Reference as presented (POL22/145) noting that the key changes include;
 - a. References to the annual budget allocation (currently \$500,000) now reflect the rate-pegged increases in the budget allocation.

CL22.115

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- b. Membership criteria that better reflects the range of stakeholders that are engaged in the activities of the Committee and the inclusion of Councillors
 - c. Clauses dealing with Removal of members have been added
 - d. Amendments to 'Working Groups' to include Sub Committees and define the key Working Groups.
 2. Pending the adoption of part 1 above, that the initial appointment of the Strategic Advisor be Joanna Gash (Former Mayor, Councillor, and Federal Member) until September 2022, following that, an expression of interest will be called to permanently fill the position.

Nowra CBD Revitalisation Strategy

CONTRACT OF ENGAGEMENT

for

Project Management Services

Shoalhaven City Council (SCC)

and

>Project Manager<

CL22.115 - Attachment 1

This Contract

is made on

day / month / year

Between

Shoalhaven City Council (SCC)- See **Item 1** of the Schedule (Principal)

Principal's Representative – Manager Technical Services

Principal's Agent – Nowra CBD Revitalisation Committee (NCRC) Executive

and

Project Manager - See **Item 2** of the Schedule

BACKGROUND

- A. SCC has agreed to engage you and you have agreed to work for SCC in the position described at **Item 3** of the Schedule.
- B. SCC and you have agreed to enter this Contract to record the terms and conditions of your engagement.
- C. SCC and you acknowledge the obligation to abide by the provisions contained in any relevant legislation.

SCC And You Agree that:

1. DEFINITIONS

Associated Entities has the same meaning as in the *Corporations Act 2001 (Cth)*.

Business Day means calendar day but excludes public holidays as defined by the governing law of the Contract and weekends.

Confidential Information means all the information including trade secrets, Intellectual Property, marketing and business plans, client, stakeholders and supplier lists, computer software applications and programs, business contacts, finance, remuneration details, data concerning SCC or any of its associated entities or any client/stakeholder of SCC, finances, operating margins, prospect's lists, and transactions of SCC, but does not include information in the public domain otherwise than through a breach of an obligation of confidentiality.

Contract means this engagement contract.

Direction means any agreement, approval, assessment, authorisation, decision, determination, explanation, instruction, order, permission, rejection, request or requirement given or made by the Principal.

Documents includes information stored by electronic and other means.

Intellectual Property Right means any statutory and other proprietary right in respect of inventions, innovations, patents, utility models, designs, circuit layouts, mask rights, copyright (including future copyright), confidential information, trade secrets, know-how, trademarks and any other right in respect of intellectual property.

Moral Rights has the meaning given to it in the *Copyright Act 1968 (Cth)* and includes rights of integrity of authorship, rights of attribution of authorship and similar rights that exist or may come to exist anywhere in the world.

Nowra CBD Revitalisation Committee (NCRC) is a committee formed by resolution of Council to oversee the expenditure of the Nowra CBD Revitalisation Budget in accordance with objectives of the Nowra CBD Strategic Plan, and to promote the advantages of the CBD inside and outside the Local Government area.

Services means the Services described in or reasonably inferred from this Contract.

Works means all inventions, policies, practices, designs, drawings, plans, software, hardware, reports, documents, systems, improvements and other materials.

2. COMMENCEMENT AND WARRANTIES

- 2.1. Your date of commencement of engagement with SCC is identified at **Item 4** of the Schedule.
- 2.2. The terms and conditions of your engagement will be in accordance with the Engagement Contract, as varied and amended from time to time.
- 2.3. You agree that:
 - a) you hold the qualifications and have the skills as represented by you to SCC
 - b) you have disclosed to SCC any restraint or restriction which may affect your performance of work
 - c) you enter into this engagement contract without any form of coercion
 - d) you are legally entitled to work in Australia, and agree to produce the appropriate documentation where requested by SCC and

3. POSITION AND TITLE

- 3.1. You are engaged on the basis described at **Item 3** of the Schedule.
- 3.2. You may be required to perform other tasks from time to time, as reasonably requested by the Principal's Agent.

4. SERVICES

- 4.1. You may be provided with an outline of your duties **Item 10 of the schedule**. The outline is not intended to be an exhaustive list of the duties you may be required to perform, rather an indication of the kinds of duties that fall within the scope of the position.
- 4.2. You also have general duties to:
 - a) comply with reasonable directions given to you by the Principal's Agent
 - b) at all times act faithfully, honestly and diligently
 - c) ensure you are performing solely work-related activities in SCC work time
 - d) exhibit a professional and courteous attitude when dealing with SCC, its stakeholders, government officials, Elected Members and industries and other members of the public and
 - e) act in SCC best interests at all times.

5. SCC POLICIES AND PROCEDURES

You agree that:

- 5.1. you will comply with all SCC policies and procedures, as amended from time to time at the sole discretion of SCC. Failure to comply with SCC policies may result in termination of the contract.

6. REGISTRATIONS AND INSURANCES

- 6.1. You are required to hold and maintain (at your cost) the following:
 - a) Registered Business with ABN
 - b) Insurances: Work Cover
Public Liability (Minimum \$10,000,000)
Professional Indemnity (Minimum \$2,000,000)
- 6.2. SCC will require you to provide evidence that you hold the above.
- 6.3. These are considered essential requirements of your role. SCC reserves the right to terminate the contract without notice in the event that you fail to maintain these, and you are unable to perform the requirements of your role.
- 6.4. You must notify the Principal's Agent immediately in the event that you no longer hold, or are no longer eligible to hold, any of the above.

7. PLACE OF ENGAGEMENT

- 7.1 Due to the nature of the role and the business, you will be required to travel and work at various sites, as reasonably directed by the Principal's Agent within Nowra
- 7.2 Your principal place of engagement will be at the location described in Item 5 of the Schedule, or as otherwise reasonably directed by SCC.

8. HOURS OF WORK

- 8.1. The business' normal span of hours of operation are outlined at Item 6 of the Schedule.
- 8.2. You will be required to work the hours (as per Item 6) to fulfil the requirements of your duties. All additional hours (in the case of additional duties) must be approved by the Principal's Agent in the first instance and prior to any additional work being undertaken.

9. TIME RECORDING AND PAYMENT

- 9.1. You are required to complete regular diary recordings of work. You are responsible for the completion of your own time diaries.
- 9.2. These diaries may be inspected by SCC from time to time, as requested by SCC.
- 9.3. Time recordings are to be submitted with invoices for payment on a minimum of a fortnightly basis. The Principal's Agent will authorize such claims and the Principal's Representative will pay approved claims within a fortnight of approval

10. REMUNERATION

Your Contract remuneration is set out at Item 7 of the Schedule.

- 10.1. You will NOT be entitled to any applicable penalty rates, overtime rates, allowances or loading appropriate to your position as set out in any Industrial Instrument.
- 10.2. SCC will not be responsible for any Superannuation or Long Service Leave contributions.

11. PUBLIC HOLIDAYS

You are entitled to be uncontactable on Sundays and Public Holidays, unless reasonably required by SCC

12. PERSONAL MOTOR VEHICLE

- 12.1. You are required to provide and maintain your own private motor vehicle for this engagement.
- 12.2. You are required at all times to hold a valid driver's license in order to complete the inherent requirements of your engagement.
- 12.3. You are required to ensure that any such vehicle is adequately insured.
- 12.4. You will be responsible for any fines or penalties imposed as a result of the use of your own private motor vehicle.

13. MOBILE PHONE, COMPUTER AND STATIONARY

- 13.1. You are required to provide these and other items and tools required to carry out the responsibilities of your engagement.
- 13.2. Any claim for reimbursement of additional expenses must be approved in writing by the Principal's Agent before they are incurred.

14. CONFIDENTIAL INFORMATION

You agree at all times during and after this engagement with SCC:

- a) to refrain from directly or indirectly disclosing to a third party Confidential Information except in the proper course of carrying out your duties
- b) not to use the Confidential Information for any purpose other than for the benefit of SCC
- c) to keep confidential all SCC Confidential Information and
- d) to comply with the terms of this Contract unless otherwise required by applicable laws or regulations.

15. CONFLICT OF INTEREST

- 15.1. A conflict of interest in connection with this Contract includes a conflict between a duty owed by you to a person and a duty owed by you to SCC.
- 15.2. You represent that to the extent reasonably ascertainable at commencement of this Contract, after making all reasonable enquiries, no conflict of interest exists or is likely to arise except as set out in Item 11.
- 15.3. 17.3 You must monitor and, unless SCC gives prior written consent to the conflict of interest, avoid the occurrence of any conflict of interest.
- 15.4. You must notify SCC immediately on becoming aware of a conflict of interest or a significant risk of a conflict.
- 15.5. Where a conflict of interest arises or is likely to arise, SCC may proceed under clause 19.

16. INTELLECTUAL PROPERTY RIGHTS

- 16.1. All Intellectual Property rights arising from any Works created or developed by you in the course of your engagement (whether alone or with others) will belong to SCC and you agree to immediately disclose to SCC all such Works.
- 16.2. You agree that all existing Intellectual Property rights, title and interest in all Works created or developed by you in the course of your engagement (whether alone or with others) are vested in SCC and upon their creation, all such rights will vest in SCC. You agree to execute all documents and do all acts required to secure any Intellectual Property rights for SCC.

16.3. You warrant that you have consented without coercion or without relying on any representations other than those set out in this contract.

17. NON-DISPARAGEMENT

You must not at any time, either during your engagement, or at any time after termination, disparage or otherwise make any statement, or permit or authorise any statement to be made, which is calculated or reasonably likely to damage the reputation or cause other damage to SCC or any Associated Entity, or any of their respective Executive or Members or any Stakeholders.

18. TERMINATION OF ENGAGEMENT

- 18.1. SCC may terminate this Contract without notice or without a payment in lieu of notice for any of the following reasons, if you:
- commit any serious or persistent breach of any of the terms of the Engagement Contract
 - are guilty of dishonesty, misconduct or neglect in the performance of your obligations under the Engagement Contract
 - become insolvent or bankrupt or make any assignment or arrangement with your creditors
 - are convicted of any criminal offence relevant to the performance of your obligations under the Engagement Contract
 - refuse to comply with any reasonable instruction or direction including any failure to comply with your obligations under any of SCC rules, policies and/or procedures and any directions given by the Principal's Representative.
 - fail to perform to the standard reasonably expected by SCC, including persistent failure to achieve targets or duties
 - obtain a medical assessment result that is not satisfactory to SCC and which objectively results in you being unable to perform your duties set out in the Engagement Contract
 - abuse alcohol or drugs prior to commencing work which adversely affects your ability to carry out your duties.
 - engage in physical abuse or display unreasonable verbal aggression.
- 18.2. SCC may terminate this Contract by providing 4 weeks written notice.
- 18.3. You may terminate this contract at any time by providing SCC with 4 weeks written notice.
- 18.4. SCC may, at its discretion, make payment to you in lieu of all or part of this notice period.
- 18.5. During the whole or any part of the notice period, SCC is under no obligation to assign you duties or functions or to provide any work to you and may direct you not to attend work during all or part of the notice period.
- 18.6. During the whole or any part of the notice period, SCC is under no obligation to assign you duties or functions or to provide any work to you and may direct you not to attend work during all or part of the notice period.
- 18.7. On termination of the engagement Contract for any reason, you must immediately return to SCC all property, documents and items relating to the business of SCC which you have in your possession or control. This includes, but is not limited to, any car, equipment, papers, keys, reports, computers, information, programs, records and documents, intellectual property and other information, in whatever form, relating in any way to SCC or its stakeholders.

19. ASSIGNMENT

You may not assign or transfer the rights and benefits under this engagement contract.

20. GOVERNING LAW

This engagement Contract shall be governed by the jurisdiction of the courts in the State or Territory as set out in **Item 9** of the Schedule.

21. VARIATION OF TERMS

The terms of this engagement Contract may be varied from time to time by mutual agreement in writing between the parties.

22. SEVERABILITY

If any of the terms and conditions of this Contract are void, or become voidable by reason of any statute or rule of law then that term or condition shall be severed from this Contract without affecting the enforceability of the remaining terms and conditions.

23. ENTIRE AGREEMENT

The contents of the Contract constitute the entire agreement between you and SCC.

Any previous agreements, understandings, and negotiations on this subject matter cease to have effect.

End

SIGNED BY AN AUTHORISED OFFICER OF SCC

.....
Authorised Officer

.....
Title of Authorised Officer

.....
Dated

SIGNED BY YOU

.....
Name: (printed)

.....
Dated

.....
Witness

.....
Name of Witness (printed)

.....
Witness

.....
Name of Witness (printed)

SCHEDULE OF ITEMS

Item 1	Our Details	Nowra CBD Revitalisation Strategy Committee On Behalf of Shoalhaven City Council, Address: C/- TBC Shoalhaven City Council, Bridge Road, Nowra NSW 2540
Item 2	Your Details	<Project Manager details>
Item 3	Position	Nowra CBD Place Manager
Item 4	Commencement date	<enter start date>
	Duration	12 month period with option to extend as agreed by both parties
	Performance Review	Quarterly Performance Reviews against KPI's set out in the Strategic Plan and conducted by the Principal's Agent
Item 5	Location	Nowra and Greater Shoalhaven Region as required
Item 6	Hours of Work	As required but typically 16hrs per week
Item 7	Remuneration	Total Contract Fixed Remuneration \$XXX p.a. (excl GST) – Monthly payments pro rata.
Item 8	Reimbursement	Travel Costs, Vehicle ATO Travel rates Annual Budget \$12,000.00
Item 9	Governing Law	State of New South Wales
Item 10	Duties	Responsible for the oversight, implementation and management of the

Revitalising Nowra
Action Plan 2021-23
(the Action Plan).

Item 11 Existing conflicts of
interest:

SCHEDULE OF DUTIES

Key Focus Area – On the ground Implementation of the Action Plan (Attachment 1).

Information about the Nowra CBD Revitalisation Strategy Committee see [Council's website](#)

Key Task

- Development of strategies designed to advance the objectives and implementation of the Action Plan including stakeholder liaison and advocacy, place making and activation activities.
- Liaison with the Committee, CBD Businesses, Council and Government agencies on matters of mutual interest
- Identification of priorities and development of strategies that align with the requirements of stakeholders to activate and drive growth in Nowra CBD
- Engaging with local businesses in the CBD to support business sustainability and growth and realise projects/actions in the Action Plan

Administration

- Report to, and active involvement in, the meetings of Shoalhaven Council's Nowra CBD Revitalisation Strategy Committee
- Preparation of reports and grants related to inquiries or key strategic projects in the Nowra CBD;
- Expenditure of allocated budgets and grants in accordance with the budget and grant conditions
- Maintenance of administration records including liaison and administrative coordination with the Principal's Agent; and
- Management of all inwards and outwards correspondence.
- administration IT management
- Liaising with all Nowra CBD Revitalisation Strategy Committee members, industries and governments
- Report on and track monthly marketing activity
- Preparation of Newsletters and distribution as identified in the strategic plan

Key Responsibilities

Corporate Responsibilities:

- Participate with the Principal's Agent to implement strategic direction as identified in the Action Plan
- Review and develop policies and procedures.
- Ensure that the Principal's Agent is kept informed on significant issues.

Management Responsibilities:

- All Administration work relating to the strategic plan and associated reporting
- Effectively communicate to key stakeholders.
- Ensure that effective and efficient structures and processes are in place to ensure that Council and the Nowra CBD Revitalisation Strategy Committee have clear roles and responsibilities.
- Effectively manage external consultants and contracts to successfully deliver the Action Plan.

Technical Responsibilities:

- Ability to enhance relationships within the Nowra CBD business community, Council and the Nowra CBD Revitalisation Strategy Committee Members to lead, motivate and develop the Nowra CBD in line with the adopted Action Plan.
- Technical skills in stakeholder liaison and negotiation
- Experience in placemaking, marketing and events
- Sound financial management and reporting skills on behalf of the committee

Additional Duties

We may change the duties set out in this Agreement from time to time.

CL22.115 - Attachment 1



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

Website: www.shoalhaven.nsw.gov.au

For more information contact the City Performance

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Nowra CBD Revitalisation Strategy Committee – Terms of Reference

Policy Number: POL20/80 • **Adopted:** 28/10/2014 • **Amended:** 21/02/2017, 16/05/2017, 27/3/2018, 25/09/2018, 18/12/2018, 26/03/2019, 20/09/2019, 22/09/2020 • **Minute Number:** MIN14.765, MIN17.96, MIN17.390, MIN18.228, MIN18.764, MIN18.1012, MIN19.171, MIN19.658, MIN20.691 • **File:** 50242E • **Produced By:** City Performance • **Review Date:** 1/12/2021

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PREAMBLE

1. ROLE

- i. Note–Tasks in relation to 1.54 will not be undertaken by Councillors
- ii. For the purpose of this Terms of Reference, Councils annual Capital Works "Nowra CBD Revitalisation Budget which" is defined as any Special Rate on the CBD (currently \$500,000) capital funding that Council sets aside for the Nowra CBD, primarily funded from the Business – Nowra rates subcategory plus any top up funding (such as grants, or loans obtained by council or other council budgetary allocations) that Council provides to deliver a project initiated by Special Rate Funding.
- iii. Note– Any other Capital Works Funding in excess of \$100,000 within the CBD will be discussed with the Committee prior to the commencement of expenditure of that funding.
- iv. In the 2021-2022 financial year the Nowra CBD Revitalisation Budget is \$550,000
- v. All Grant funding and expenditure pursuant to the 'Revitalising Nowra Action Plan (2021-2023)' will be reported at each meeting. (Balance sheet)

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1. ROLE

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- 1.1. Recommend to Council possible refinement of, and improvements to, the 'Revitalising Nowra Action Plan (2021-2023)' and the broader Nowra CBD Revitalisation Strategy as the committee considers appropriate.
- 1.2. Develop a list of projects (with estimated costings) for Council to consider priorities/prioritise over a rolling three year time frame, that will assist in achieving the ten elements of the Nowra CBD Revitalisation Strategy. The list is to be presented to an Ordinary Meeting of Council in February each year, and thus adopted by the Council.
- 1.3. Make a formal submission to Council's annual capital works budget as it relates to the Nowra CBD, in accordance with Council's budgeting process.
- 1.4. Reallocate at its discretion, Nowra CBD Revitalisation Budget funds to operational projects, e.g. activation events.
- 1.4.1.5. Monitor the expenditure of Council's annual capital works budget as it relates to the Nowra CBD Revitalisation Budget via a Subcommittee, in particular;

Shoalhaven City Council – Nowra CBD Revitalisation Strategy Committee – Terms of Reference

- ~~1.4.1.1.5.1.~~ Approving design plans and specifications at the preliminary concept stage and prior to the detailed drafting and then at final approval stage.
- ~~1.4.2.1.5.2.~~ In cases where the ~~General Manager~~CEO (or delegate) determines that capital works ~~withinfunded by~~ the Nowra CBD ~~Revitalisation Budget~~ will be tendered out, the ~~Committee Chair (or delegate)~~Subcommittee will ~~approve~~endorse the tender documentation before tenders are advertised.
- ~~1.4.3.1.5.3.~~ The ~~Committee~~ Chair and delegate ~~are to may, at their discretion,~~ participate on tender evaluation panels for capital expenditure ~~infunded by~~ the Nowra CBD ~~Revitalisation Budget~~.
- ~~1.4.4.1.5.4.~~ ~~Assign a Project Steering Working Group~~The Chair ~~is~~ to endorse the payment of progress claims and endorse the approval of variations, for capital expenditure ~~infunded by~~ the Nowra CBD ~~Revitalisation Budget~~.
- ~~1.4.5.~~ In the case where Council staff undertake substantial capital expenditure (greater than \$150,000) in the Nowra CBD, the Committee will receive a report outlining progress (including expenditure updates) and plans at each of the Committee's Meetings.
- ~~1.5.1.6.~~ Act as a communication conduit between Council and the CBD stakeholders in respect to the ~~terments~~ within the Nowra CBD Revitalisation Strategy and approved Capital Works within the Nowra CBD with reasonable support from Council, at Council's expense, as determined by the ~~General Manager~~CEO.
- ~~1.6.1.7.~~ Assist Council in advocating to the community the adopted list of projects that seek to deliver on the ten elements of the CBD Revitalisation Strategy.
- ~~1.7.1.8.~~ Provide a report to Council (~~resolved at a Committee meeting~~) each quarter outlining the year to date expenditure ~~of Council's annual capital works budget as it relates to on projects funded by~~ the Nowra CBD ~~Revitalisation Budget~~ and present a report to an Ordinary Meeting of Council in August each year that explains the ~~capital~~ expenditure and any non-expenditure, for the previous financial year.
- ~~1.8.1.9.~~ Consult with relevant stakeholders as needed.
- 2. DELEGATED AUTHORITIES**
- ~~2.1~~ To ~~expendoversee~~ the ~~funds allocated by Council annually from the Business – Nowra subcategory (currently \$500,000) to the CBD Nowra expenditure of the Nowra CBD Revitalisation Strategy Budget, as the~~ Committee, ~~as the committee~~ deems appropriate in accordance with objectives of the Nowra CBD Strategic Plan.
- ~~2.2~~ ~~To establish Working Groups as deemed appropriate.~~
- ~~2.3.2~~ To promote the advantages of the CBD inside and outside the Local Government area, including making press releases and promoting the Nowra CBD Revitalisation Strategy and its projects.
- ~~2.4.2.3~~ Council will provide "in-kind" support to the committee in relation to
- Project Design and Documentation
 - Facilitation of meetings
 - Preparation of reports for the Committee consideration
- 3. COMMITTEE MEMBERSHIP**
- 3.1. Voting Members (~~13~~41 in total - Quorum of 76)

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Shoalhaven City Council – Nowra CBD Revitalisation Strategy Committee – Terms of Reference

- Three Councillors ~~– 1 from each Ward~~
- ~~Director of City Services~~
- ~~Director of City Futures~~
- ~~Two (2) Community members (non-business operator or CBD property owner)~~
- ~~One (1) Nowra CBD Retail/Business operators Operators~~ (non-CBD property owner)
- Two (2) Nowra CBD Property Owners
- Two (2) Nowra CBD Business owner/operator owners
- One (1) Nowra CBD Business Chamber representative
- ~~Two (2) Community Members (NON CBD Business/Property Owners or Retailers)~~
- ~~One (1) Strategic Advisor. Being a recently retired Councillor or State/Federal Member or Business Person. To advise on strategic initiatives and possible funding innovations.~~

In the event that a Member's personal circumstances change in a manner that would impact their eligibility for the position they hold, that Member will notify the Committee.

3.2. ~~Non-voting Members~~

3.2. ~~Non-voting Members - can participate, as provided by the Chair, but have no voting rights. Non-voting members need not submit an apology if they cannot attend a meeting~~

- ~~CEO~~
- ~~Director City Services~~
- All Councillors who are non-committee members ~~can attend (however cannot speak unless invited but have no voting rights)~~

3.3. Annually, following September Ordinary Council Meeting (where ~~committees~~ Committees are reviewed) the Committee will appoint a Chairperson ~~(which is not to be ratified Councillor or Staff member (the appointment to be reaffirmed by Council) and Council reserves the right to appoint a Chairperson at any time.~~

3.4. The role of the chairperson is to:

- Chair meetings of the Nowra CBD Revitalisation Strategy Committee, ~~(and Subcommittees)~~, in accordance with Council's code of meeting practice
- ~~Representative or delegate on Working Groups pertaining to Nowra CBD projects.~~
- ~~Oversight of activities of a co-ordinator (if applicable)~~
- Attend Council/Committee meetings as appropriate

4. **SUBCOMMITTEES AND WORKING GROUPS**

4.1. ~~Two Subcommittees are to be established to consider the following matters and make decisions as delegated by the Committee in accordance with the Council adopted Terms of Reference. Each Subcommittee to comprise three members:~~

~~The Committee Chair
A committee member (not a Councillor)
A member of Council staff (determined by the CEO or delegate)~~

~~The two subcommittees to be formed are:
Governance and Communications Sub Committee~~

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Shoalhaven City Council – Nowra CBD Revitalisation Strategy Committee – Terms of Reference

Matters for consideration

- Terms of Reference
- Committee Membership
- Strategic Plan Monitoring
- Promotion of the Committee
- Engagement with the CBD
- Lobbying for Grants

Finance and Works Subcommittee

Matters for consideration

- Capital Budget submissions (rolling three years plan)
- Annual Report to Council (August)
- Quarterly Reporting
- Maintenance Inspections
- Accessibility
- Project Approvals

The subcommittees will meet as required.

4.1.4.2. Two Working Groups are established to investigate suitable projects, develop, and conduct Events, Promotions and Community Projects for funding by the CBD Revitalisation Strategy Committee following a suitable project and to meet with relevant Council staff/contractors (if not Council) at all stages of the project. Each working group to comprise of five members.

Team leaders Four Committee members
A member of Council staff

The two working groups to be formed are nominated:

Events and Promotions - (Includes Councillor Involvement)

Matters for consideration

- Christmas
- Easter
- Advertising the CBD
- Other similar matters

Activation Projects - (Includes Councillor Involvement)

Matters for consideration

- Murals
- Walks
- Competitions
- Other similar

The working groups will meet as required.

4.2.4.3. The Council staff member appointed to each Working Group will be the point of contact between Council staff and committee the Working Group for general day to day

Shoalhaven City Council – Nowra CBD Revitalisation Strategy Committee – Terms of Reference

updates, ~~not as the sole representative from the Nowra CBD Revitalisation Strategy Committee to attend meetings outside those held by the CBD Revitalisation Strategy Committee including progress meetings.~~

~~4.3.4.4. As project principal/client the~~ The Nowra CBD Revitalisation Strategy Committee reserve the right for all Working Groups members of the relevant Working Groups to attend and speak on matters addressed at such meetings ~~members are invited to attend and participate in any Working Group meeting/activity but not be involved in the final decision making (i.e. voting) of the working group).~~

~~4.4.4.5.~~ The Nowra CBD Revitalisation Strategy Committee Working Groups members are to be notified in respect to any meeting(s) pertaining to CBD Revitalisation Strategy Committee projects and invited to attend.

5. APPOINTMENT OF MEMBERS

- 5.1. That appointments to the Nowra CBD Revitalisation Strategy Committee be made by the Council following recommendation from the Committee, ~~except for Councillors who will be appointed by the Council usually at the Annual "CALL" meeting.~~
- 5.2. Recommendations for appointment of members will be made to the Nowra CBD Revitalisation Strategy Committee by a Membership Appointment Panel comprising of:
 - Chairperson or Nominee of the Chairperson
 - ~~Council staff Committee member~~
 - ~~CEO (or Delegate)~~
 - ~~Senior Governance Unit Manager/Officer~~

Selection Criteria for new members:

When Council appointed the Committee in October 2014 the selection criteria for membership was as follows:

- Meeting the specific requirements for the Membership Position
- Commit to represent the interests of the group that the Membership Position represents
- Time to commit to the Committee Meetings and other times between meetings
- Acceptance of the Terms of Reference and willingness to work within that framework
- Demonstrated understanding of the role that CBDs play in the economy of the community
- Demonstrated commitment to the implementation of the Nowra CBD Revitalisation Strategy
- Previous experience in working on groups/committees that deliver outcomes.

Removal of members

~~After receiving three separate apologies in a calendar year to a Scheduled Nowra CBD Revitalisation Committee by a Committee Member the Committee Chair will write to the Committee member asking them to reconfirm their interest in the committee and their ability to serve the committee.~~

~~After receiving a further apology to a Scheduled Nowra CBD Revitalisation Committee by a Committee Member the Committee Chair (if decided by the committee) will write to~~

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Shoalhaven City Council – Nowra CBD Revitalisation Strategy Committee – Terms of Reference

[the Committee member asking them to show cause as to why their position should not be declared vacant and a replacement committee member be sought.](#)

[The response to the Show Cause and a recommendation of a way forward from the Committee will be provided to the Council for consideration of the ongoing membership of the individual.](#)

6. MEETINGS

- 6.1. Meetings will be held bimonthly (6 per year) (MIN18.962) [or as decided by the Committee.](#)
- 6.2. Topics for the agenda should be forwarded to the minute secretary no later than fourteen (14) days prior to the meeting.
- 6.3. Agenda and minutes from the previous meeting will be circulated to members at least seven (7) days prior to the meeting.
- 6.4. Members must declare in writing any interest in any report tabled at the meeting.
- 6.5. Council to provide a minute secretary.
- 6.6. The committee will be provided the following reports
 - Actions Report (including an updated list of available grants) at each meeting
 - Quarterly Budget Report (including an updated list of available grants)
 - Annual Report of the Promotions Budget Expenditure
 - Capital Projects Progress Report at each meeting

7. QUORUM

- 7.1. A quorum will consist of [at least half the smallest number of members above the voting committee 50% membership plus one \(Eight 8\) figure – that being Seven \(7\) Six \(6\) \(ie 50% of 143 is 56.5 members\).](#)

~~7.1.~~

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8. VOTING AND RECOMMENDATIONS

- 8.1. Voting on recommendations is made by majority vote and all decisions regarding the allocation of funding for works must be stated precisely for the inclusion of the minutes. In addition alternate views from members are also to be minuted.

9. COMMUNICATION

- 9.1. Members of the Committee are not permitted to speak to the media as representatives of the Committee unless the matter relates to the Role of the Committee AND have received approval by the Chairperson.
- 9.2. Where approval has been given by the Chairperson, views and opinions expressed are those of the Nowra CBD Revitalisation Strategy Committee and not of Shoalhaven City Council.

10. PROMOTIONS BUDGET

In accordance with MIN18.228 of the Council Meeting held on 27 March 2018

Shoalhaven City Council – Nowra CBD Revitalisation Strategy Committee – Terms of Reference

~~9-410.1.~~ The Committee shall allocate a promotions budget which will be a minimum of \$50,000 excluding GST per annum for promotional events and incremented each year in accordance with NSW LGA Rate Pegging 10% of the total allocation from the Nowra Rates Subcategory.

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~~9-210.2.~~ The Promotional Event Budget will be allocated to the Nowra CBD Business Chamber Inc for the expenditure and completion of promotional activities.

~~9-310.3.~~ The Nowra Business Chamber Inc will provide an annual report to Council on the promotional activities and related expenditure.

11. PARENT COMMITTEE

11.1. Ordinary Council Meeting.

12. CODE OF CONDUCT

12.1. All members of the Committee are to abide by Council's Code of Conduct and will be required to complete the necessary Pecuniary Interest Returns.

12.2. Where required by Council Policy members will be required to sign Council's Confidentiality Agreement

12.3. All committees will be inducted into Council's Code of Conduct and refreshed as required by Council Policy.

13. REVIEW

This policy will be reviewed within 12 months of each Council election, or as required.

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CL22.116 Ongoing Register of Pecuniary Interest Returns - 1 July 2021 to 28 February 2022

HPERM Ref: D21/514244

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

Reason for Report

To provide the Council with the Register of Pecuniary Interest Returns from newly designated persons lodged with the Chief Executive Officer for the period of 1 July 2021 to 28 February 2022 as required under Section 440AAB of the Local Government Act 1993 and Part 4.26 of the Model Code of Conduct.

Recommendation

That the report of the Chief Executive Officer regarding the Ongoing Register of Pecuniary Interest Returns lodged for the period of 1 July 2021 to 28 February 2022 be received for information.

Options

1. As Recommended

Implications: The requirements of the new Code of Conduct will be adhered to.

2. The Chief Executive Officer take appropriate action in accordance with Council's Code of Conduct in respect of any Staff who are in contravention of the *Local Government Act 1993*

Implications: Not known

Background

Under Section 440AAB of the *Local Government Act 1993* and Part 4.26 of the Model Code of Conduct, newly designated persons are required to complete an Initial Pecuniary Interest Return within 3 months of becoming a designated person.

Section 440AAB (2) of The Local Government Act 1993 states:

Returns required to be lodged with the general manager must be tabled at a meeting of the council, being the first meeting held after the last day specified by the code for lodgement, or if the code does not specify a day, as soon as practicable after the return is lodged.

Part 4.26 of the Model Code of Conduct states:

Returns required to be lodged with the general manager under clause 4.21(c) must be tabled at the next council meeting after the return is lodged.

This report is one of a series of reports of this nature which will be provided throughout the year to align with the legislative requirements. Annual Returns were reported to Council in October 2021.

Those persons who have submitted a return within the period in accordance with their obligation to lodge an initial pecuniary interest return are listed below:

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Group	Name	Designated Position Start Date	Returned
City Services	Ryleigh Bowman	27/9/2021	30/11/2021
City Development	Bridie Riordan	8/8/2021	30/11/2021
City Development	Stephanie Wood	5/10/21	29/11/2021
City Futures	Daniel Morgan	18/10/2021	1/12/2021
City Services	Durga Shrestha	5/10/2021	2/12/2021
City Development	Peter Fuller	21/8/2021	2/12/2021
City Development	Jonathan Stavert	30/8/2021	3/12/2021
City Performance	Matthew Hinks	15/9/2021	6/12/2021
City Development	Alexander Aronsson	11/10/2021	7/12/2021
Shoalhaven Water	Craig Ellis	5/10/2021	8/12/2021
City Development	Laura Marcocci	20/8/2021	9/12/2021
City Performance	Dane Hamilton	27/9/2021	9/12/2021
City Services	Phillippa (Pip) Hildebrand	30/8/2021	10/12/2021
City Lifestyles	Rose Bryant	16/8/2021	16/12/2021
City Services	Indika Wijayamanna	5/7/2021	21/12/2021
City Services	Joshua Windsor	2/8/2021	22/12/2021
City Development	Adrian Brandt	11/9/2021	6/1/2022
City Development	Levi Aydogan	30/8/2021	20/1/2022
City Development	Kerrie Keith	1/11/2021	30/11/2021
City Lifestyles	Noel Boyes	2/11/2021	20/12/2021
City Development	Gavin Pearce	15/11/2021	24/1/2022
City Development	Melissa Moyle	22/11/2021	10/1/2022
City Development	Andrew Shortle	22/11/2021	1/12/2021
City Services	Julia Simpson	29/11/2021	19/1/2022
City Services	Beorn Hulme	8/11/2021	2/3/2022
City Development	Stewart Harradence	6/9/2021	23/2/2022
Councillor	Serena Copley	23/12/2021	20/1/2022
Councillor	Evan Christen	23/12/2021	1/3/2022

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Councillors who were newly elected to the Council on 23 December 2021 are required to submit their Initial Pecuniary Interest Returns within three (3) months of that date. The list above indicates those Councillors who have submitted their returns at the date of the report. The remainder of newly elected Councillors will be included in the next report

Councillor Amanda Findley and Councillor Greg Watson each submitted an updated return with the Council within this period.

Advice provided to Council by the *Office of Local Government* in September 2015 was that 'hard copies' of returns are no longer required to be tabled at the Council meeting. Therefore,

the register of returns for this period is listed and tabled, with electronic versions of the documents may be viewed upon request.

Risk Implications

A failure of meeting the obligations with respect to the Pecuniary Interest Returns by a designated officer leaves Council at risk of non-compliance with legislative requirements, conflicts of interest and limited transparency. Staff who do not complete a return may be in breach of the Council's Code of Conduct.

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CL22.117 Donations Policy Review

HPERM Ref: D21/336612

Department: Business Assurance & Risk
Group: City Performance

Attachments:

1. Draft Donations Policy 2022 [↓](#)
2. Draft Guidelines & Application Form [↓](#)
3. Draft Assessment Panel Guidelines [↓](#)
4. Donations Equivalent to Rates - MIN93.560 [↓](#)
5. Collated Information on Donations, Subsidies and Grants within the DPOP [↓](#)

Purpose / Summary

To provide a Draft Donations Policy and Procedures to be endorsed for public exhibition.

Recommendation

That:

1. The Draft Donations Policy (Attachment 1) be placed on public exhibition for a period of four (4) weeks to obtain community feedback on the Draft Policy
2. All current recipients of donations be advised in writing of the public exhibition and their ability to make comment.
3. A report be provided at the completion of the exhibition period, outlining the submissions received and a Final Draft Policy and Procedures for adoption by the Council.

Options

1. As recommended
Implications: The Policy will be placed on exhibition and returned to the Council
2. The Council amend the Policy prior to exhibition
Implications: Not known
3. The Council adopt the Policy without exhibition
Implications: There is no requirement for public exhibition of this Policy under legislation, however it is recommended to allow the Council to consider input from the community prior to adoption of the Policy.

Background

Council's Internal Audit Coordinator presented a report in December 2020 on Council's Donations Policy and Procedures framework to the Audit, Risk & Improvement Committee (ARIC). The objective of the internal audit was to assess whether there were effective controls in place around the management of grants processes including:

- Dealing with requests for donations and accounting for approved donations including assessment and acquittals.
- Meeting legislative and approved budgetary requirements.

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- Whether Council policy, procedures and guidelines are appropriate, current and complied with
- Whether processes reflect good practices and take into account opportunities for business improvement.

The audit identified several risks and concluded that the Donations Policy and Procedures needed to be reviewed and updated to provide improved access and transparency in several key areas.

There were some deficiencies identified in not meeting compliance with the expectations of the Office of Local Government guidelines for donations. This included forms of application, assessment criteria, and processes and procedures for ensuring public notice is given outside the DPOP budget process.

The Internal Audit made seven recommendations which were endorsed by the ARIC, who subsequently endorsed the draft Donations Policy attached to this report.

Previous Review of Donations Policy

In 2019 a Draft Donations Policy was considered but was not adopted by Council (MIN19.234), which instead resolved:

That the Draft Donations Policy be deferred to a Councillor Workshop and determine who should receive a permanent/allocated donation with the view to implementing a new policy in the 2020/2021 financial year.

At this workshop, held in November 2019, Councillors expressed a desire for the Donations Policy (then POL12/299) to be retained, with the addition of a requirement for all recipients of donations to submit an evaluation report prior to payments in further years. POL12/299 was amended accordingly and Council adopted the revised Policy POL16/181 in March 2020 (MIN20.172). [This is the current Donations Policy.](#)

The unadopted 2019 draft included many of the provisions recommended or endorsed by the Internal Audit. That draft has now been updated (see Attachment 1) and is presented to Council for approval to be placed on public exhibition and consequent consideration for adoption prior to the end of the 2021-22 Financial Year.

Revised Format

The addition of separate categories and assessment criteria, as recommended by the internal audit and ARIC, has expanded, and complicated the Donations Policy to the extent that separating the Policy from the operational Guidelines and Application Form is suggested.

This reformat is proposed to acknowledge feedback received from Councillors, during the previous review process, that if the documentation remains combined it could be onerous for some members of the community to manage.

The attachments to this report are:

1. Draft Donations Policy 2022.
2. Draft Guidelines & Application Form.
3. Draft Assessment Panel Guidelines. The expanded assessment criteria primarily inform the deliberations of the Assessment Panel, rather than the applicants, for whose guidance a condensed version of the criteria has been retained in the draft Policy.

Recommendations of the Audit, Risk & Improvement Committee

Recommendation 1: Compliance with Office of Local Government Guidelines

The Donations Policy to be further developed as appropriate to incorporate all the important matters identified by the Office of Local Government, that is, forms of application, assessment processes including criteria, public notification procedures and follow up evaluation procedures.

The Office of Local Government (OLG) reiterated the requirements of the *Local Government Act 1993* in relation to financial assistance, in its [Circular 06-32 – Provision of financial assistance under Section 356](#). The ARIC agreed that Council must revise its Donations Policy to meet the legislative requirements and improve transparency in its application.

The revised draft Policy and Procedures reintroduces the following provisions:

- A defined advertising period and application deadline, to improve public notification;
- An Assessment Panel, comprising of representatives from Council and staff, to assess incoming applications and make recommendations to Council;
- Assessment criteria specific to different categories, for use by the Panel;
- Explicit requirement for applications to be made in accordance with the Policy.

Recommendation 2: Alignment with Community Strategic Plan

To ensure alignment with the Council's Community Strategic Plan further consideration be given to the proposals previously put forward by management to amend and update the Donations Policy relating to donation categories and an annual application process.

The revised draft Policy and Procedures make demonstrating a project's alignment with identified key priorities of the Community Strategic Plan an integral factor in the assessment criteria for each of the categories. This approach has been taken in consultation with Council's Corporate Performance Reporting Manager.

The proposed Assessment Panel is tasked with recommending those applications which adequately demonstrate this alignment.

Recommendation 3: Donations Policy Framework

Council's donations policy approach to be updated to incorporate categories of donations with relevant assessment criteria and to require a publicly advertised application lodgement process to be submitted.

This audit finding focused on procedures and governance of the Policy. The Internal Audit considered that "establishing categories of donations with relevant assessment criteria and requiring an annual application to be submitted through public notification would create an improved governance and internal controls environment." The revised Draft Policy incorporates these procedures.

Recommendation 4: Funding Support Programs

Consideration be given to transferring the following established funding areas within allocation donations to be administered separately from the Donations Policy framework, to take effect from the DPOP 2021-2022 period:

- a) Community Consultative Bodies.
- b) School Citizenship Awards.
- c) Surf Life Saving Clubs providing Patrolling services.
- d) Illawarra Academy of Sport.

These represent allocated donations that are offered to all known eligible recipients within the Local Government Area for a specified program, respectively: all recognised CCBs; all High Schools; all Surf Life Saving Clubs; and the Illawarra Academy of Sport as the sole entity in its category. These groups of donations are now being administered by the City Lifestyles Directorate.

Recommendation 5: “Rates Subsidy” Assistance

A review be undertaken of the current “Rates Subsidy” donations with a view to considering their ongoing funding as part of an established program category or categories for financial assistance, where applications are sought from all like community organisations for assessment against agreed criteria.

Council provides a “Rates Subsidy” to 18 community organisations such as local community associations, sporting groups, community health and local RSL sub-branches with an annual total value of more than \$32,000. This is a long-established category of donations that pays the rates levied on premises meeting certain criteria, dating back to at least 1979. Attachment 4 sets out an example of the annual Council resolution (MIN93.560) to “donate the sum equivalent to the rates levied” to a list of community halls and other specified premises. Several of the recipients have changed over the years, but there has been no reassessment of the composition of the list.

Other similar organisations occupying “land that belongs to a public benevolent institution or public charity and is used or occupied by the institution or charity for the purposes of the institution or charity” are exempt from paying rates under 556(1)(h) of the *Local Government Act 1993*. The Rates Subsidy is extended to community organisations that do not qualify for exemption; for example, where the land is held under a permissive occupancy arrangement.

The Rates Subsidy category does not currently require an application process for recipients that would assure continuing eligibility. Council’s Internal Audit determined that this category risks grants not being made in a transparent manner, finding that any financial assistance provided to the listed community groups should form part of an annual donation assistance program with established criteria, where all like community organisations have an opportunity to apply.

Staff have reviewed this category and proposed that:

- Council should review the list of recipients at each term, with an annual confirmation subject to receipt of an acquittal.
- Recipients should be required to demonstrate they’re not for profit or charitable status.
- Applications be opened to occupiers who may not own their own land.

Council is accordingly requested to endorse the amendments to the Rates Subsidy category as included in the draft Donations Policy, on the understanding that Council will be provided with the opportunity to review the list of recipients on the Policy’s adoption.

Recommendation 6: Cessation of Allocated Donations

Having regard to audit findings 4.0, 5.0 and 6.0, Council to cease the listing of “allocated donations” within the annual DPOP / Budget process.

The Allocated Donations previously mentioned are historically the beneficiaries of Council resolutions to fund these programs, either in perpetuity, or for a specified year and then let stand in the DPOP in ensuing years. The Allocated Donations for 2021/22 were resolved in in accordance with previous practice, pending the present review of the Policy and process.

The Donations Policies prior to 2012 required that “The granting of all donations, sponsorships and subsidies will be subject to a fresh written application being lodged with

Council each year.” This changed for POL12/299, which was adopted at Ordinary 21 June 2013, to require fresh written applications only for Unallocated Donations (MIN13.589).

A significant proportion of existing donations will continue as “Allocated Donations” and be administered by the City Lifestyles Directorate, per Recommendation 4 above. Reinstating application procedures for all other applicants will maintain an overall equitable and transparent approach to financial assistance and will allow Council to better monitor how ratepayers’ funds are being expended.

Recommendation 7: Business Improvement Opportunity

A cost benefit analysis be undertaken as to the merits or otherwise of implementing a web-based online donations/grants software system.

Council staff have been progressing a common web-based donations / grant software package in accordance with this recommendation, involving the Community Connections, Governance, Tourism and Arts and Culture business units, to workshop the acceptance of submissions via an online database such as SmartyGrants. Staff were strongly in favour of this recommendation, which will bring efficiency benefits to both staff and community users.

The timeline for adoption of a revised Policy is proposed as follows:

Date	Action
17 February 2022	Briefing of Councillors conducted providing an overview of the Donations Policy review to date, ARIC recommendations and seeking comments on the timetable for the policy.
14 March 2022	Current report to Council’s Ordinary Meeting
15 March - Late April 2022	Public exhibition of Draft Policy – Current recipients will be provided a Draft of the Policy and encouraged to make a submission
May 2022	Report to Council’s Ordinary Meeting following exhibition for Policy adoption
May /June 2022	Advertising for 2022/2023 Applications
July 2022	2022/2023 Donation Application period – Including workshops for potential applicants
August 2022	Assessment Panel Reviews Applications
Late August 2022	Report of Recommended recipients Council’s Ordinary Meeting
September 2022	Applicants advised of funding and payments made

Attachment 5 provides a breakdown or explanation of all other Donations, Subsidies and Grants within Council’s DPOP which was requested by Councillors at a recent briefing on this matter.

Community Engagement

Given the implications of this Draft Policy on community groups and organisations it is proposed that it be publicly exhibited prior to Council considering it for final adoption. All current recipients will be invited to make submissions.

Once the Council has adopted a new Policy, workshops will be organised to inform potential applicants of the application process.

Policy Implications

It is noted that in addition to donations, there are several grants and opportunities for funding by Council. The draft Policy is framed to re-work the current ‘allocated’ and ‘unallocated donations.

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It is recommended that the Council consider resourcing a review of those other grants and funding opportunities made available by the Council to present a combined presence or portal facilitating the sharing of information and access to those funds.

Financial Implications

It is envisaged that the budget for donations will remain at the current levels, with the funding being split across the categories within the Policy.

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DRAFT

Donations Policy

(March 2022)

Adoption Date:	26/03/2002
Reaffirmed:	28/09/2004
Amendment Date:	27/04/2010, 28/06/2011, 21/06/2013, 10/03/2020
Minute Number:	MIN02.282, MIN04.1165, MIN10.450, MIN11.609, MIN13.589, MIN20.172
Review Date:	01/12/2020
Directorate:	City Performance

CL22.117 - Attachment 1

Donations Policy

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CL22.117 - Attachment 1

Donations Policy

1. Objectives

The objectives of the policy are:

- To detail the principles whereby Council provides financial assistance (donations, sponsorships and subsidies) in a consistent, equitable and transparent manner that meets the requirements of the Local Government Act, 1993 and other legislative provisions;
- To consider financial assistance by way of donation, sponsorship and subsidies to local service, cultural, sporting, charitable or non-profit organisations who
 - operate within or provide benefit to the residents of the Shoalhaven or
 - conduct quality cultural, sporting and community service programs and activities in the Shoalhavenand who cannot attract sufficient funds from other sources;
- To address priorities within the Community Strategic Plan;
- To consider funding to encourage and enable broad community participation in cultural, sporting and community service activities;
- To establish an application process including guidelines and procedures for use by organisations in applying for donations, sponsorships or subsidies (including 'in kind' support).

2. Statement

Subject to budget allocations each year, Council is committed to provide funding annually to meet the objectives of this policy.

2.1. Scope

This policy applies to applications for financial assistance and 'in kind' support by way of donations, sponsorships and subsidies granted by Council to organisations. It does not deal with Fee Waivers that are dealt with under the Fee Waivers, Subsidies and Support Policy and the Fees – Waiving of Development Application and other Fees by Charitable Organisations and Community Groups Policy.

2.2. Categories

Applications should be submitted within one of the categories nominated below.

A) GENERAL DONATIONS (CULTURE, COMMUNITY & ENVIRONMENT)

These may include:

- community development projects that meet an identified community need, have been developed in consultation with the community and encourage community participation in the development of the project.
- heritage / environment projects.

Donations Policy

- community development, training, education and awareness activities.
- co-funding for large or new cultural and community projects.

B) SPONSORSHIP OF LOCAL EVENTS

These may include festivals and special activities which enhance community spirit.

C) SUBSIDISED RENTAL, RATES AND USE OF COUNCIL FACILITIES

Rent subsidies or Council rates relief may be available for:

- community, charity and not for profit activities on public open space/reserves.
- community, charity and not for profit organisations' use of Council owned and controlled facilities.

2.3. Guidelines and Procedures for Applicants

This policy must be read in conjunction with Council's adopted Guidelines and Application Form and the Assessment Panel Guidelines which set out the full eligibility criteria.

Applications will be sought annually through advertising and on Council's website. Applications are to be made on the relevant form, and address all criteria outlined in the Guidelines. The Application for Financial Assistance Form with required supporting information should be submitted to Council by 5.00pm on the advertised closing date for consideration within Council's Annual Donations Program. An application will only be considered as lodged once all required information has been submitted.

Applications to be considered under this Policy will be assessed by a Donations Assessment Panel against the criteria and with reference to the annual Donations budget. The Donations Assessment Panel comprises representatives from Council and will be convened by Council's Business Assurance & Risk Manager. Staff representatives will be selected from the appropriate functional areas of Council to reflect the applications received. All individuals involved in assessment and decision making must meet the requirements of Council's Code of Conduct, including the declaring of any interests at the commencement of each meeting to consider applications.

Panel members will score applications against the criteria set out in the accompanying Assessment Panel Guidelines, and the cumulative scores will be considered at a meeting of the Panel. Minutes will be taken of the Panel's reasoning for its decisions. The Panel will recommend to Council those applications to receive financial assistance based on alignment with the Community Strategic Plan Key Priorities, and on compliance with the documentation and acquittal requirements of this Policy.

The elected Council will determine the funding to be provided from the Application process.

The following criteria apply to all donation categories:

- What Community Strategic Plan Key Priorities does the project meet?
- Who and how many benefit from the project/event (target group)?

Donations Policy

- To what degree is the group/or project self-financing?
- Has the need for the project/event been demonstrated?
- Has the need for funding or subsidy been demonstrated?
- Is the organisation able to make a contribution either in monetary funds or in kind, eg labour, materials, etc?
- What efforts have been made to seek funds from other sources?
- Does the application have a broad community focus?
- If the project/event has a regional focus what benefit will occur for Shoalhaven residents?

Projects/Events NOT Eligible for Funding:

- where benefit is primarily to an individual
- duplication of service or project already existing within the Shoalhaven Local Government Area
- projects occurring outside the Shoalhaven Local Government Area
- projects that are retrospective
- projects which do not align with Council's Community Strategic Plan
- where applicants are in a position to self-fund the project
- where a more applicable funding source is available
- where applicants are government departments or agencies
- where application is for capital funds (e.g. building and building maintenance costs)
- where a project will financially benefit a profit-making organisation, individual or a government department
- projects and facilities or services controlled through Council appointed Management Committees (where these projects, facilities or services are not under Council's direct care and control)
- where the proceeds or entry fee from a project or event are being donated to another organisation
- where there is no direct benefit to Shoalhaven City residents

3. Provisions

The granting of all donations, sponsorships and subsidies is made pursuant to [Section 356](#) of the Local Government Act, 1993 subject to the constraints outlined in [Section 377](#) of the Act.

The granting of all financial assistance will be subject to a fresh written application being lodged with Council for each donation period. Recurring donations for ongoing projects may submit an application every three (3) years, providing that an acquittal of expenditure is provided annually.

Donations Policy

- Applications should be submitted in one of the categories nominated above; however, Council may at its discretion determine to assess an application under a more appropriate category.
- Applications which do not meet the criteria in the Guidelines shall be advised that the request is not eligible for consideration under this policy.
- Council reserves the right to assess any application (not fitting the criteria for assessment) on its merits according to Council's Policies and Procedures and Community Service Outcomes.
- Applications for financial assistance will generally not be considered where the application also meets the criteria for other grants/donations provided by Council through the Shoalhaven Arts Board, the Shoalhaven Tourism Advisory Group, the Shoalhaven Sports Board and/or Council's Community Development Grant Program. In these cases, applications will be sent directly to the appropriate area for consideration.
- It is a condition of funding that a detailed acquittal of any prior funding allocated under this policy is provided to Council before any further request is considered.
- Donations will be limited to funding from the Annual Budget directed by the Council.

4. Delegation

In accordance with Section 377 of the Local Government Act, 1993 the Chief Executive Officer may authorise payment of a donation, sponsorship or subsidy voted by Council, other than where it is a decision under Section 356(2) to contribute money or otherwise grant financial assistance to an individual. Payment to an individual must be authorised by a Council resolution and following a 28 day public exhibition period, if applicable.

The Chief Executive Officer (Director, City Performance) has delegated authority to approve any out of policy requests for donations of up to \$1000 in exceptional circumstances/requests which align with Council's strategic objectives and do not require a resolution under Section 356(2) of the Local Government Act.

5. Events Policy

All community events funded under this policy will be required to comply with Council's Events Policy.

6. Implementation

Council's Donations Assessment Panel will receive and assess applications for funding and report to Council. Council's City Performance Directorate will respond to written requests for financial assistance.

Donations Policy

Details of the Policy will be available via Council's website at all times and an additional advertising will be undertaken in advance of the annual application

7. Review

This policy will be reviewed within one year of the election of every new Council, and other times when required.

8. Application of ESD Principles

None Applicable

DRAFT

CL22.117 - Attachment 1



DRAFT Guidelines & Application Form

Donations Policy

Each financial year, Shoalhaven City Council makes funds available under its Annual Donations Program for local not-for-profit community groups and organisations. The aim is to support a wide range of activities that build community capacity, foster social networks and information exchange, facilitate cooperation and build on existing community strengths, and reflect the priorities of the Council's Strategic Planning documents.

Applications will be sought through advertising and on Council's website between February and March each year. Applications are to be made on the relevant form, and address all criteria outlined in these Guidelines.

The Annual Donations Program has the following categories that can be applied for:

- A. General (Culture, Community and Environment) Donations Program
- B. Sponsorship of Local Events
- C. Subsidised Rental, Rates and Use of Council Facilities

These Guidelines should be read in conjunction with Council's adopted [Donations Policy](#).

Definition

These guidelines are designed to assist applicants in the preparation of, and Council in the assessment of requests for, Donations which enhance the cultural, social, sporting or community services provision within the City.

The Annual Donations Program is funded and expended on a financial year basis, i.e. 1 July to 30 June.

The Donations Assessment Panel comprises representatives from Council and will be convened by Council's Business Assurance & Risk Manager. Staff representatives will be selected from the appropriate functional areas of Council to reflect the applications received. The Panel will recommend to Council those applications to receive financial assistance. All individuals involved in assessment and decision making must meet the requirements of Council's Code of Conduct.

Application Procedure for Funding

The Application for Financial Assistance Form with required supporting information should be submitted to Council by 5.00pm on the advertised closing date for consideration within Council's Annual Donations Program

The application form must be accompanied by supporting documents listed in the included checklist. If an application form is not completed, or insufficient information is included, it will be returned for completion and re-submission to Council.

Applicants may be required to provide additional information.

Subject to funding being available in the budget after funds have been allocated under the Annual Donations Program, Council may consider a qualifying application outside of the Program if it can demonstrate that:

- It could not have been foreseen in time to meet the Annual Donations Program deadline;
- There is a significant public interest or demand for the project, event or service;
- That funding is required prior to the donation program funding being available.

Upon receipt of an application, it will be submitted to Council's Donations Assessment Panel for consideration, or forwarded to another area of Council if appropriate.

Applications to be considered under this Policy will be assessed by a Donations Assessment Panel against the criteria listed below and with reference to the annual Donations budget. The Panel will make its recommendations to Council for determination, following which applicants will be advised whether they have been granted funding.

Persons or organisations making applications which do not meet these guidelines shall be advised that the request is not eligible for consideration.
Subject to funding available in the budget, Council will consider applications as they are received.

Funding Limitations

- Council resources are limited and not all applications will be funded.
- Council does not guarantee to fund any application and does not guarantee to fund any application to the full amount requested.
- Applicants are encouraged to seek further sources of funding.
- Applicants in receipt of Council donations or grants (whether funds or in-kind) in a given Financial Year are not eligible to apply for further Council donations or grants for the same project or program in that same year.
- Where Council funding is approved, this is not to be taken as an on-going commitment to funding for any following years.

Conditions

- The Application Form must be completed and submitted to Council in accordance with the directions of any advertising. Late applications will not be accepted.
- Applicants may be invited to attend an interview as part of the application process.
- Funds should be expended within the financial year of the sponsorship, donation or subsidy. Any unexpended funds must be returned to the Council. This may allow those funds to be reallocated to another group in that year.
- If an organisation wishes to modify its request or alter the proposed project, or event, the applicant should make this request in writing. It is at the discretion of the Chief Executive Officer (Director, City Performance) to determine whether the intention of the modified project meets Council's objectives of the original grant made by Council; and if not, the actions that are required.
- Recipient groups will be required to give public recognition to the donations, sponsorships and subsidies received from Council and acknowledge Council's financial assistance on any related promotional or other material. Failure to do so may result in the disqualification of the group or its affiliates from further funding.
- Recipients must provide an acquittal and/or evaluation report, where specified in the applicable category, by the end of the financial year in which the funding was provided (30 June). If acquittals/reports have not been received by the end of the financial year, the Council may choose not to consider applications submitted by that applicant in the next round of funding.
- The failure of any group to comply with these conditions may disqualify them from consideration for funding in a subsequent year.
- Where the request is for funds for an event, evidence (i.e. Certificate of Currency) of public liability insurance to a minimum value of \$20 Million must be provided, noting the interests of Council with an Insurer approved by the Australian Prudential Regulatory Authority. This provision is applicable where the activity or event is being conducted on Council owned and controlled land or facility.
- Events that receive donation funding from Council remain the property of the recipient organisation(s). Organisers retain responsibility for obtaining relevant permits, event logistics, marketing, and administration relating to planning and holding the event. The provision of funding by Shoalhaven City Council does not imply any ownership or management responsibility for the event being accepted by Council.
- Council may impose an additional condition on sponsorship, donation or subsidy recipients, which encourages links to major festivals or events, displays or performances.
- Council reserves the right to conduct an audit on the acquittal.
- Applicants are reminded of the impact of GST (see below)

Impact of the GST

Unless recipients of grants after 1 July 2000 have an Australian Business Number (ABN), the supplier of the grants (i.e. Council) must remit 48.5% of the sponsorship, donation or subsidy total in withholding tax to the Australian Tax Office. The recipient may receive part of this back when they submit their tax claim at the end of the year, but it is our understanding that most community organisations would not find half a grant to be a viable proposition. Although Council is not stating that you must have an ABN number, Council strongly recommends that your organisation have one.

Under the current Tax System, there are generally three options available to your organisation. They are listed as follows:

OPTION ONE (the preferred option)

Your organisation has an ABN number and is registered for the GST. This means that if you are successful in gaining a sponsorship, donation or subsidy the funds you receive will be “grossed up” to include the GST component. You will then pay the GST to the Federal Government. As Council is in effect paying the GST on your sponsorship, donation or subsidy, Council will then claim back the GST through its monthly Business Activity Statement and will receive an Input Tax Credit.

Successful applicants who are registered for the Goods and Services Tax must supply Council with a tax invoice. Council will gross up the sponsorship, donation or subsidy by 10 per cent for successful applicants who are Goods and Services Tax registered.

OPTION TWO

Your organisation has an ABN number but is not registered for the GST. This means that if you are successful in gaining a grant the funds you receive will not have a GST component included.

OPTION THREE

You do not have an ABN number and therefore if you were successful in receiving a sponsorship, donation or subsidy, Council have to remit 48.5 cents in every dollar as withholding tax to the ATO.

To avoid Council having to withhold 48.5% as withholding tax and remitting this to the ATO an exemption statement may be completed by the applicant (refer to “statement of supplier” form attached) and submitted to Council.

Council will then assess the application form in terms of whether it complies with the GST legislation particularly in respect of withholding tax.



Application for Financial Assistance/Donation

File 4771E

Financial Year ____/____

- Please refer to the Donations Policy before completing this application form. This information is the minimum required for an application.
- Please attach additional information as requested in the Checklist of documents to be forwarded with application, as listed at the end of this form.
- Applications are due by 5.00pm on XX May 20XX.
- The decision of the Assessment Committee is final.
- Please contact the Governance Team on 4429 3316 for further details if required.

Date of Application:

- Category
☐ General Donations (Culture, Community, Environment)
☐ Sponsorship of Local Events
☐ Subsidised Rental, Rates and Use of Council Facilities
☐ Other / Not sure
- Title of Project or Event:
- Amount of assistance being sought: \$

Details of Organisation / Individual:

- Name of Applicant / Organisation responsible for the event/activity:

 Contact person
- Mailing address:
- Email:
- Phone:
- Type of Organisation (please tick all that apply):
☐ Not for Profit ☐ Registered Charity ☐ Incorporated
☐ Commercial undertaking ☐ Other (please specify)

Details of Event / Project

- Have you [applied for approval](#) with Shoalhaven City Council for this event? ☐ YES ☐ NO
- (If yes) Date of submission
- Date/s of the proposed event/project

CL22.117 - Attachment 2

12. Where will the event/project take place?
13. Brief description of the event/project:
-
-
14. Who will the target audience or participants be?
-
-
15. Is this proposed to be an annual event/project? ☐ YES ☐ NO
16. Will the proceeds of this event be donated to another organisation or charity? ☐ YES ☐ NO
- If YES, please specify:

Funding

17. Total cost of the event or project: \$
18. Funds held by the organisation that will be used to support the event or project: \$
19. Will there be a fee, charge or contribution payable by participants? ☐ YES ☐ NO
- If so, please give details:
-
20. Has Council previously assisted your organisation with an event or project? ☐ YES ☐ NO
- If YES, please give details:
-
- Have you applied for funding for this event or project from others? ☐ YES ☐ NO
- If YES, please state:
- a. Other funding from Council:
- | <u>Source</u> | <u>Amount</u> | <u>Successful?</u> |
|---------------|---------------|--|
| | \$ | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| | \$ | <input type="checkbox"/> YES <input type="checkbox"/> NO |
- b. Funding from other organisations:
- | <u>Source</u> | <u>Amount</u> | <u>Successful?</u> |
|---------------|---------------|--|
| | \$ | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| | \$ | <input type="checkbox"/> YES <input type="checkbox"/> NO |
- If any applications were successful, what was the total amount allocated? \$
21. Is it anticipated this event/project will be self-funding in the future? ☐ YES ☐ NO
- If YES, please provide details:

22. How do you intend to give public recognition to the financial assistance received from Council and acknowledge Council's financial assistance on any related promotional or other material?

.....

.....

.....

23. Please select the Community Strategic Plan Key Priorities that this event/project will meet:

1.1 Build inclusive, safe and connected communities

- ☐ Connectedness – people's sense of belonging
- ☐ Safety – emergency services, resilience ☐ Wellbeing and social support

Activate communities through arts, culture and events

- ☐ Visual and performing arts ☐ Cultural heritage
- ☐ Building social capital ☐ Public art projects

1.2 Support active, healthy liveable communities

- ☐ Sports and fitness ☐ Healthcare promotion

2.3 Protect and showcase the natural environment

- ☐ Community education ☐ Clean-up and beautification
- ☐ Animal / wildlife welfare ☐ Bushcare / Dunecare / Parkcare

3.1 Maintain and grow a robust economy with vibrant towns and villages

- ☐ Markets and small producers ☐ Employment opportunities
- ☐ Other (please state)

24. Please provide any other information in support of this application (use a separate page if necessary):

.....

.....

If your application does not relate to rental, rates or use of Council facilities, please skip this section.

25. Please state for which property or facility the rental or rates subsidy is being sought:

.....

26. Does Shoalhaven City Council own or manage this facility? ☐ YES ☐ NO

How often will your organisation use this facility?

Please estimate the amount of time that your organisation uses the facility each month:.....

27. Please give a brief description of the project or activities for which the premises are being used:

By your organisation:

By others:

Checklist of documents to be forwarded with application:

- ☐ For first time applicants, a copy of their organisation's constitution and if that constitution changes then an updated copy of it is to be forwarded with any subsequent application.
- ☐ A copy of the most recent annual report (including financial statements of income and expenditure) – preferably audited.
- ☐ Copy of notification of ABN and GST registration (if applicable) from the Australian Tax Office.
- ☐ If the above does not apply, completed Statement by a Supplier (Form is provided at Attachment 1).
- ☐ Evidence of incorporation where applicable.
- ☐ For events, a copy of the applicant's current public liability insurance policy (Certificate of Currency).
- ☐ Where the applicant is a registered public charity, a copy of the registration certificate.
- ☐ Where the applicant is an unregistered not-for-profit organisation seeking rates subsidy, evidence of charitable purpose and details of occupancy of property.
- ☐ Budget for the event or project. This should be a firm estimate if not the final budget.
- ☐ Detailed acquittal report of previous Council financial assistance received, if not already submitted.
- ☐ I / we certify the information provided is true and correct.

In making this application I / we confirm that:

- a. Where funding is being sought for an event, this event will comply with Council's Events policy.
- b. I / we will retain full responsibility for organising and hosting the project or event, including marketing, procurement, administration, obtaining all relevant permits, and supplying information as requested by Council.
- c. No financial assistance, other than that which is outlined in this application, is being received or sought from Council this financial year for this project or event.
- d. I / we undertake to provide an acquittal of the funding by the end of the financial year in which the donation is paid.

I have been authorised by..... (organisation) to make this application.

Full name:

Position in organisation:

Signature.....

Date.....

PLEASE RETURN COMPLETED APPLICATION AND SUPPORTING DOCUMENTATION TO:

The Chief Executive Officer, Shoalhaven City Council, PO Box 42, Nowra NSW 2041
Email: council@shoalhaven.nsw.gov.au



DRAFT Assessment Panel Guidelines

Donations Policy

The objectives of the Assessment Panel are to recommend to Council the allocation of funding under the Donations Policy within the allocated budget and to ensure that the allocation of funding supports the Community Strategic Plan Key Priorities of Council.

The Assessment Panel will comprise representatives from Council and staff drawn from relevant Business Units. The Panel will be chaired by the Mayor or their delegate.

- The Panel will consider all eligible applications received under the Donations Policy since the last meeting of the Panel.
- A list of ineligible applications received will also be presented to the Panel.
- All staff recommendations to the Panel will be consistent with the eligibility criteria and funding priorities as outlined in the Donations Policy and associated documents.
- Where the Assessment Panel chooses to make a recommendation (either to fund or not fund) that sits outside the Donations Policy and Guidelines, the rationale for such recommendation will be detailed in the minutes.
- The business conducted at each meeting will be recorded in the minutes and copies of the minutes will be distributed to Panel members, Councillors and the Council's Executive Team. Council may request a formal report from the Panel.
- Applications are to be scored using an assessment matrix against the appropriate criteria for the category.

Members of the Assessment Panel are required to:

- Impartially and transparently deal with all applications for financial assistance;
- Have reference to the Code of Conduct and to Council's core values of Respect, Integrity, Adaptability and Collaboration in their deliberations;
- Avoid conflicts of interest and the releasing of confidential information.

If a member identifies that they have a conflict of interest in a matter before the Panel, then that member must declare their interest immediately and not partake in any discussion or decision on the matter. The declaration will be recorded in the minutes of the meeting.

Assessment Criteria

The following criteria apply to all three categories:

- Applications should demonstrate how the project or program aligns with one or more of the Community Strategic Plan Key Priorities, which may include:
 - 1.1 Build inclusive, safe and connected communities
 - 1.2 Activate communities through arts, culture and events
 - 1.3 Support active, healthy liveable communities

2.3 Protect and showcase the natural environment

3.1 Maintain and grow a robust economy with vibrant towns and villages

- If the project has a regional focus what benefit will occur for Shoalhaven residents?
- Does the application have a broad community focus?
- Who and how many benefit from the project/event (target group)?
- To what degree is the group/or project self-financing?
- Has the need for the project/event been demonstrated?
- Has the need for funding or subsidy been demonstrated?
- Is the organisation able to make a contribution either in monetary funds or in kind, e.g. labour, materials, etc?
- What efforts have been made to seek funds from other sources?
- Is it a 'one-off' request or likely to be a recurring request?
- What effect would a donation/subsidy only to the project/event make to the outcome?
- If the application is by an individual, is it accompanied by evidence of an agreement with a suitable auspicing organisation?

A. General Donations (Culture, Community & Environment)

These may include:

- community development projects that meet an identified community need, have been developed in consultation with the community and encourage community participation in the development of the project.
- heritage / environment projects.
- community development, training, education and awareness activities.
- co-funding for large or new cultural and community projects.

Applications will be assessed against the following additional considerations:

- Does the project have the potential to contribute to the community's sense of belonging?
- Where applicable, does the project have the potential to improve the natural environment or the community perception of the natural environment?
- Does the project have the potential to contribute to tourism, education, business and/or employment in the Shoalhaven?

B. Sponsorship of Local Events

Requests for in-kind sponsorship will be assessed based on the criteria outlined in this policy and will be given a dollar costing at the normal rate of Council for such services or facilities. This value will be considered by the Donations Assessment Panel along with all other sponsorship applications.

All applicants will be required to abide by Council's Events Policy, and be responsible for obtaining all necessary permits and insurance policies and for payment of all fees and bonds that may be incurred by facilities bookings. Recipients of sponsorship funding are not eligible to apply for waivers of hire fees or other related charges for the same event.

Successful applicants will be advised of Council's sponsorship including conditions of sponsorship and the Sponsorship Agreement. This includes requirements for:

- Acknowledgement of Council (including logo) equivalent to other similar amount sponsors and/or as stated within Council's Sponsorship Agreement;
- The applicant to obtain and comply with all certificates and approvals required by law or Council policy to hold the proposed event;
- Council to have the opportunity to display banners (as supplied by Council) at events;
- Council to have the opportunity for a stall at all events.

Applications will be assessed against the following additional considerations:

- Who and how many people will attend the event?
- Does the event have the potential to contribute to tourism, education, business and/or employment in the Shoalhaven?
- Is the organisation able to make a contribution either in monetary funds or in kind, e.g. labour, materials, etc.?
- Does the application include all required supporting documentation, such as permits and insurance coverage?

Events not eligible for funding:

- Events already receiving support through another Shoalhaven City Council funding program;
- Local events that only target a specific sector or group and do not actively engage the general broader community;
- Fetes;
- Conferences/Dinners;
- Award presentations;
- Political events;
- Fundraising and charity events where the majority of funds raised go outside the Shoalhaven area;
- Any event with sponsorship assessed as actual, potential or perceived conflict of interest between Council and the applicant or another sponsor.

C. Subsidised Rental, Rates and Use of Council Facilities

Not-for-profit users of Council facilities (or other premises, subject to assessment) may apply to Council's Annual Donations Program for rental, hire fees or rates subsidies.

Rental Assistance: Applicants must be a not-for-profit organisation or community group to apply for Rental Assistance. Applicants must demonstrate that the activities or programs to be conducted at the premises provide benefit (or have the capacity to benefit) for the Shoalhaven community. Applications may not be eligible if the premises are being or will be rented at reduced or special hire rates.

Rates Subsidies: Council will consider donations towards rates levied on community halls which are used as public halls in a particular area, or other rateable premises which are solely used for charitable purposes. This category excludes properties that are exempt from rates under s556(1)(h) of the Local Government Act 1993. Applicants are required to submit evidence of use of the premises for charitable or not-for-profit purposes. Applications will be invited for rates or rent charges that fall due in the following financial year.

Facilities Hire: Organisations may apply for a Facilities Hire donation for use of a Council Facility that is able to be hired by the public, as outlined in Council's annual fees and charges. Applicants must be a not-for-profit organisation or community group to apply for a Facilities Hire donation. Applicants must demonstrate that the activities or programs to be conducted at the facility provide benefit (or have the capacity to benefit) for the Shoalhaven community.

Applications will be considered for venue hire only and not for related Council services such as bonds, staffing or equipment hire.

Applicants must have made a tentative booking for Council's facilities, and must complete the application form and attach the booking confirmation to the application. Additional documentation should be provided, including a copy of:

- Public Liability Insurance Certificate of Currency (minimum \$20,000,000 coverage), listing Council as an interested party, current for the term of the hires.
- Proof of not-for-profit status;
- Supporting documents, including project budget, marketing material, event plan, or membership documents.

Details of the venue hire requirements are set out in the Public Reserve/Building Hire Application Form available on the Council website.

Organisations in receipt of any previous donation or grant funding from Shoalhaven City Council must have submitted an acquittal report by the due date. Applications will not be considered for additional Facilities Hire funding for an activity or program where the organisation is already in receipt of a donation or grant covering venue hire for the same project.

Applications will be assessed against the following additional considerations:

- Who and how many use the facility/premises?

- How frequently will the premises be used?
- For what purpose is the facility/premises used?
- How is the activity taking place on the premises funded?
- Are the participants required to pay a fee for the activity held on the premises?
- Has the need for the use of the premises been demonstrated?

Recommendations for funding of \$1,000 or less may be approved by the CEO or their delegate, provided the financial assistance is in accordance with sections 356(3), 377(1A), and 378 of the Local Government Act 1993.

REPORT OF GENERAL MANAGER/TOWN CLERK

090

FINANCE COMMITTEE

TUESDAY 2 MARCH 1993

CORPORATE SERVICES

1. * Report for Donations Equivalent to Rates Levied on Land Utilised by Public Charitable Organisations, Community Groups and Sporting Organisations. Files 72/2325, 24975.312, .00237.5, 81/2203, 14661.4, 24399.36, 09136.0454.

Council has in previous years in accordance with its policy granted a rebate on the rates payable which are used by the public as a main hall in the respective area in which the hall is situated and made a donation equivalent to the rates to the following organisations:-

Nowra & District Motor Cycle Club
Shoalhaven Advanced Industries
Sussex Inlet R.S.L. Sub Branch
Ulladulla Pistol Club
Shoalhaven Pistol Club
Cambewarra Pony Club

With regard to public halls, Council in 1979 resolved to advise the Committees managing the halls that Council would not require the annual payment of rates as levied providing the organisation has made written application each year and providing that the hall is still being used as a main public hall in the area.

Listed within the recommendation are the Halls within the City being used by the Public as a main hall in the respective area in which the Hall is situated or is being used solely for charitable purposes.

+ RECOMMENDED that:-

- + (a) Council donate the sum equivalent to the rates levied on those Halls listed below being used as a Public Hall in its respective area or where it is being used solely for charitable purposes.

	<u>Assessment</u>		<u>\$</u>
+	<u>No.</u>	<u>Hall</u>	<u>1993 Rates</u>
+	4.17100.0215	Tomerong School of Arts	588.80
	3.08125	Pyree Literary Institute	597.12
	7.00367	Berry R.S.L. Hall	1,040.90
	4.22747.508	Upper Kangaroo River Hall	336.80
	5.23502	Curarong Progress Hall	1,027.31
	7.22890	Berry C.W.A. Hall	1,049.01
	2.14064.1	Kangaroo Valley C.W.A. Hall	588.80
	8.12916	Cambewarra School of Arts	1,040.90
	9.23870	Milton C.W.A. Hall	1,040.90
	1.17450.235	Wandandian Progress Hall	588.80
	8.04550.65	Culburra & District Community Health Centre	1,149.35

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Report - General Manager/Town Clerk - Finance - 2 March 1993

CORPORATE SERVICES

9,048.69

- + (b) Nowra and District Motor Cycle Club. File 0.24975.312
Council donate the sum of \$1,172.68 to the Nowra and District Motor Cycle Club being a sum equivalent to the 1993 rates payable on the Club's Motor Cycle Complex at Yerriyong.
- + (c) Shoalhaven Advanced Industries. File 1.16465.03
Council donate the sum of \$1,172.52 to the Shoalhaven Advanced Industries for an amount equivalent to the rates and garbage for 1993.
- + (d) Sussex Inlet R.S.L. Sub Branch. File 3.14661.4
Council make a donation of \$1,126.40 to the Sussex Inlet R.S.L. Sub Branch being an amount equivalent to the 1993 rates payable on the Sub-Branch property in Nielson Road, Sussex Inlet.
- + (e) Shoalhaven Pistol Club. File 8.02200.50012
Council make a donation of \$413.89 to the Shoalhaven Pistol Club being an amount equivalent to the 1993 rates payable on the Club's Range property at South Nowra.
- + (f) Ulladulla Pistol Club. File 7.24399.36
Council make a donation of \$336.80 to the Ulladulla Pistol Club being an amount equivalent to the 1993 rates payable on the Club's Range property at Burrill Lake.
- + (g) Cambewarra Pony Club. File 5.09130.0454
Council make a donation of \$1,303.23 to the Cambewarra Pony Club being an amount equivalent to the 1993 rates payable on the Club's property at Lot 43, D.P. 778333 Cambewarra.
- + (h) The expenditure be authorised from the existing vote with General Fund, Section 504 allocated for rate assistance.

CL22.117 - Attachment 4

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Minutes of the Ordinary Meeting of Council held on Tuesday, 16th March 1993

REPORT OF THE FINANCE COMMITTEE MEETING - 2ND MARCH, 1993

559. * Adoption of Report

RESOLVED on a Motion of Ald. Finkernagel, seconded Ald. Watson that the following Recommendations of the Finance Committee be adopted.

560. * Report for Donations Equivalent to Rates Levied on Land Utilised by Public Charitable Organisations, Community Groups and Sporting Organisations. Files 72/2325, 91/1035 24975.312, 16465.03 81/2203, 14661.4, 24399.36, 09130.0454.

+ RECOMMENDED that:-

- + (a) Council donate the sum equivalent to the rates levied on those Halls listed below being used as a Public Hall in its respective area or where it is being used solely for charitable purposes.

	<u>Assessment</u>		<u>\$</u>
+	<u>No.</u>	<u>Hall</u>	<u>1993 Rates</u>
+	4.17100.0215	Tomerong School of Arts	588.80
	3.08125	Pyree Literary Institute	597.12
	7.00367	Berry R.S.L. Hall	1,040.90
	4.22747.508	Upper Kangaroo River Hall	336.80
	5.23502	Curarong Progress Hall	1,027.31
	7.22890	Berry C.W.A. Hall	1,049.01
	2.14064.1	Kangaroo Valley C.W.A. Hall	588.80
	8.12916	Cambewarra School of Arts	1,040.90
	9.23870	Milton C.W.A. Hall	1,040.90
	1.17450.235	Wandandian Progress Hall	588.80
	8.04550.65	Culburra & District Community Health Centre	<u>1,149.35</u>

- + (b) Nowra and District Motor Cycle Club. File 0.24975.312
Council donate the sum of \$1,172.68 to the Nowra and District Motor Cycle Club being a sum equivalent to the 1993 rates payable on the Club's Motor Cycle Complex at Yerriyong.

- + (c) Shoalhaven Advanced Industries. File 1.16465.03
Council donate the sum of \$1,172.52 to the Shoalhaven Advanced Industries for an amount equivalent to the rates and garbage for 1993.

THIS IS PAGE 17 OF THE MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF SHOALHAVEN HELD ON TUESDAY, 16TH MARCH, 1993.

TOWN CLERK

CHAIRMAN

Max O'Brien

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Minutes of the Ordinary Meeting of Council held on Tuesday, 16th March 1993

- + (d) Sussex Inlet R.S.L. Sub Branch. File 3.14661.4
Council make a donation of \$1,126.40 to the Sussex Inlet R.S.L. Sub Branch being an amount equivalent to the 1993 rates payable on the Sub-Branch property in Nielson Road, Sussex Inlet.
 - + (e) Shoalhaven Pistol Club. File 8.02200.50012
Council make a donation of \$413.89 to the Shoalhaven Pistol Club being an amount equivalent to the 1993 rates payable on the Club's Range property at South Nowra.
 - + (f) Ulladulla Pistol Club. File 7.24399.36
Council make a donation of \$336.80 to the Ulladulla Pistol Club being an amount equivalent to the 1993 rates payable on the Club's Range property at Burrill Lake.
 - + (g) Cambewarra Pony Club. File 5.09130.0454
Council make a donation of \$1,303.23 to the Cambewarra Pony Club being an amount equivalent to the 1993 rates payable on the Club's property at Lot 43, D.P. 778333 Cambewarra.
 - + (h) The expenditure be authorised from the existing vote with General Fund, Section 504 allocated for rate assistance.
561. * South Coast Aboriginal Cultural Centre. Request for Donation Equivalent to Annual Rates. File Nos. 6.10157.2, 72/2325
-
- + RECOMMENDED that:-
- + (a) Council make a donation of \$4,084.32 from General Fund Section 504 to the South Coast Aboriginal Cultural Centre being an amount equivalent to the 1993 rates, water, sewerage and garbage applicable on the Cultural Centre.
 - + (b) Council extend financial assistance to the South Coast Aboriginal Cultural Centre by making a donation equivalent to the rates on this hall in future years.
562. * Illawarra Retirement Trust - Request for Donation - Sarah Claydon Retirement Village. File 93/1250
-
- This item was withdrawn and dealt with separately at the conclusion of consideration of the Finance Committee Report.
563. * Community Noticeboards within the Shoalhaven. File 90/1319 & 77/3200
-
- This item was withdrawn and dealt with separately at the conclusion of the Finance Committee Report.

THIS IS PAGE 18 OF THE MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF SHOALHAVEN HELD ON TUESDAY, 16TH MARCH, 1993

TOWN CLERK CHAIRMAN

CL22.117 - Attachment 4

Breakdown of Subsidies in Foregone Rental and Other Programs within the DP/OP

Subsidies by way of foregone rental income for community properties, based on current arrangements put in place by Council.

These include Community Groups, Men's Sheds, Golf Clubs, Preschools/Childcares/Playgroups, Sports Groups, Meals on Wheels, Telco's and Outdoor Dining.

Estimated amounts for the 2021/22 budget were based on 2021 Financial Year as set out below:

Community Groups

Payment was made to 52 groups as shown below:

Community Group	Subsidy/Donation for Current Fin Year (autofill)
Berry Courthouse Conservation Committee	\$5,500
Berry Community Activities Centre (Muir House)	\$14,750
Berry Community Activities Centre (Muir House)	\$2,371
Berry Community Activities Centre (Craft cottage)	\$16,147
Berry & District Historical Society	\$49,000
Berry Spinners & Weavers Inc	\$3,861
St John Ambulance Australia	\$7,545
Salt Care Limited	\$3,009
Nowra Players Incorporated	\$46,364
Nowra Croquet Club	\$1,850
Curarong Arts & Crafts	\$1,699
Lions Club of Jervis Bay	\$6,986
Werninck Craft Cottage Club Incorporated	\$1,857
Nowra Youth Service Inc	\$41,215
Shoalhaven Neighbourhood Services Inc	\$21,721
Buddhist Meditation Centre	\$2,961
Milton Ulladulla Historical Society	\$1,680
Nulladolla Pottery Group	\$1,312
Nulladolla Pottery Group	\$2,984
U3A Milton Ulladulla Campus Incorporated	\$5,345
Milton Timber Studio Inc	\$1,364

Breakdown of Subsidies in Forgone Rental and Other Programs within the DP/OP

Milton Timber Studio Inc	\$3,140
The Millhouse Art Society	\$2,062
The Millhouse Art Society	\$4,376
Milton Theatre Committee Incorporated	\$2,589
Milton Theatre Committee Incorporated	\$6,829
Sussex Inlet & Districts Lions Club	\$514
Sussex Inlet pottery Group Incorporated	\$322
Australian Unity Home Care Services	\$9,533
Mission Australia	\$49,945
Ulladulla & Districts Community Resource Centre	\$47,106
Milton Ulladulla Family History Society Incorporated	\$3,485
Bay & Basin Bush Potters Inc.	\$2,611
Bay & Basin Community Resources	\$41,282
Clifton Community Gardens	\$999
Coast & Country Community Services Ltd	\$3,614
Central Shoalhaven Mobile Preschool	\$16,888
Nowra Family Support	\$31,351
Shoalhaven Neighbourhood Services Inc	\$24,216
Australian Unity Home Care Services	\$18,135
Interchange Shoalhaven	\$18,927
ISLHD	\$17,480
Shoalhaven Historical Society Inc (Nowra Museum)	\$16,837
Nowra Spinner & Weavers Inc.	\$8,909
Shoalhaven Woodcraft Society Inc.	\$8,909
Girl Guides Association	\$6,246
Jervis Bay Game Fishing Club	\$2,896
Shoalhaven Senior Citizens Association	\$26,838
Shoalhaven Youth Orchestra	\$43
Shoalhaven Community Radio Inc.	\$466
Callala Junior Sailing Club	\$1,234
Ulladulla Sport & Game	\$213

Breakdown of Subsidies in Forgone Rental and Other Programs within the DP/OP

Gondwana Fossil Walk	\$6,157
Cambewarra Pony Club	\$1,429
Callala Community Garden Inc	\$510
Berry Riding Club Inc	\$29,500
Saltcare Limited	\$27,509
Shoalhaven Basketball	\$4,300
AHIMSA Sailing Club	\$0
	\$686,921

Men's Sheds

A total of \$16,602 was paid to 8 different organisations in the 2020/21 financial year, as shown below:

Culburra Beach Progress Assoc	\$1064
Nowra Mens Shed	\$8904
Murramarang Mens Shed (old RFS building)	\$1749
Murramarang Mens Shed (land for shed construction)	\$1759
Shoalhaven Heads Mens Shed	\$602
Culburra Beach Orient Point Mens Shed	\$1484
Culburra Beach Orient Point Mens Shed	\$33
Greenwell Point Mens Shed ground licence	\$463
Sanctuary Point Mens Shed	\$288
Sussex Inlet Mens Shed	\$130
Sussex Inlet Mens Shed	\$126
	\$16,602

Golf Clubs

A total of \$64,793 was paid in the 2020/21 financial year:

Nowra Golf Course	\$59,999
Nowra Golf Course - Car park & access	\$4,794
	\$64,793

Breakdown of Subsidies in Forgone Rental and Other Programs within the DP/OP

Preschool/ childcare/ playgroups

A total of \$492,960 was paid to 15 different organisations in the 2020/21 financial year, as set out below:

Clipper Road Children's Centre (Illawarra Area Child Care Ltd)	\$39,828
Berry Community Preschool	\$36,364
Culburra & District Preschool	\$35,000
Jerry Bailey Preschool	\$23,384
Milton Ulladulla Preschool	\$29,781
Lyrebird Preschool	\$52,905
Milton Playgroup	\$7,226
The Basin Preschool	\$31,347
Ulladulla Children's Centre	\$59,564
Jumbunna Children's Centre	\$37,399
Kids Korner	\$40,736
Noah's Ark Centre Ulladulla	\$19,999
Sanctuary Point Childrens centre	\$26,039
Bomaderry Preschool	\$25,143
Shoalhaven Preschool	\$28,245
	\$492,960

Sports Groups

A total of \$18,757 was paid to 3 different sporting groups in the 2020/21 financial year, as set out below:

West Street Nowra Croquet	\$2,964
West Street Tennis Courts	\$13,090
Nowra Croquet Club Inc	\$2,703
	\$18,757

Meals on Wheels

A total of \$46,210 was paid to 5 different organisations in the 2020/21 financial year, as set out below:

North Shoalhaven	\$12,180
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Breakdown of Subsidies in Forgone Rental and Other Programs within the DP/OP

Southern Shoalhaven - 2 suites (3 & 1)	\$16,137
Jervis Bay & Districts	\$7,875
Nowra Bomaderry	\$3,662
Shoalhaven Heads	\$6,356
	\$46,210

Telcos

A total of \$41,029 was paid to 8 different organisations in the 2020/21 financial year, as set out below:

Bay & Basin Community Centre	\$4,976
NSW Dept Prim Industries - Fisheries	\$1,765
NSW Police Service	\$6,387
OEH National Parks	\$5,562
RMS	\$2,226
2UUU - 3 locations - Cambewarra, Ulladulla, Moeyan Hill	\$15,821
2ST	\$2,207
Vertel (for Bundanon Trust)	\$2,085
	\$41,029

Outdoor Dining

This amount is based on current outdoor dining approvals that do not currently pay for outdoor rental areas (55) as per Council Resolution MIN16.196B

That Council:

"Continue to not charge annual fees for Outdoor Dining on public footpaths until 1 July 2017 and that this be subject to a further review as part of the 2017/18 budget process"

Allowing 10 sq metres per application –10 x \$60/m2 x 55	\$33,000
--	----------

Breakdown of Subsidies in Forgone Rental and Other Programs within the DP/OP

Other Programs	
Events – Tourism	\$135,000
Holiday Haven Programs/Commercial	\$10,458
Business Awards	\$41,415
Planning Service – Heritage Programs	\$21,422
Total	\$208,295

Other Programs

Events - Tourism totalling \$135,000

The following information has been provided by Shoalhaven City Council's Tourism Department.

The Tourism Events Fund is used to support events that drive visitation to the region outside of peak periods. The intention is that events will deliver positive, social and economic impacts on the local community in terms of supplying shops, increasing spend within the local economy and in many cases giving back to the community. Additionally, events should have a strong marketing plan and align with our objectives Shoalhaven Tourism objectives.

To assess events Shoalhaven Tourism does the following:

- Utilise formal guidelines and an assessment criteria - this ensures that each event is equally evaluated against the same metrics.
- Events are assessed by a panel from STAG. A total of 5 people review and score each event and make a decision as to what events should or should not be supported.
- The intention of funding is that in the long-term events are self-sufficient. Generally we assess applications yearly and in some instances a 3 year contract is entered for the same event.

Events supported

Due to COVID-19 this Financial Year is not representative of a normal year for events. Below are examples of upcoming and funding amounts from February 2022 onwards (we are currently reviewing applications from the January funding round - a full list of events and funding can be provided once this process has been completed):

- The South Coast Food and Wine Festival - \$10,000
- The South Coast Rugby Sevens - \$3,500
- Big Country Music Festival - \$20,000
- The NSW Masters Waterpolo - \$4,000
- The Australian Beach Volleyball Tour - \$10,000
- Highland Valley Forage - \$1,500
- Shoalhaven Ulladulla Yoga, Health and Wellbeing Festival - \$5,000
- Shoalhaven Celebration of Food - \$6,500
- 2022 Aerobic Gymnastics Championships - \$4,000
- Beta International Climbing Festival - \$13,000

Highlights from the program:

- 27 events supported through this program until the end of 2022. This number will likely increase over next 2 weeks as a funding round just closed.

Breakdown of Subsidies in Forgone Rental and Other Programs within the DP/OP

9 of the 27 events are NEW to the Shoalhaven, meaning they are bringing new visitors to the region that would not have otherwise come.

Holiday Haven Programs/Commercial totalling \$10,458

The following information was provided by Holiday Haven Staff.

The budget of \$10,458 has not been spent/allocated for the current financial year. It is open for application against the current Donations Guidelines via written request, supported by a letter from the charity or organisation.

The last 2 years no requests have been received, except for Blessing of the Fleet which was cancelled and refunded due to COVID restrictions on Events. It is noted, the money would not have been spent so far this year for COVID reasons.

Last financial year the funds were used to cover defibrillators for Holiday Haven Swan Lake, Holiday Haven Husky Beach, Holiday Have Ulladulla and Holiday Haven Currarong.

Business Awards totalling \$41,415

The following information was provided by Economic Development Staff.

Council engages the Shoalhaven Business Chamber to run the Shoalhaven Business Awards on behalf of Council.

Conditions that pertain to this activity are:

- Council is given recognition commensurate with being a major sponsor of the Awards.
- The Awards will be held annually at the Shoalhaven Entertainment Centre.
- Sponsors and Nominees will be recognised in a Shoalhaven Business Chamber coordinated media campaign.
- Sponsors and Nominees will be recognised at the Awards presentation night.
- Council is given a report at the completion of the Awards outlining the process, deliverables and outcomes.
- Council will be provided with ten (10) complimentary (free) tickets to every Shoalhaven Business Awards delivered via this MoU
- Shoalhaven Business Chamber agree that they will be responsible for the payment of any fees and charges and employee costs involved in the hire of the Shoalhaven Entertainment Centre

In 2021/22 Council paid \$30,000 for this service.

Council, through the Economic Development Office, engages the Shoalhaven Business Chamber to co-ordinate business training to support and educate Shoalhaven businesses (not just Shoalhaven Business Chamber members);

- To continue to grow a Women in Business networking group in the Shoalhaven. The Shoalhaven Business Chamber will hold at least 5 networking events per year with guest speakers on topics relevant to women in business. The Women in Business events will be referred to as the "Shoalhaven Business Chamber, in partnership with Shoalhaven City Council, Women in Business" or similar
- To establish and run a "Lunch and Learn" series, where Shoalhaven Business Chamber will organise 6 lunches each year hosted by a profession (i.e. Accountants, Solicitors, Bankers, Insurance Brokers) or a Government entity that provides a workshop style session on various business related topics that will assist members in their day to day business operations or inform members of available Government.

Breakdown of Subsidies in Forgone Rental and Other Programs within the DP/OP

- Assistance packages (e.g. such as those in relation to bushfire and pandemic recovery). The Lunch and Learn series will be referred to as the “Shoalhaven Business Chamber, in partnership with Shoalhaven City Council, Lunch and Learn series” or similar.
 - In all proposed activities,
 - i. The Council will be recognised as a partner in the activity.
 - ii. Two (2) representatives from the Economic Development Office of Shoalhaven City Council will be invited, free of charge, to attend all events/activities in which Council is recognised as a partner. The Economic Development Office reserves the right to send a delegate to such events. Delegates will be restricted to other Council staff members or Councillors. Council is under no obligation to attend any or all events to which they are invited.
 - iii. Shoalhaven Business Chamber agree that they will be responsible for the payment of any fees and charges and employee costs involved in the delivery of these or any other Shoalhaven Business Chamber organised events. The Shoalhaven Business Chamber aims to be responsive to the needs of the Shoalhaven business community and reserves the right to alter, change, remove and add events and training opportunities as needed and as mutually agreed to with the Economic Development Office of Council.

In 2021/22 Council will pay \$20,000 for these training services.

The current MoU runs until June 2024.

The Shoalhaven Business Chamber is required to report to Council at least every 6 months. A condensed version of the report is placed in the business papers of Council’s Business and Employment Development Committee and the Chamber is invited to speak to it.

Payment is withheld if reports are not forthcoming or a satisfactory performance is not achieved. Council has withheld and retained monies in past years.

Planning Service – Heritage Programs

The following information was provided by Strategic Planning Staff.

The total allocated in grant offers for the current financial year is outlined below:

Project Location	Heritage Item	Project Cost (excl. GST)	Approved Grant Amount (excl. GST)
1180 Bolong Road, Coolangatta	Former Berry Estate brick schoolmaster’s residence including garden and former weatherboard Berry Estate School	\$9,700.00	\$1,810.00
137 Princes Highway, Milton	Federation weatherboard residence and garden	\$30,790.00	\$2,585.00
20 North Street, Nowra	St Michael’s Roman Catholic Church including two storey Victorian presbytery, cemetery and grounds	\$7,510.00	\$3,125.00
1 Moss Street, Nowra	Two storey Victorian masonry terrace house	\$6,850.00	\$3,040.00
141 Princes Highway, Milton	Victorian weatherboard hall (former Salvation Army hall)	\$10,157.60	\$2,785.00

Breakdown of Subsidies in Forgone Rental and Other Programs within the DP/OP

70 Wason Street, Milton	Victorian weatherboard worker's cottage	\$5,100.00	\$1,690.00
2565 Moss Vale Road, Barrengarry	Victorian School (former), including and schoolmaster's residence and grounds	\$2,550.00	\$1,275.00
30 Junction Street, Nowra	Pergola Fence and Timber Rails and Pickets	\$4,227.27	\$2105.00
66 Princes Highway, Milton	Two storey rendered masonry post office	\$10,460.00	\$2,900.00
			\$21,315.00

Allocated Donations 2021/2022 Budget

Purpose	Recipient	Amount
Beach Patrol Subsidy	Mollymook Surf Life Saving Club	\$5,000
Beach Patrol Subsidy	Nowra Culburra Surf Life Saving Club	\$5,000
Beach Patrol Subsidy	Shoalhaven Heads Surf Life Saving Club	\$5,000
Beach Patrol Subsidy	Sussex Inlet Surf Life Saving Club	\$5,000
Community Bus	Shoalhaven Community Transport**	\$10,360
Community Consultative Body	Basin Villagers Forum	\$500
Community Consultative Body	Bawley Point / Kioloa Progress Association	\$500
Community Consultative Body	Berry Forum	\$500
Community Consultative Body	Budgong Community Group	\$500
Community Consultative Body	Callala Bay Community Association	\$500
Community Consultative Body	Callala Beach Progress Association	\$500
Community Consultative Body	Cambewarra Residents & Ratepayers Association	\$500
Community Consultative Body	Conjola Community Forum	\$500
Community Consultative Body	Culburra Beach Progress Association	\$500
Community Consultative Body	Curarong Community Association	\$500
Community Consultative Body	Huskisson / Woollamia Community Voice	\$500
Community Consultative Body	Hyams Beach Villagers Association	\$500
Community Consultative Body	Milton 2538	\$500
Community Consultative Body	Pride of Bomaderry	\$500
Community Consultative Body	Red Head Villages Association	\$500
Community Consultative Body	Shoalhaven Heads Community Forum	\$500
Community Consultative Body	Sussex Inlet & Districts Community Forum	\$500
Community Consultative Body	Tabourie Lake Residents & Ratepayers Association	\$500
Community Consultative Body	Tomerong Community Forum	\$500
Community Consultative Body	Ulladulla & Districts Community Forum	\$500

Breakdown of Subsidies in Forgone Rental and Other Programs within the DP/OP

Purpose	Recipient	Amount
Community Consultative Body	Vincentia Residents & Ratepayers Association	\$500
Community Consultative Body	Wandandian Progress Association	\$500
School Citizenship Award - Bomaderry High School	Bomaderry High School	\$100
School Citizenship Award - Nowra Anglican College	Nowra Anglican College	\$100
School Citizenship Award - Nowra Christian Community School	Nowra Christian Community School	\$100
School Citizenship Award - Nowra High School	Nowra High School	\$100
School Citizenship Award - Shoalhaven High School	Shoalhaven High School	\$100
School Citizenship Award - St John the Evangelist Catholic High School	St John the Evangelist Catholic High School	\$100
School Citizenship Award - Ulladulla High School	Ulladulla High School	\$100
School Citizenship Award - Vincentia High School	Vincentia High School	\$100
Museum Subsidy	Berry Historical Society Museum	\$2,000
Museum Subsidy	Kangaroo Valley Pioneer Museum	\$2,000
Museum Subsidy	Shoalhaven Historical Society Museum	\$2,000
Museum Subsidy	Tabourie Museum	\$6,500
Operational Costs	Nowra RSPCA	\$1,000
Operational Costs	Ulladulla RSPCA	\$1,000
Operational Costs	Westpac Lifesaver Rescue Helicopter	\$5,000
Operational Costs	Wildlife Rescue South Coast Inc.	\$2,470
Sponsorship	Illawarra Academy of Sport	\$17,000
Community Event - Australia Day	Multiple Events	\$31,000
Community Event - Berry Celtic Festival	Showground Fee Rental	\$2,000
Community Event - Blessing of the Fleet Ulladulla	Blessing of the Fleet Committee	\$15,000
Community Event - Carols by Candlelight	Multiple Events	\$7,925
Community Event - Easter Carnival Huskisson	White Sands Carnival Committee	\$2,000
Community Event - Family Day Out	Shoalhaven Turf Club	\$6,000
Community Event - New Years Eve Celebrations	Multiple Events	\$36,000
Shoalhaven City Eisteddfod	City Eisteddfod **	\$10,180
Sponsorship	Cancer Council Relay for Life - Milton *	\$1,285
Sponsorship	Cancer Council Relay for Life - Nowra *	\$6,360

Breakdown of Subsidies in Forgone Rental and Other Programs within the DP/OP

Purpose	Recipient	Amount
Hire Fees - Callala Community Centre	Friends of Callala Seniors Group	\$1,270
Rates Shoalhaven City Council	Property & Public Halls	\$32,200
Rental Assistance	Sussex Inlet CTC	\$8,530
School of Arts Fees - Albatross Music Company	Albatross Music Company*	\$8,970
School of Arts Fees - Music Shoalhaven	Music Shoalhaven*	\$1,205
School of Arts Fees - Shoalhaven City Concert Band	Shoalhaven City Concert Band*	\$2,520
Nowra Showground Pavilion Fees	Helping the Homeless Soup Kitchen*	\$6,410
Nowra School of Arts Annex Fees	Lay Missionaries of Charity*	\$4,250
Shoalhaven Youth Orchestra	Youth Orchestra	\$8,000
Driver Education Program	Milton Ulladulla Driver Education Program	\$3,000
Sponsorship	Bravehearts Inc. Education	\$5,000
Sponsorship	Milton Ulladulla Entertainers	\$2,500
Trophy - Berry and District Garden Club Inc.	Berry and District Garden Club Inc	\$100
Committed Donation Allocation		\$282,835

CL22.118 Policies for adoption - Fraud and Corruption Prevention Policy and Statement of Business Ethics

HPERM Ref: D22/56190

Approver: Kevin Voegt, Director - City Performance

Attachments: 1. Fraud and Corruption Prevention Policy [↓](#)
2. Statement of Business Ethics [↓](#)

Reason for Report

This report seeks Council's adoption of the Fraud and Corruption Prevention Policy (POL21/68) and the Statement of Business Ethics (POL21/69).

Recommendation

That Council:

1. Adopt the Fraud and Corruption Prevention Policy presented as Attachment 1 to this report.
2. Adopt the Statement of Business Ethics presented as Attachment 2 to this report.

Options

1. As recommended

Implications: The Policies will be adopted

2. Council gives alternative direction to staff.

Implications: The Policies will be modified as directed by Council.

Background

The Fraud and Corruption Prevention Policy (POL21/68) was last adopted by the Council on 27 October 2015 and the Statement of Business Ethics (POL21/69) on 13 June 2017. Both policies were due for review and to be submitted to the Council for adoption after the December 2021 election.

Revised draft policies were submitted to the Executive Management Team for their consideration and endorsement on 19 October 2021. Amendments to these policies had been made to reflect the recommended action proposed under the Fraud Health Check Assessment conducted at Council in the 2020/21 period and the corruption prevention recommended action proposed for all councils from the Independent Commission Against Corruption's (the ICAC) Investigation Report on the former Canterbury City Council issued in March 2021.

The key amendments proposed in the Fraud Health Check Assessment and the ICAC Investigation Report were:

- In next reviewing Council's Fraud Control Policy, to ensure that the policy adequately addresses the level of internal and external fraud risks and the ten attributes of fraud control identified by the Audit Office of NSW; and it is appropriately linked to other ethical

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behaviour policies including the fraud and corruption internal reporting policy. (Fraud Health Check Assessment).

- The Council's Statement of Business Ethics Policy be strengthened to include a statement that Council does not tolerate corrupt or fraudulent behaviour and fraudulent dealings. (Fraud Health Check Assessment)
- To review and update Council's consultancy service agreements and contents of Statement of Business Ethics as proposed by the ICAC, namely outlining Council's ethical obligations and their ethical responsibilities, how to make disclosures under the *Public Interest Disclosures Act 1994* and the jurisdiction of the ICAC Act. (The ICAC's Investigation Report into the conduct of public officials of the former Canterbury City Council)

On 19 October 2021, the Executive Management Team endorsed the revised policies as provided as Attachment 1 and Attachment 2 to this report.

On endorsement by the Executive Management Team, the Chief Executive Officer approved that the policies be implemented across the organisation to ensure that Council staff, contractors, consultants and community representatives are aware of their obligations. The policies are currently listed on Council's website in the "policies" section:

<https://www.shoalhaven.nsw.gov.au/Council/Access-to-Information/Policies>

Council's Audit, Risk and Improvement Committee has received reports in 2021 on these matters. The Committee has endorsed actions arising from the Fraud Health Check Assessment and from the corruption prevention recommendations from the ICAC Investigation Report on the former Canterbury City Council.

In seeking their adoption, Council may consider any further modifications to these policies.

Community Engagement

It is not considered to require general community consultation before the adoption of these policies.

Policy Implications

The revised policies are intended to strengthen and promote ethical conduct and mitigate risks of fraud or breaches of the Code of Conduct.

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Fraud & Corruption Prevention Policy

Adoption Date:	May 1995
Amendment Date:	April 2003, July 2005, 14/08/ 2007, 10/11/2009, 23/11/2012, 27/10/2015, 1/12/2016 (SSCM Committee), 19/10/2021 (EMT)
Minute Number:	MIN07.1157, MIN09.1581, MIN12.1249, MIN15.656
Review Date:	1/12/2021
Directorate:	City Performance
Record Number:	POL21/68

Fraud & Corruption Prevention Policy

1. INTRODUCTION**1.1. Purpose**

The Council is committed to the prevention, detection and investigation of all forms of fraud or corrupt conduct. The Fraud and Corruption Prevention Policy forms a central part of Council's Code of Conduct ethical framework, and ensures the appropriate mechanisms are in place to protect the integrity, security and reputation of the Council. Fraud can directly influence Council's ability to deliver services and undermine community confidence and trust.

Council requires a fraud and corruption control framework which identifies and manages the risk of incidences of fraud or corruption and includes prevention, detection, and monitoring strategies. Council does not and will not tolerate fraudulent or corrupt practices either by its own staff, contractors, consultants or other people who perform functions or provide services on behalf of Council such as volunteers and external parties.

1.2. Scope

This Policy applies to all Council officials comprising Councillors, staff (including permanent, part-time, temporary, casual and fixed-term), contractors to Council; committee members, volunteers; and external parties performing functions on behalf of Council.

The policy supports the statutory duty of all public officials, including Councillors and staff, to act honestly and exercise a reasonable degree of care and diligence as provided in section 439 of the *Local Government Act 1993*.

The scope of the policy includes processes outlined in the Audit Office of New South Wales' Fraud Control Improvement Kit 2015 which aligns with the Fraud and Corruption Control Standard AS8001-2008. The following ten key attributes of an effective fraud control system have been identified by the Audit Office:

1. Leadership
2. Ethical Framework
3. Responsibility Structures
4. Fraud Control Policy
5. Prevention Systems
6. Fraud Awareness
7. Third Party Management Systems
8. Notification Systems
9. Detection Systems
10. Investigation Systems

1.3. Organisational commitment and responsibilities

Councillors, the Chief Executive Officer, Directors and other staff, as well as contractors, consultants and volunteers working at Council, have a responsibility to prevent fraud and corruption. The organisation's commitment to fraud and corruption prevention management is outlined as follows:

Fraud & Corruption Prevention Policy

WHO	COMMITMENT	HOW
Chief Executive Officer	Sets expectations that promotes an organisational culture for ethical behaviour and one that does not tolerate fraud or corruption. Obligated to investigate and report fraud and other forms of corrupt conduct.	<ul style="list-style-type: none"> • Visibly endorsing fraud control activities. • Implement program for fraud prevention education and training for staff • Provide support and direction to key staff responsible for investigating fraud matters. • Reports to the ICAC under the <i>ICAC Act 1988</i>. • Regularly review reports about fraud-related matters that may arise. • Encourage all staff to be alert to fraud or other corrupt activity.
Directors and Managers	Provide leadership to mitigate fraud and corruption risks through business internal controls and appropriate reporting systems.	<ul style="list-style-type: none"> • Responsibility for implementing the fraud control framework aimed at preventing and detecting fraud or corruption. • Promote awareness of ethical conduct and mechanisms to prevent fraud or corruption • Ensure a risk-based assessment is undertaken and documented of business activities to mitigate against fraud or corruption. • Effectively maintain and implement systems of internal control established to prevent or detect fraud or corruption. • Responding to, investigating, and reporting on fraud and other irregularities. • Ensure staff are committed to undertake an approved program on fraud awareness education and training.
Public Officer	Establish and maintain a Fraud Control Framework.	<ul style="list-style-type: none"> • Establish and maintain a fraud control framework including documented investigation procedures. • Respond to and investigate fraud and other irregularities. • Provide regular reports to the Chief Executive Officer on issues arising from fraud-related activities.
All staff	Understand and report on fraud or other corrupt activity.	<ul style="list-style-type: none"> • Comply with ethical behaviour and act honestly in accordance with the Code of Conduct. • Be aware of obligations for reporting fraud and any other suspected wrongdoing. • Report cases of suspected or actual fraud or corrupt conduct under the Internal Reporting Policy, or directly to the ICAC or relevant external agency. • Report behaviour that compromises an attempt or an inducement to engage in fraud or other wrongdoing.

Fraud & Corruption Prevention Policy

		<ul style="list-style-type: none"> • Complete fraud awareness education and training. • Assist in any investigations undertaken in respect of any suspected or reported fraud or corruption.
Audit, Risk and Improvement Committee	Review and assess management's risk management framework to mitigate against fraud.	<ul style="list-style-type: none"> • Oversight role in fraud and corruption mitigation. • Seek regular reports on whether management has in place a current and comprehensive risk management framework • Assess whether associated procedures are in place for effective identification and management of business and financial risks, including fraud. • Include in audit plan reviews of high-risk business activities with potential for fraudulent activity.
Internal Audit Program Coordinator	Identify areas of high risk for review to mitigate against fraud.	<ul style="list-style-type: none"> • Responsible for reviewing of the robustness of internal controls, monitoring and reviewing processes in place through risk based internal audit programs addressing the corporate risks.

2. TERMS AND DEFINITIONS

Fraud

Fraud is a dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position for personal financial benefit.

The theft of property belonging to an entity by a person or persons internal to the entity but where deception is not used is also considered 'fraud' for the purposes of this Standard.

Examples of fraud which fall within the intended scope of this Policy, include but are not limited to:

- Theft of plant and equipment.
- Theft of stock or inventory
- False timesheet entries or claims for time not spent on Council work.
- Providing false statutory declarations or statements in order to receive payments for contracted works.
- False invoicing (involving a staff member of the entity or a person external to the entity creating a fictitious invoice claiming payment for goods and services not delivered or exaggerating the value of goods delivered or services provided).
- Theft of funds other than by way of false invoicing.
- Theft of cash.
- Theft of intellectual property or other confidential information.

Fraud & Corruption Prevention Policy

- Misuse of position by Councillors, Directors, Senior Managers or other staff in order to gain some form of financial advantage.

Corruption

Corrupt conduct, as defined in the *Independent Commission Against Corruption Act 1988* ("the ICAC Act"), is deliberate or intentional wrongdoing, not negligence or a mistake. It has to involve or affect a NSW public official or public sector organisation.

Generally, corrupt conduct involves:

- NSW public official improperly using, or trying to improperly use, the knowledge, power or resources of his or her position for personal gain or the advantage of others.
- NSW public official dishonestly exercising his or her official functions or improperly exercising his or her official functions in a partial manner, exercising his or her functions in a way that breaches public trust or misuses information or material acquired during the course of his or her official functions.
- A member of the public influencing, or trying to influence, a NSW public official to use his or her position in a way that is dishonest or partial.
- A member of the public engaging in conduct that could involve one of the matters set out in section 8(2A) of the ICAC Act where such conduct impairs, or could impair, public confidence in public administration.

More information and the legislative provisions can be found on the [Independent Commission Against Corruption's website at https://www.icac.nsw.gov.au/](https://www.icac.nsw.gov.au/).

Public Official

A Public Official is an individual having public official functions or acting in a public official capacity. This includes Council Officials such as Councillors, members of staff of a Council, administrators, Council committee members, delegates of Council and Council advisers.

Fraud & Corruption Prevention Framework

All policies, procedures, practices, staff, hardware, and software used by Council in the fraud and corruption prevention framework.

Policy

A statement of instruction that sets out how we should fulfill our vision, mission, and goals.

Procedure

A statement or instruction that sets out how our policies will be implemented and by whom.

Public interest disclosure

A report about wrongdoing made by a public official in New South Wales in accordance with Council's adopted Internal Reporting Policy under the Public Interest Disclosures Act 1994.

3. KEY ELEMENTS OF FRAUD AND CORRUPTION APPROACH

- 3.1 Shoalhaven City Council is committed to protecting its revenue, expenditure, property, intellectual capital and reputation from any attempt, either by members of the public,

Fraud & Corruption Prevention Policy

contractors, sub-contractors, agents, intermediaries, councillors or its own employees to gain by deceit, any financial or other benefits.

3.2 The principal elements of Council's Fraud and Corruption Prevention Policy are:

3.2.1 The prevention of fraud and corruption at its origin. In particular, the implementation of effective control structures and procedures which aim to eliminate the prospect of fraud occurring.

3.2.2 All Councillors, the Executive and management, other staff, contractors, consultants, volunteers and delegates working at Council to be made aware of their obligation to act ethically and to follow Council's Code of Conduct requirements.

3.2.3 All external contractors, consultants and others dealing with the Council to be made aware of the ethical standards expected of them in their dealings with Council.

3.2.4 A commitment to a policy of prevention, detection, investigation and prosecution of individual cases of fraud.

3.2.5 A commitment by Council that the utmost protection will be given to those making public interest disclosures ("Whistleblowers") under the Public Interest Disclosures Act 1994.

3.2.6 Respect of the civil rights of employees and citizens and a commitment to natural justice.

4. REPORTING

4.1 The Council official must report as soon as possible any suspected fraudulent or corrupt behaviour.

4.2 Within Council, reports can be made to the Chief Executive Officer, Directors, Manager-Business Assurance & Risk/ Public Officer, Internal Audit Program Coordinator and Rangers Unit Leader. Report can be made to the Mayor for any suspected fraudulent and corrupt practices by the Chief Executive Officer.

4.3 All reports should be subsequently reported to the Chief Executive Officer (or the Mayor in case of suspected fraud and corrupt practices by the Chief Executive Officer) who will determine whether the matter requires reporting to Independent Commission Against Corruption.

4.4 The person reporting the corrupt conduct may be afforded protection by Council under the provisions of the Internal Reporting Policy.

5. INVESTIGATIONS

5.1 The Chief Executive Officer will decide whether an investigation will be taken and its nature and scope. The Chief Executive Officer will decide who will conduct the investigation; internally or externally.

5.2 The Mayor will decide on investigation on any allegation made against the Chief Executive Officer.

5.3 ICAC's publication "A Guide to Conducting Internal Investigations" may be used as a resource when conducting internal investigations.

5.4 The objectives of any investigation will be to:

Fraud & Corruption Prevention Policy

- Identify fraud and corruption vulnerabilities in business processes and instigate remedial action.
- Determine and if appropriate instigate any applicable insurance coverage aspects.
- Identify offenders and refer them for prosecution.
- Where practical, instigate recovery action through insurances or through the criminal courts on behalf of Council.
- Determine and if warranted refer the outcome of the investigation to Human Resources for appropriate disciplinary action.

- 5.5 The outcome of any investigation shall be communicated to the Chief Executive Officer and the Executive Management Team with an indicated timeframe to implement controls. The relevant Director shall be responsible for providing update on the implementation plan to the Chief Executive Officer and the Executive Management Team.

6. EXTERNAL NOTIFICATIONS

The Independent Commission Against Corruption Act 1988 requires the Chief Executive Officer to report suspected instances of corrupt conduct, including fraud, to the Independent Commission Against Corruption.

In accordance to the Internal Reporting Policy, the Chief Executive Officer may decide on reporting allegations of fraud to the Police.

7. RELATED DOCUMENTS AND LEGISLATION

This policy statement supports Council's ethical framework including the following policy documents and legislation:

- *Code of Conduct 2020*
- *Code of Conduct Procedures 2020*
- *Statement of Business Ethics*
- *Internal Reporting Policy (Public Interest Disclosures 1994)*
- *Local Government Act 1993*
- *Independent Commission Against Corruption Act 1988*
- *Public Interest Disclosures Act 1994*
- *Crimes Act 1900*
- Audit Office of New South Wales' Fraud Control Improvement Kit 2015

8. REVIEW

This policy to be reviewed every two years or earlier in the event of policy and/or legislative change, and/or publication by Government agencies of new or revised guidelines relevant to the policy provisions. A resolution of the Council could also require a review of this policy.

9. APPLICATION OF ESD PRINCIPLES

This Policy supports Council's commitment to ESD principles through requiring the consideration of energy efficiency and recycled component of goods provided to Council.

Statement of Business Ethics

Adoption Date:	30/10/2007
Reaffirmed Date:	10/02/2009, 23/04/2013
Amendment Date:	15/10/2010, 13/06/2017, 19/10/2021 (EMT)
Minute Number:	MIN07.1498, MIN09.128, MIN13.392, MIN17.494
Review Date:	1/12/2021
Directorate:	City Performance
Record Number:	POL21/69

Statement of Business Ethics

1. INTRODUCTION**1.1. Purpose**

The purpose of the *Statement of Business Ethics* is to ensure that all sectors of the community and members of the public who wish to conduct business with the Council, its staff and delegates understand the necessity to maintain the highest ethical standards of behaviour. This policy statement is adopted by Council and can be viewed on our website at <https://www.shoalhaven.nsw.gov.au/Council/Access-to-Information/Policies>.

Council does not tolerate corrupt conduct by staff, councillors, delegates or external parties and is committed to avoid opportunities for inappropriate or corrupt conduct occurring in our business dealings. Council values the reporting of unethical behaviour and/or corrupt conduct internally and to appropriate external authorities. Council's *Internal Reporting Policy (Public Interest Disclosures Act 1994)* provides guidance in this respect and can also be viewed on the website.

1.2. Scope

This statement provides guidance for all those conducting business with Council. It explains the mutual obligations and the role of all parties involved in business dealings with Council. Business may include the supply of goods and services, the engagement of contractors and consultants, the submission and assessment of development applications and other general business dealings.

The statement applies to Council employees, Councillors and external parties, including contractors, consultants and community representatives.

1.3. Organisational Commitment

This statement supports the theme of responsible governance under the *Shoalhaven 2027 Community Strategic Plan* and the need for integrity, transparency and accountability in all of our interactions to ensure we serve our community and manage its resources to the highest possible standards.

The statement supports the statutory duty of all public officials including Councillors and staff to act honestly and exercise a reasonable degree of care and diligence as provided under section 439 of the *Local Government act 1993*.

2. STATEMENT

This statement applies to all dealings between Council and sectors of the community when conducting business with Shoalhaven City Council. It outlines Council's aims to:

- Build and maintain ethical relationships with all sectors of the community - public and private sector.
- Encourage transparency and accountability in all dealings including lending, contracting, supply of goods and services and business partnerships.
- Ensure other sector partners understand Council's public duty obligations.
- Manage the potential risk and misunderstanding that can occur in business transactions between the public and private sectors.
- Maintain corruption-resistant, ethical work practices.
- Inform those wishing to do business with the Council that inappropriate and/or corrupt behaviour is not tolerated, and such actions will be reported to relevant

Statement of Business Ethics

investigative authorities including the Independent Commission Against Corruption (ICAC) or NSW Ombudsman's Office where required. (Refer also to policy section ***Making a Disclosure***)

3. BUSINESS DEALINGS WITH COUNCIL**3.1. Council's Business Ethics**

All Councillors, staff and delegates of Shoalhaven City Council are required to comply with its adopted Code of Conduct. The Code of Conduct has been developed to assist Council officials to:

- Understand the standards of conduct that are expected of them.
- Enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and due diligence.
- Act in a way that enhances public confidence in the integrity of local government.

In all procurement dealings, Council will act in a manner that support the principles of honesty, impartiality, ethical behaviour, fairness and consistency.

3.2. Confidentiality of Commercial Information

Whilst Council promotes the principles of public openness and transparency, on occasions this must be balanced against the need to ensure that businesses are not disadvantaged through the disclosure of their business affairs. Council will therefore consider the nature and sensitivity of information and, if necessary, consult with the contractor before publicly disclosing information in accordance with the requirements of the Government Information (Public Access) Act 2009.

3.3. What to expect from Council staff and its representatives

Council will ensure that all policies, procedures and practices related to contracting, purchase of goods and services and tendering are consistent with best practice and the highest standards of ethical conduct. Council staff are accountable for their actions having regard to the Code of Conduct, and are expected to:

- Use public resources effectively and efficiently.
- Avoid any real or perceived conflict of interest.
- Deal honestly, fairly and ethically with all individuals and organisations.

All Council procurement dealings will be underpinned by the following guidelines:

- Energy-efficient products containing recycled material and which are environmentally friendly will be purchased wherever reasonably possible.
- All potential contractors will be treated with fairness, given equal access to information and opportunities to submit bids.
- The Council will not disclose confidential or proprietary information without lawful excuse.

With regard to the purchases of goods and services, Council and its representatives will make decisions based on the principle of value for money. This means Council will

Statement of Business Ethics

balance all relevant factors including price, quality, experience, reliability, service, timeliness, and whole of life cost.

3.4. What Council expects from business dealings

We require all suppliers of goods and services, applicants, contractors and consultants and others doing business with Council to observe the following principles:

- Act ethically, fairly and honestly in all dealings with Council and comply with Council's policies, procedures and guidelines.
- Declare any real or perceived conflicts of interest as soon as they become aware of the conflict.
- Respect the obligations of Councillors and staff to comply with Council's Code of Conduct and its policies and procedures.
- Not engage in any form of collusive practices including offering employees inducements or incentives that may be designed to, or interpreted as, improperly influencing the conduct of their duties.
- Assist the Council to prevent unethical practices in our business relationships and to report any potential or known inappropriate or corrupt behaviour internally to Council or externally to an investigative body such as the ICAC or NSW Ombudsman's Office.

Contractors and suppliers need to be aware that the offering of gifts or benefits to Councillors, staff and delegates are generally prohibited. For further details refer to Part 6 "Personal Benefit" of Council's Code of Conduct which can be viewed on Council's website at: <https://www.shoalhaven.nsw.gov.au/Council/Access-to-Information/Policies>.

4. MAKING A DISCLOSURE

Reports of perceived or actual unethical behaviour, fraud, corruption, maladministration or waste of public monies can be made to the Chief Executive Officer of Council's Disclosures Coordinator (Public Officer) under the *Internal Reporting Policy (Public Interest Disclosures Act 1994)*. Matters can be directed to and marked for the attention of the Chief Executive Officer or Council's Public Officer at council@shoalhaven.nsw.gov.au.

Disclosures can also be made to:

- **Independent Commission Against Corruption (ICAC)** – The ICAC will investigate and expose corrupt conduct in public sector agencies including councils. Further information can be found on the ICAC's website at <https://www.icac.nsw.gov.au/>
 - Phone: (02) 8281 5999
 - Toll free: 1800 463 909
 - Email: icac@icac.nsw.gov.au
- **NSW Ombudsman** – The NSW Ombudsman handles complaints dealing with a council's failure to follow proper procedures, act on unauthorised work, enforce development consent conditions or reply to correspondence. Further information is available on the NSW Ombudsman website at the address <https://www.ombo.nsw.gov.au/>

Statement of Business Ethics

- Phone: (02) 9286 1000
- Toll free: 1800 451 524
- Email: nswombo@ombo.nsw.gov.au

5. RELATED DOCUMENTS AND LEGISLATION

This policy statement supports Council's ethical framework including the following policy documents and legislation:

- *Code of Conduct 2020*
- *Code of Conduct procedures 2020*
- *Fraud and Corruption Prevention Policy*
- *Internal reporting Policy (Public Interest Disclosures 1994)*
- *Local Government Act 1993*
- *Local Government (General) Regulation 2021*
- *Public Interest Disclosures Act 1994*

6. REVIEW

This policy to be reviewed every two years or earlier in the event of policy and/or legislative change, and/or publication by Government agencies of new or revised guidelines relevant to the policy provisions. A resolution of the Council could also require a review of this policy.

7. APPLICATION OF ESD PRINCIPLES

This Policy supports Council's commitment to ESD principles through requiring the consideration of energy efficiency and recycled component of goods provided to Council.

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) [↗](#)

This item was deferred from the Ordinary Meeting 7 February 2022.

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.

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*

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

CL22.55

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.

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 & Environment Court Planning Principles</u>:</i></p> <ul style="list-style-type: none"> • Views - General principles. • Views - Impact on public domain views. <p>Note: <i>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.</i></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.

CL22.119 Exhibition Outcomes - Planning Proposal (PP005) - Revision and Proposed Re-Exhibition - 'Deferred' Land, Warrah Road, Bangalee

HPERM Ref: D21/523566

Department: Strategic Planning

Approver: Gordon Clark, Interim Director - City Futures

Attachments: 1. Summary of Submissions (under separate cover) [⇒](#)
2. Agency feedback - PP005 Warrah Road [↓](#)

Reason for Report

- Provide feedback on the outcomes of the public exhibition and Government Agency consultation in respect of the Planning Proposal (PP005) for land with a 'deferred' zoning at Warrah Road, Bangalee.
- Present a revised version of the PP that was triggered by concerns raised by the NSW Rural Fire Service (RFS) and to seek endorsement for re-exhibition.
- Seek 'in principle' support for the transfer/dedication of approximately 45 ha of proposed C2 Environmental Conservation land to Council with a single, fully costed and funded Biodiversity Stewardship Agreement (BSA). Previously the C2 land was proposed to be contained in three (3) privately owned 'caretaker lots'.

Recommendation

That Council:

1. Endorse the revised proposal and modified Local Environmental Plan (LEP) maps contained in this Report and prepare an updated Planning Proposal (PP) that also includes:
 - a. Information about the proposed biodiversity certification of the development land and proposed conservation arrangements for the environmental land as outlined in recommendation 2 below;
 - b. A revised subdivision concept plan 2022;
 - c. Current agency comments.
2. Endorse, **in principle**, the transfer/dedication of the proposed C2 Environmental Conservation zoned land (part of Lot 24 DP 714096) to Council at the appropriate point in the future with a single, fully costed and funded Biodiversity Stewardship Agreement (BSA), registered on Title.
3. Forward an updated PP to the NSW Department of Planning and Environment (DPE) with a request for a further Gateway extension to permit re-exhibition and finalisation of the PP.
4. Publicly exhibit the updated PP in accordance with legislative requirements and consult relevant agencies (provided Gateway extension is issued), with costs accrued to date to be invoiced and paid by the Proponent prior to exhibition commencing.
5. Concurrently exhibit the Biodiversity Certification Application (BCA) and updated BCAR with the PP for 30 days in accordance with s8.6 of the *Biodiversity Conservation Act 2016*.

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6. Receive a future report on the outcomes of the re-exhibition and proposed finalisation process.
7. Advise the proponent and previous submitters of this resolution.

Options

Options to progress the PP are limited.

1. As recommended

Implications

This is the preferred option as it is realistically the only way to progress the proposal to meet the requirements of Government Agencies. The revised PP is an improved planning outcome and is supported by DPE, RFS, Biodiversity & Conservation Division of DPE (BCD) and relevant Council Section. The revised PP also responds to concerns raised in community submissions about bushfire risk, alternate access and environmental protection.

The revised footprint and proposed arrangements for the proposed C2 Environmental Conservation zoned land achieves a more balanced/robust development/conservation land supply outcome and is also consistent with the 'Planning for Bushfire Protection' 2019 (PBP 2019) guidelines. Due to the extent of changes, the PP needs to be re-exhibited. The Proponent supports the revised proposal.

2. Seek to finalise the PP as exhibited

Implications

Not recommended. The PP cannot be finalised as exhibited due to the concerns raised by the RFS (making it inconsistent with the s 9.1 Ministerial Direction that applies to bushfire prone land).

3. Propose an alternative/not adopt/defer the recommendation

Implications

Not recommended. There is insufficient time for an alternative proposal to be negotiated before the Gateway is due to expire on 25 May 2022. Changes to the proposal at this stage could delay the process and might not be supported by the key government agencies and/or proponent. A potential yield of 200 residential lots may not be realised. The environmental land would remain in private ownership and its future long term management would not be secured.

Location and Current Zoning

The subject land (**Figure 1**) has an area of approximately 80 ha and is located at Bangalee, approximately 3.5 km northwest of Nowra town centre. It is identified as Lots 21-24 DP 714096 and is predominately vegetated with cleared and partially cleared areas in the east as shown in aerial photo below. Most of the partially cleared area is subject to a Remediation Order under the *NSW Biodiversity Conservation Act 2016*.

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Figure 1 – Aerial Photo and boundaries of Subject Land

The subject land is bordered by existing land zoned R5 Large Lot Residential to the north, R2 Low Density Residential to the east and small rural holdings zoned C2 - Environmental Conservation and C3 - Environmental Management to the south and west. The remaining part of the original Crams Road URA zoned R1 (General Residential) adjoins the land to the south separated by a Crown Road (see **Figure 2**).

The zoning of the subject land was 'deferred' from Shoalhaven LEP 2014 and therefore the provisions of Shoalhaven LEP 1985 continue to apply. Under Shoalhaven LEP 1985, the site is currently zoned Rural 1(d) (General Rural).

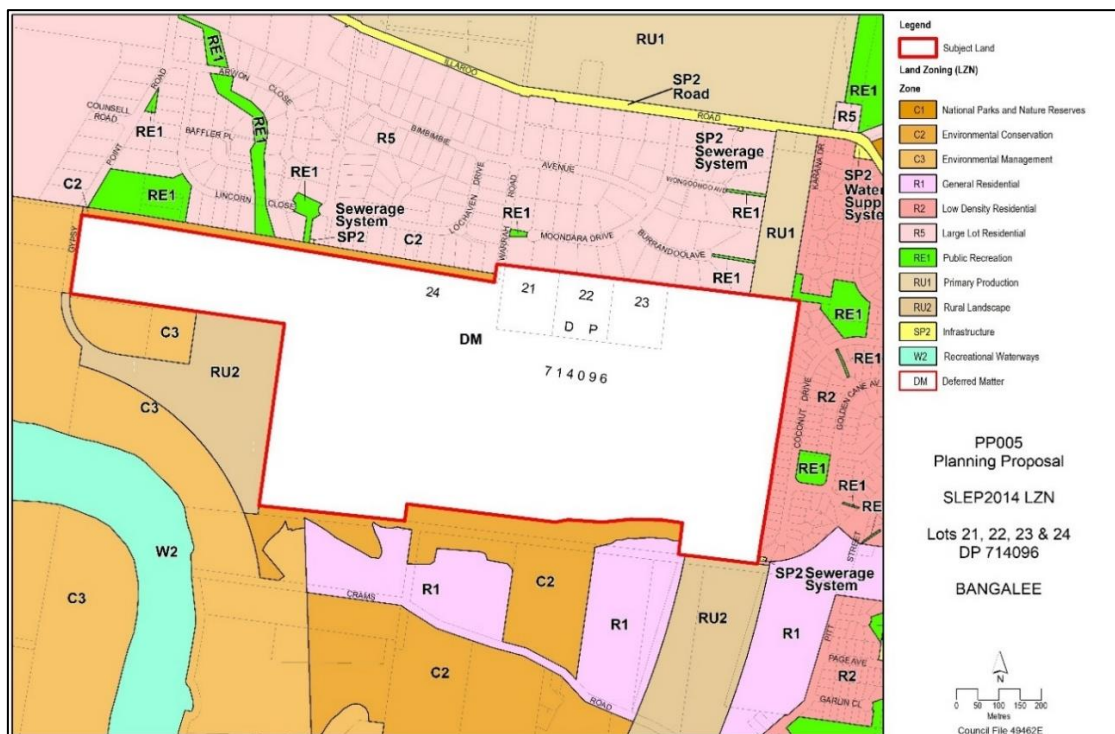


Figure 2 – Shoalhaven LEP 2014 (Note: subject land is currently deferred from SLEP 2014)

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Background

The PP has a long and complex history dating back to Nowra-Bomaderry Stricture Plan (NBSP) and draft Shoalhaven LEP processes, including in 2013 when the proponent made a submission to the draft Shoalhaven LEP. The history is fully documented in the exhibited PP [here](#).

Council resolved to submit a PP for Gateway determination in December 2015 after considering an independent review of conflicting biodiversity assessments. A favourable Gateway determination was originally issued by the NSW Government in July 2016. This PP is one of five “Legacy” PPs for which the original Gateways were **terminated** by DPE on 15 December 2020 (see more information about the Legacy PPs in Council report DE21.5 [here](#)).

A new Gateway determination was issued for this PP on 25 February 2021 with a 12-month timeframe and an expiry date of 25 February 2022. A Gateway extension request was sent to DPE on 17 January 2022 based on a project plan with an estimated completion date of August 2022. However, on 24 January 2022, a [revised Gateway](#) was issued with an extension of only three **(3) months** until **25 May 2022**. DPE advised:

“This 3-month timeframe will allow Council sufficient time to complete the updated reports and revise the planning proposal and to confirm whether the elected Council supports an altered planning proposal. Should Council seek a Gateway determination alteration for a revised planning proposal, then a request for a further extension of 3 months to finalise the plan could be considered”.

Copies of all Gateway determinations for the PP are available in the document library on the [Get Involved Web-Page](#).

Outcome of Public Exhibition and Agency Consultation

Public Exhibition: May-June 2021

The PP was publicly exhibited between 12 May and 25 June 2021. During the exhibition:

- Council’s [‘Get Involved’](#) project page was maintained to assist community engagement on this PP and accompanying biodiversity certification application (which is discussed later in this report). All exhibition documentation, relevant Council reports and resolutions, technical studies, Gateway determinations, agency comments, the Biodiversity Certification Application (BCA) and Biodiversity Conservation Assessment Report (BCAR) were (and remain) available for viewing.
- Information ‘drop-in’ sessions were held between 4 pm and 6 pm on 8th and 9th June 2021 at the North Nowra Community Centre, following an online registration process (to help manage COVID risks). Twenty-four (24) registrations were received, and eighteen (18) individuals attended at least one session. No follow-up enquiries were received.

A total of twenty-four (24) submissions were received during the public exhibition period and a breakdown of submissions is provided in the following table:

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Basic summary	Number	Comment
In support	6	Only one appears to have a connection with Shoalhaven and none were connected to Bangalee
Bangalee landowners	16	Objections – 3 of 16 Concerns and comments – 13 of 16
Other	1	Objection - from Sydney - appears to have no connection with the Shoalhaven or Bangalee
Neutral	1	Jerrinja Tribe – consultation concerns addressed via direct correspondence as detailed (Attachment 1).

A detailed summary of submissions is provided as **Attachment 1**. The key issues raised are summarised below. The resultant proposed changes are discussed in the next section of this report.

Lot size:

- *There was generally no support for the 500 m² minimum lot size (LSZ). There was, however, considerable support for the status quo i.e., Large Lot Residential ≥1,000 m² was preferred. One submission noted that the entire locality of Bangalee was rezoned (from R2 to R5) as recently as August 2020 to reflect the existing development (PP027). **10 submissions**.*

Comments on the concerns about minimum lot sizes are provided in **Attachment 1** Summary of Submissions (see responses 1.4 to 1.8).

- With a few exceptions, lot sizes in the Bangalee area range from 2,000-5,000 m². Several submitters, whilst not opposed to the PP, suggested a transition be provided between the existing development and the possible smaller lots within the subject land. *Note: the exhibited PP did provide a transitional 2,000 m² LSZ between the existing 2,000 m² area to the north and the proposed 500 m² LSZ to the south.*

An R5 zoning for this entire Urban Release Area (URA) is not considered appropriate as the zone objectives would frustrate the delivery of planned regional land supply as anticipated by the NBSP. Projected yield has already been substantially reduced due to the environmental/biodiversity constraints of the land. Only 25 ha of the 80 ha parcel of land is suitable for development. An R5 zone would significantly reduce the projected yield of 200 lots and potentially render the proposal uneconomic.

However in response to community concerns, it is proposed to create a transition/buffer area between existing development in Bangalee and smaller R2 lots by zoning part of the URA to R5 Large Lot Residential zone and applying a minimum lot size of 2,000 m².

Not all submitters will be satisfied with the proposed changes. However, it is considered that the revised proposal goes some way to respond to the concerns raised about minimum lot size without rendering the entire proposal uneconomic and thereby, failing to deliver much needed new housing in the region.

If Council supports the revised proposal for re-exhibition, the community will have the opportunity to provide further feedback on the proposed minimum lot sizes.

Traffic and access

- *Specifically, the need for an alternate and / or secondary access other than Warrah Road and concerns about bushfire risk and evacuation arising from the increased population, additional traffic, and access issues. **8 submissions***
- Increased traffic on Warrah Road, Bimbimbie Avenue and Moondara Drive was highlighted. Access via a new roundabout at the intersection of Warrah/Illaroo Roads was suggested as an alternative. However, construction of this northern

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extension of Warrah Road is of significant concern to at least three of the four immediately adjoining landowners.

Of greatest concern, however, was bushfire risk and the lack of an alternate/secondary access in the event of an emergency evacuation. This issue was also central to concerns raised by RFS and was a key consideration in revising the proposal.

An alternative access option via Pitt Street is illustrated in the sketch plan – available via the link in **Attachment 2**. Access via the northern extension of Warrah Road through to a roundabout at the intersection with Illaroo Road could also be further explored to reduce traffic impacts on Moondara Drive and Bimbimbie Avenue. This access option addresses one of the key RFS concerns.

All access options would be further considered at DCP stage if Council supports the revised proposal and if/when the land is rezoned, and community will be invited to engage in this process.

Environmental – loss of bushland and wildlife habitat.

- *Impact on threatened species caused by previous clearing and proposed development. **6 submissions.***
- The proposal to protect the environmental and biodiversity values of the site along with development is well documented in this report and its attachments. If Council supports the recommendations and the land is rezoned, the environmental values of the C2 zoned land will be better protected, particularly when the Biodiversity Stewardship Site is ultimately established. As noted by BCD, on balance, the biodiversity package is robust. It is also consistent with the requirements of PBP 2019 and also facilitates the delivery of planned regional land supply.

State and local infrastructure

- *The need for major infrastructure to be provided prior to development and the need for additional social infrastructure in the area, e.g., footpaths, public open space and a playground. **5 submissions.***

The provision of State Infrastructure has been commented on in the Summary of Submissions at **Attachment 1** (see responses 1.2 and 1.3).

- No land will be able to be 'released' for actual development until the provisions of Part 6 of Shoalhaven LEP 2014 have been satisfied. Council has also resolved (MIN19.289) that release of this land should not occur until both the Princes Highway Shoalhaven River Bridge duplication and the Far North Collector Road have been completed.

The need for social infrastructure to support the proposed URA such as public open space, a playground and shared paths, etc was also raised in submissions. These issues are commented on in the Summary of Submissions at **Attachment 1** (see responses 2.4 – 2.6).

A key issue to arise is the need for a local park. City Lifestyles (Strategic Asset Planning) supports the dedication of a minimum of 4,000 m² as public open space within the proposed URA for use by both future (approx. 500) and existing residents. A local park is considered to be justified based on projected population increase as there are no suitable existing parks in Bangalee or its immediate surrounds. Ideally, a park would be centrally located to be accessible to all residents of Bangalee.

A detailed site-specific Development Control Plan (DCP) must be prepared before the land can be 'released' for subdivision in accordance with Part 6 of the Shoalhaven LEP 2014. The community will be invited to engage in this process. The DCP will provide more detailed planning provisions and will help achieve beneficial outcomes, for example, those relating to local/social infrastructure provision (e.g., a local park,

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cycleways, shared paths, and sustainability infrastructure such as high-quality stormwater management, and subdivision design). Council may also prepare/consider other supporting documents (such as a Voluntary Planning Agreement and Contributions Plan Amendment). In this case, the community will also be engaged if/when these documents are prepared.

Schools

- *Impact of additional population on the capacity of local primary schools. **3 submissions.***
- Council continues to liaise with the NSW Department of Education (DE) in relation to the educational needs of the Shoalhaven more broadly. DE is aware of the regional significance of the Nowra-Bomaderry Growth Area and the projected population increase. Future needs and the capacity of existing education facilities in the area are being monitored by DE. Initially, DE intends to meet the increased demand for schooling by completing upgrades to one or more existing schools.

Agency Consultation

As required by the Gateway determination, consultation was undertaken with a range of government agencies between July and October 2021. **Attachment 2** is a summary of the agency feedback.

Crucially, the NSW Rural Fire Service (RFS) objected (after the exhibition) on the basis that the proposal did not meet the subdivision requirements of PBP 2019 and therefore was not consistent with Ministerial Direction 4.4 under s 9.1 of the *Environmental Planning & Assessment Act, 1979*.

This PP cannot be progressed unless this objection is resolved, and this triggered Council to seek assistance from DPE's Planning Delivery Unit (PDU).

The Revised Proposal

Essentially, the revised proposal is the outcome of discussions lead by the PDU with the RFS, DPE's Biodiversity & Conservation Division (BCD), DPE's Regional Office, the Proponent and Council's Strategic Planning Team.

The PDU's role was critical in bringing together these parties, allowing the proposal to be reshaped to help overcome concerns. There are no outstanding agency objections relating to the revised PP presented in this Report.

The revised development footprint is substantially different from the exhibited PP but presents a better potential planning outcome, as illustrated in Figure 3 below.

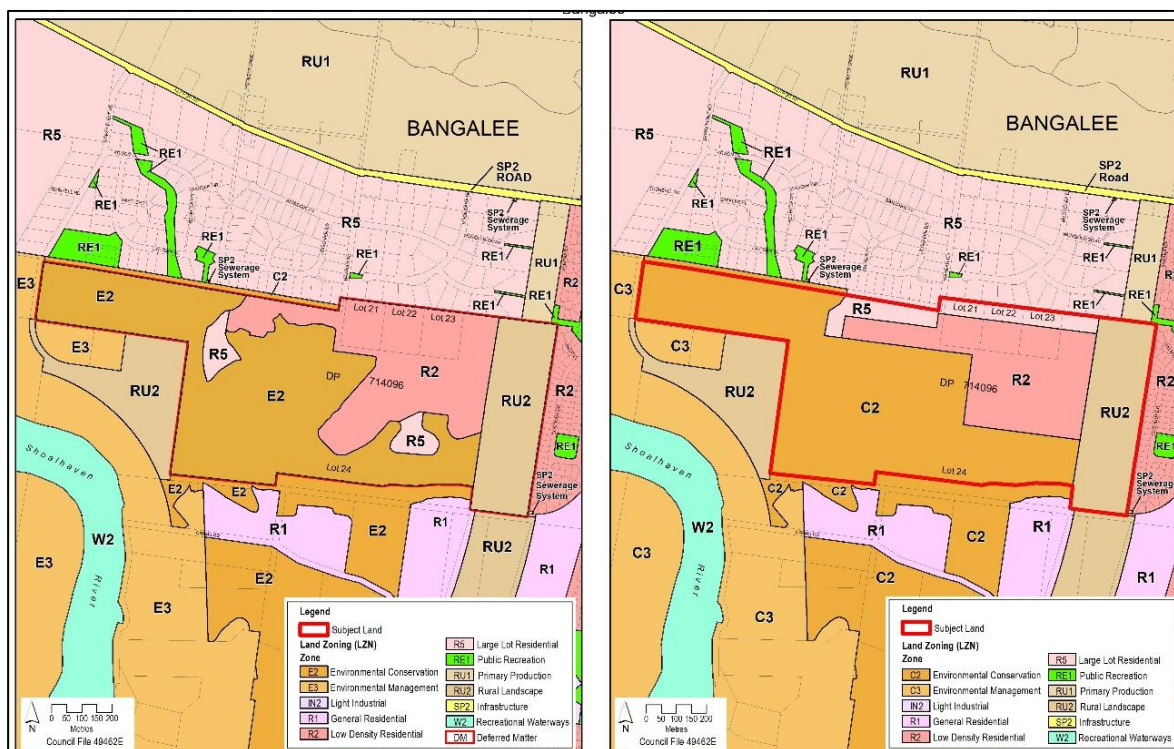


Figure 3 – Comparison – Exhibited proposed zoning (LHS) and revised proposed zoning (RHS)

The key changes to emerge and frame the revised proposal are:

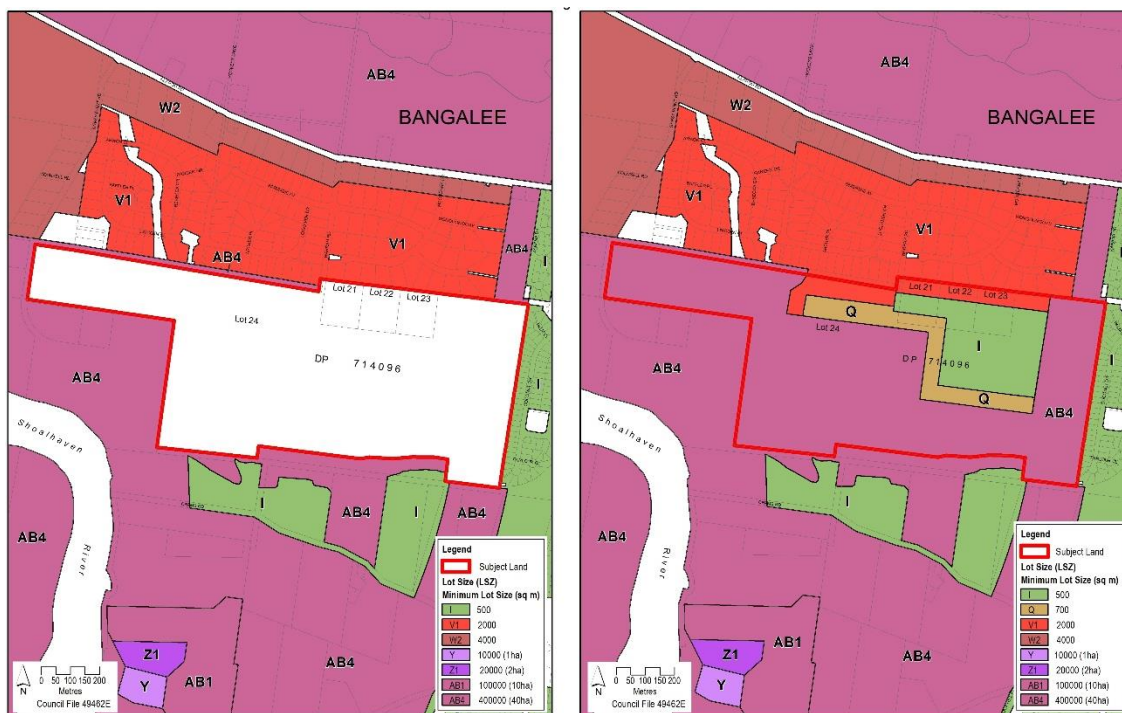
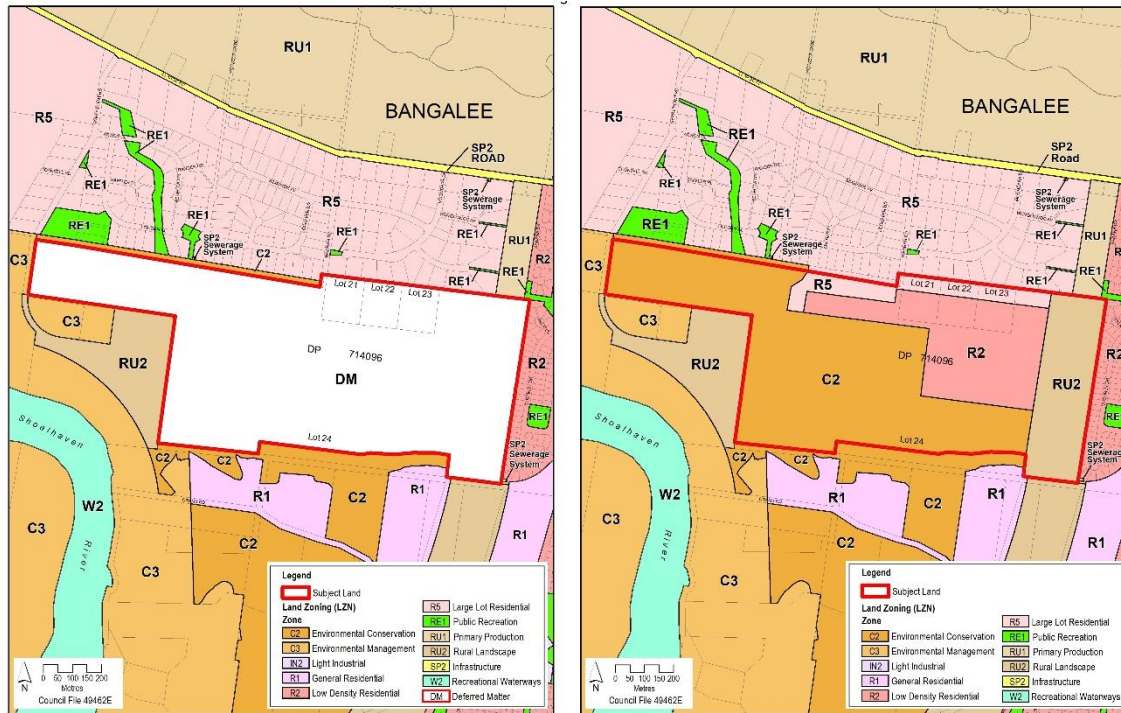
- A regular boundary and manageable interface between the proposed residential zones and environmental land that will facilitate consistency with the subdivision requirements of PBP 2019 and therefore Ministerial Direction 4.4.
- Two small pockets of R5 zoned land with dwelling entitlements have been removed. The R5 land had been proposed to accommodate dwellings associated with three (3) 'caretaker lots' for the C2 land.
- A buffer/zone of transition between the existing development in Bangalee and smaller R2 lots is proposed to be created by applying an R5 zone to the north of the URA, with a minimum lot size of 2,000m².
- Approximately 300 linear metres of the former Crown Road necessary for perimeter road access to the development is proposed to be included in the R5 Large Lot Residential zone.
- A minimum lot size of 700 m² is proposed to apply along the R2/C2 interface to ensure that the bushfire Asset Protection Zones (APZs) can be accommodated.
- C2 Environmental Conservation land is proposed to be increased by 2 ha to 45 ha.
- Minimum lot sizes in the revised proposal are proposed to be simplified and reduced to four as follows:
 - R2 zone – 500 m² and 700 m²
 - R5 zone – 2000 m²
 - C2 and RU2 zones – 40 ha

As a result, four (4) of the exhibited proposed LEP Map changes have been modified to reflect the revised proposal, these are:

- LZN – Land use zones (Figure 4)
- LSZ – Minimum Lot Size (Figure 5)

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- HOB – Height of Buildings (Figure 6)
- Proposed URA (Figure 7)



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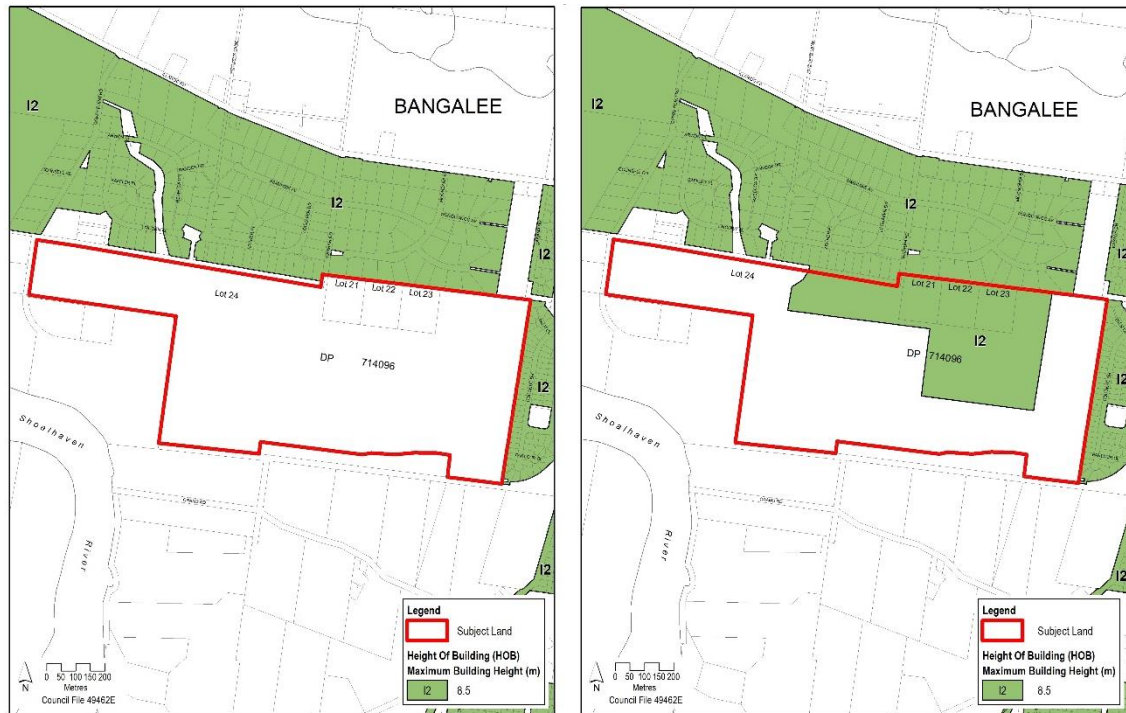


Figure 6 – Existing (LHS) and proposed (RHS) height of buildings (HOB) under SLEP 2014

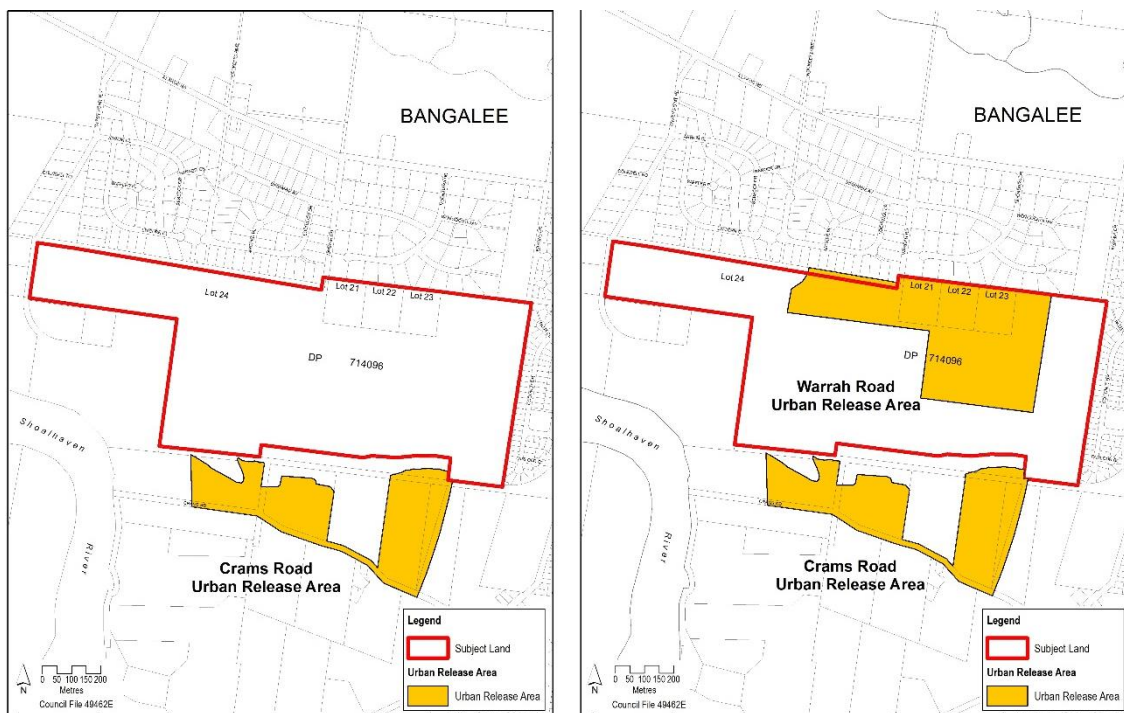


Figure 7 – Existing (LHS) and proposed (RHS) urban release area (URA) under SLEP 2014

If supported, the revised proposal does, however, need to be re-exhibited due to the extent and nature of changes.

An updated PP document will need to be prepared and forwarded to DPE with a further Gateway extension request prior to re-exhibition of the PP.

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Biodiversity Certification

Biodiversity certification offers a streamlined biodiversity assessment process under the *NSW Biodiversity Conservation Act 2016* for areas of land that are proposed for development. The process identifies both areas that can be developed after they are 'certified', and measures to offset the impacts of development. Where land is 'certified', development may proceed without the usual requirement for site-by-site assessment as part of the development application (DA) process.

An application for Biodiversity Certification (BCA) and the associated Biodiversity Certification Assessment Report (BCAR) were exhibited concurrently with PP in accordance with 'best practice'. **No** submissions were received in relation to the BCA/BCAR.

An updated BCAR was received on 14 January 2022, reflecting the revised PP. In addition to recalculation of the biodiversity credits, the revised BCAR proposes to transfer/dedicate the C2 land to Council. The exhibited PP and BCAR proposed the C2 land to be split into three (3) caretaker lots / Biodiversity Stewardship Sites (which would have remained in private ownership).

If the revised proposal is supported, the BCA and updated BCAR will be re-exhibited concurrently with the PP. The NSW Minister for Environment & Heritage will determine the BCA in consultation with the NSW Minister for Planning and Homes. The application will be assessed and determined in accordance with the biodiversity certification provisions of the *Biodiversity Conservation Act 2016*.

Ultimately, if the development area is biodiversity certified, the biodiversity credits calculated in the BCAR would have to be secured by the developer and retired.

Proposed Land transfer to Council with Biodiversity Stewardship Agreement

Critical to BCD's support for the revised proposal is for all the land proposed to be zoned C2 Environmental Conservation to be transferred/dedicated to Council with a **single** fully funded Biodiversity Stewardship Agreement (BSA) registered on the Title. In contrast, the exhibited proposal was for the C2 land to be the subject of three separate BSA's and split into the three (3) privately owned caretaker lots.

BCD stated that: "... on balance, the biodiversity package is considered more robust and assists integrating the bushfire requirements of the RFS while assisting SCC to achieve regional land supply."

The biodiversity stewardship site would have to be managed in accordance with the agreement, which aims to improve the land's biodiversity values.

An application for a BSA must be lodged with the Biodiversity Conservation Trust (BCT) and the application must be supported by a BSA Report prepared by the proponent. The BSA will calculate the amount of the deposit that must be made to the Biodiversity Stewardship Payments Fund for ongoing management of the site (total fund deposit - TFD). The Payments Fund would pay Council scheduled management payments from the TFD as determined in the BSA Report and by the Fund.

City Development (Environmental Services) supports the revised proposal and transfer/dedication of C2 land to Council with a single BSA. Key comments received were:

- *The revised possible development footprint is supported. This revised layout is more condensed than the previous design and is beneficial as this design allows a greater width of wildlife corridor to be conserved by the C2 zoned area proposed to be managed under a Biodiversity Stewardship Site Agreement.*

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- *It is understood that for the 'suggested option' all areas outside of the revised possible development footprint (R2) and the RU2 proposed area would be zoned C2 and managed under a Biodiversity Stewardship Agreement. This is supported.*
- *The R2 zoned development footprint would become a revised biodiversity certification area. Comments provided by the BCD in relation to revising the BCAR to reflect this new alignment, in accordance with BAM 2020 are supported.*
- *It is understood that in order to support the PP, BCD require that all the land proposed to be zoned C2 Environmental Conservation be dedicated to Council with a fully funded BSA registered on the Title. This is supported. It would be expected that the credits generated by the BSA would be retired by the developer as part of the offset for the biodiversity certification area.*

Council's **in principle** agreement, is sought to accept transfer/dedication of the proposed C2 Environmental Conservation land. The BSA would ensure that the C2 Environmental Conservation land is managed for its biodiversity and conservation values in perpetuity. Fundamentally, the negotiated land transfer and BSA is an improved biodiversity outcome to the exhibited proposal.

Transfer of the land and accompanying funding would be set out in the Biodiversity Certification Agreement as part of any conferral by the NSW Minister for the Environment and Heritage under Part 8, Division 2 of the Biodiversity Conservation Act 2016. The timing of transfer is yet to be determined but it would potentially be a set period after Part 6 of the LEP (requirements relating to Urban Release Areas) is satisfied, or some other key point in the process (e.g., prior to release of subdivision works certificate). Council and BCD will continue to work closely on this timing aspect.

Further reports on the mechanism for and the environmental/financial benefits arising from transfer of the land to Council will be prepared in due course when the appropriate milestones are reached.

Conclusion

In conclusion, the revised proposal and associated proposed transfer/dedication of C2 land with BSA (Option 1) is a superior planning outcome compared to the exhibited PP.

The revised proposal responds to most issues and concerns raised during community consultation (drop-in sessions) and submissions received during the original exhibition. The revised proposal has the support of the key NSW Government agencies as well as the support of the relevant sections within Council.

The extent of the changes is such that re-exhibition (concurrently) of the PP and BCA is necessary. Proceeding with this approach will allow this longstanding matter to be resolved and achieve the best overall planning outcome.

Community Engagement

The revised PP option will need to be re-exhibited due to the extent of changes. The community will have a further opportunity to consider the revised proposal as a result.

The Warrah Road 'Get-Involved' project page will be updated to keep the community informed and to seek submissions on the revised PP and BCA.

Policy Implications

No implications for existing policy arise from the revised proposal or re-exhibition of the PP.

The transfer/dedication of the C2 Environmental Conservation land to Council (with a fully funded BSA registered on Title) is facilitated via the *Biodiversity & Conservation Act 2016*

and as such, there is no intersect with existing policies of Council. This is a shift in Council's general approach; however, the proposal will result in a good conservation/management outcome and importantly the proposal will be fully funded, meaning Council will not need to expend funds for ongoing management.

Land transferred/dedicated would be classified as 'Community land – Natural Area Bushland' in accordance with Section 31 and Section 36 of the *NSW Local Government Act 1993* and Section 102 of the *NSW Local Government (General) Regulation 2021*. Classification of the land would be addressed when further reports on the land transfer/dedication and establishment of BSA are presented to Council in due course.

The preparation of a Development Control Plan relating to the land will need to be prepared at the appropriate point, noting that Council's long held position is that land release will not occur until the new bridge crossing and the Far North Collector Road have both been completed.

Financial Implications

Council has fees and charges in place for progressing proponent-initiated Planning Proposals. These seek to recoup costs incurred by Council in progressing the matter, including the costs associated with staff time. Costs incurred to date (as prescribed in Council's adopted Fees and Charges) will need to be invoiced to, and paid by, the Proponent before the PP proceeds to exhibition.

The provision of a fully costed and funded BSA would ensure that the future cost of managing the biodiversity stewardship site would be met by the sale of Biodiversity Credits generated under the NSW Biodiversity Offsets Scheme. Rates would also not be payable. If any implications should arise that need to be considered, these would be canvassed when further reports on the establishment of the BSA are prepared.

Note: Below are the links contained within Attachment 2

[16 July 2021 response](#)

["Suggested Option"](#)

["Subdivision Concept Plan"](#)

<https://getinvolved.shoalhaven.nsw.gov.au/warrah-road-bangalee-planning-proposal>

[18 October 2021](#)

[updated BAR](#)

[Subdivision Concept Plan](#)

[updated BCAR](#)

[advice](#)

[Comments](#)

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Agency Referrals – PP005 - Deferred Land at Warrah Road, Bangalee

Agency	Agency Response	Staff Comments
NSW Rural Fire Service	<p>16 July 2021 response (summarised):</p> <ul style="list-style-type: none"> <i>"the subject site incorporates significant access and ecological constraints.</i> <i>The information provided to support the Proposal has not adequately addressed the strategic bush fire planning principles and bush fire study requirements detailed in section 4 of Planning for Bushfire Protection 2019 (PBP).</i> <i>The concept plans and preliminary bush fire assessment detail a significant departure from the specifications and requirements for residential development outlined in PBP 2019. While the parameters of the report could not be verified, the substantial reliance on performance-based solutions to demonstrate compliance with PBP 2019 at this stage of land use planning, is not considered appropriate.</i> <p><i>Based upon an assessment of the information provided, the NSW RFS is not satisfied that the proposal is consistent with the directions."</i></p>	<p>Non-compliance with PBP 2019 and therefore Ministerial Direction 4.4 meant that the PP, as exhibited, could not proceed. Consequently, on 21 July 2021, urgent assistance was sought from DPE's Planning Delivery Unit (PDU) to lead discussions between the RFS, Biodiversity & Conservation Division (DPE), DPE's Regional Office, Strategic Planning and the proponent. Several meetings were convened between the parties over a period of six weeks between August and September 2021. These discussions were informed by:</p> <ul style="list-style-type: none"> A sketch plan of a possible footprint for the URA prepared by Strategic Planning - "Suggested Option"; and A revised "Subdivision Concept Plan" (indicative) prepared by the proponent. <p>The resulting revised proposal better addresses the subdivision requirements of PBP 2019 and responds to the RFS's concerns, namely:</p> <ul style="list-style-type: none"> Provision of alternate access from the south-east corner of the proposed URA to Pitt Street; Provision of perimeter roads to the entire URA; and Concept plan shows that the required minimum APZs can be incorporated within the subdivision. <p>Notably, the RFS and BCD had competing interests. The concerns of the RFS could not be adequately addressed unless BCD was willing to reconsider its position regarding the boundaries of the Remediation Order, and the interface between the proposed URA (to which the Biodiversity Certification Application (BCA) applies) and the C2 Environmental Conservation land.</p> <p>In particular, the revised proposal and the provision of alternate access to Pitt Street raised implications for the proposed C2 Environmental Conservation land, a small area of High Conservation Value (HCV) land and land subject to the Remediation Order. Details and a map of the boundaries of the Remediation Order are available in the PP at Section 3.2 (p.25)(https://getinvolved.shoalhaven.nsw.gov.au/warrah-road-bangalee-planning-proposal).</p> <p>During the discussions, BCD lent its support to revising the proposal to achieve a more pragmatic development outcome and a better overall biodiversity outcome. As noted in the associated report, BCD's support hinged on the creation of a single fully funded BSA in Council ownership.</p>

Agency	Agency Response	Staff Comments
	<p>On 18 October 2021 the RFS responded to the formal referral :</p> <p><i>"In recognition of the history of the site and recent amendments to the concept plan – the proposal is considered to be generally consistent with subdivision requirements of Planning for Bushfire Protection 2019."</i></p> <p>RFS also required a revised Bushfire Assessment Report (BAR), consistent with PBP 2019, if the proposal was to proceed to public exhibition.</p>	<p>To conclude and confirm the outcome of the PDU-led discussions, the revised proposal was formally referred to BCD and the RFS for comment.</p> <p>An updated BAR was received on 15 December 2021 and referred to the RFS. Receipt was acknowledged on 19 December 2021. At the time of reporting, no further comments have been received.</p>
<p><u>Biodiversity & Conservation Division (DPE)</u></p>	<p>On 2 November 2021 BCD advised, in part:</p> <ul style="list-style-type: none"> <i>We [...] acknowledge that the revised layout results in a more efficient subdivision design and delivery without significantly compromising the sites environmental values.</i> <i>The improved bushfire management and associated changes are a suitable solution to meet a compromise between appropriate bushfire mitigation, housing delivery and conservation management. This is reliant upon the revised package including a fully funded BSA on the environmental zoned land [emphasis added].</i> <i>As above, a single fully funded BSA in Council ownership presents an acceptable solution on balance with the updated bushfire mitigation and management requirements. Please note that our position was a fully funded BSA as this would be more acceptable as a dedication to Council. Information on when this application is to be submitted to the BCT would be beneficial.</i> <i>The BCAR will need to be updated.</i> <i>We are open to amending the Remediation Order due to the planning proposal revisions as, on balance, the biodiversity package is considered more robust and assists integrating the bushfire requirements of the RFS while assisting SCC to achieve regional land supply.</i> <i>We note that provision for stormwater management has yet to be integrated into the urban footprint. It is recognised that this is an issue more relevant to the DA stage. However, it is</i> 	<p>BCD commented that, if the proposal is certified under the <i>Biodiversity Conservation Act 2016</i>, all impacts from the proposed development must be wholly contained within the certified area. To this end, the revised Subdivision Concept Plan prepared by the proponent has been amended with the following notations:</p> <ol style="list-style-type: none"> <i>All stormwater management infrastructure will be wholly contained within the footprint of land proposed to be zoned for urban development.</i> <i>All stormwater management controls will be designed and implemented in accordance with chapter G2 of the Shoalhaven Development Control Plan 2014 - sustainable stormwater management and erosion/sediment control.</i> <i>Subdivision layout, dimensions, areas and easements are subject to survey and council approval.</i> <p>Containment of stormwater management infrastructure within the urban footprint would be addressed in the DCP and subject to DA assessment. BCD has been provided with a copy of the amended Subdivision Concept Plan with appropriate notations and no further comments have been received.</p> <p>An updated BCAR, reflecting the revised proposal, was received on 14 January 2022 and is proposed to be re-exhibited concurrently with the PP.</p>

Agency	Agency Response	Staff Comments
	<i>important that the spatial implications be considered at this stage so that stormwater is managed to minimise impacts on adjoining conservation lands. It is also worth noting that should the proposal be certified under the Biodiversity Conservation Act, then all impacts will need to be contained within the certified areas and not within any of the conservation areas. Further work on the proposed urban layout should make provision for stormwater management.</i>	
Transport for NSW (TfNSW)	On 14 May 2021, TfNSW confirmed their previous advice : <ul style="list-style-type: none"> TfNSW has no objections to the PP in principle as it is unlikely to have a significant impact on the state road network. 	TfNSW has been consulted on two occasions. Comments were first received on 19 October 2020 in response to consultation undertaken in accordance with the original Gateway determination. TfNSW was again consulted just prior to public exhibition of the PP. If Council endorses the revised proposal, TfNSW's most recent advice will be included in the updated PP. No further consultation with TfNSW is necessary.
Natural Resource Access Regulator (NRAR)	NRAR was consulted prior to exhibition of the PP as required by the original Gateway determination. Comments were received from NRAR on 22 February 2021. Specifically: <i>"It is NRARs preference riparian corridors across the subject site are handed over to Council or retained under public ownership to assist in ongoing protection of watercourses and to prevent detrimental impacts from private landholders."</i>	The revised proposal, in particular, the transfer/dedication of the C2 land to Council is consistent with NRAR's advice above. Should Council endorse the revised proposal for public exhibition, NRAR's advice will be included in the updated PP. No further consultation with NRAR is necessary.

CL22.120 Proposed Suburb Name - Moss Vale Road Urban Release Areas - Exhibition Outcomes and Next Steps

HPERM Ref: D21/552165

Department: Strategic Planning

Approver: Gordon Clark, Interim Director - City Futures

Attachments: 1. Summary of Submissions - Table of Issues and Staff Responses [↓](#)
2. Submission from Cambewarra Residents & Ratepayers Association [↓](#)

Reason for Report

Advise of the outcomes of the public exhibition of proposed suburb names for the Moss Vale Road Urban Release Areas and seek direction on the steps to finalise new suburb arrangements - name and boundary.

Recommendation

That Council:

1. Nominate “Badagarang” as the proposed name for the Moss Vale Road Urban Release Areas and submit it to the NSW Geographical Names Board for consideration at their next official Board Meeting.
2. Promote the suburb boundary outlined in red in Figure 3 of this report as the recommended boundary for the new suburb and:
 - a. Provide the recommended suburb boundary and community feedback on boundary options for the Board’s consideration.
 - b. Request that they collaborate with Council, affected landowners and relevant stakeholders in the settling of the new suburb boundary.

Options

1. As recommended.

Implications: This is the preferred option as it progresses suburb naming arrangements for the new Moss Vale Road urban release areas, helping to differentiate between urban and rural areas with a different character, contribute to the new communities’ identity, and assist with service provision (emergency, postal and delivery services).

It recognises the outcomes of the community consultation, with a preference over the alternative name of “Gumbeengang” (as it is more difficult to spell and pronounce). This option also aligns with the policy preferences and recommendations of the NSW Geographical Names Board (GNB) to use Aboriginal themed names. It also responds to the collaboration and consultation activities undertaken with the Nowra Local Aboriginal Land Council (LALC) and Council’s Aboriginal Advisory Committee.

2. Consider alternative suburb naming arrangements, such as retaining existing suburb names and boundaries (Cambewarra and Meroo Meadow) with adjusted suburb boundaries to better align with the release areas or establishing new suburb arrangements for only the northern release area.

Implications: This option whilst not preferred, recognises that new residential lots in the southern release area have been marketed and sold (off-the-plan) with a Cambewarra

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address. However, it does not provide logical suburb naming arrangements for the new urban areas, differentiate between urban and rural areas with different development outcomes, contribute to the new communities' identity, or assist with service provision (emergency, postal and delivery services).

3. Investigate alternative suburb naming options.

Implications: This option would delay the settling of new suburb naming arrangements for the release areas by approximately 9-12 months, potentially causing confusion for an increasing number of landowners as the development of the southern release areas continues and the delivery of the northern release commences. The community consultation exercises required to set new suburb arrangements would be more complex and involve a greater number of people. The two names tested with the community were selected in consultation with the Names Board and endorsed by the Nowra LALC and Council's Aboriginal Advisory Committee. Opportunities to identify other suitable names may be limited.

Background

Council is guiding the delivery of a new urban area/suburb in Nowra-Bomaderry, currently known as Moss Vale Road North and Moss Vale Road South (Figure 1). Together, these release areas are anticipated to provide up to 3,500 contemporary homes in a new urban environment. The new urban area is anticipated to be delivered over the next 10-15 years and will contain a retail centre providing space for retail and services and a range of housing types. The new community will be supported with a range of infrastructure, including a road network connected to Moss Vale Road (via two roundabouts), water, sewer, and open space.

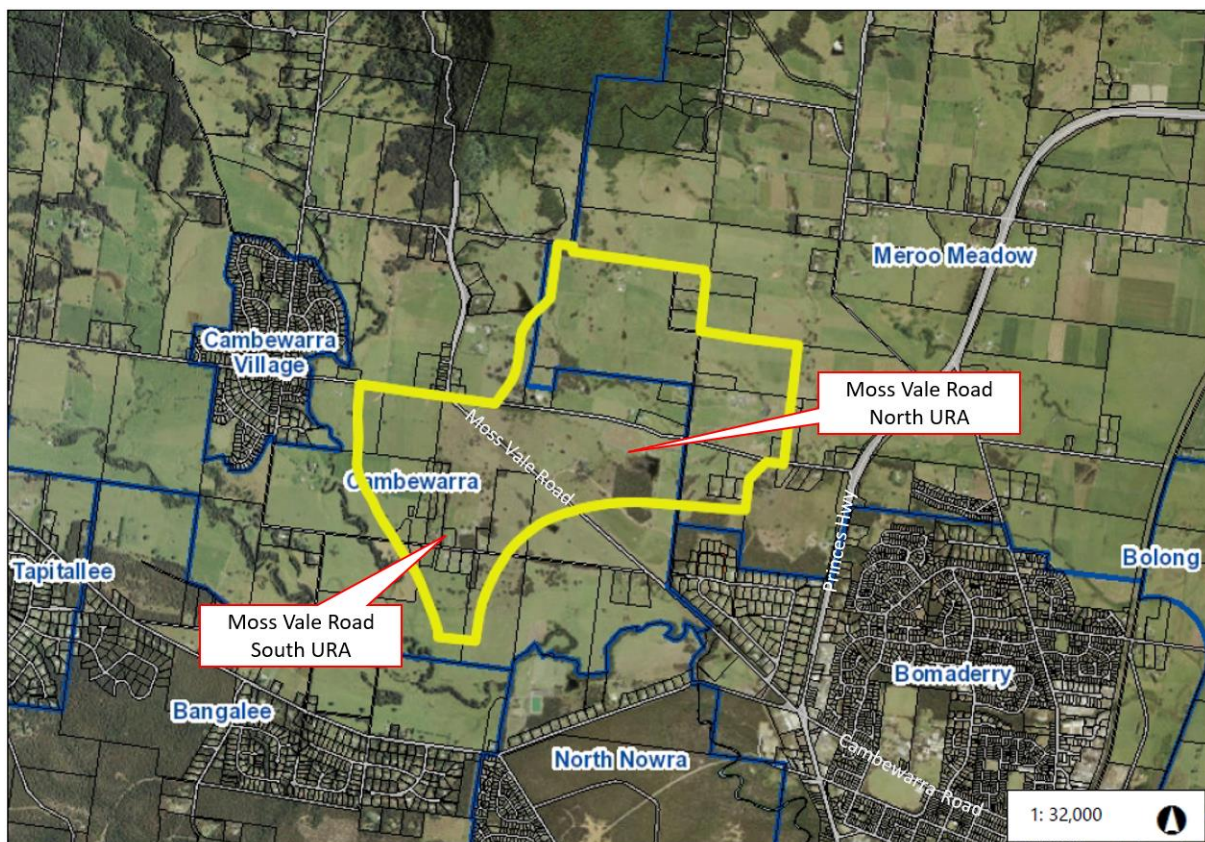


Figure 1: Location of the Moss Vale Road urban release areas and existing locality boundaries.

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The release areas are located in, and stretch across, the existing suburbs or localities of Cambewarra and Merroo Meadow. The GNB has confirmed its preference for new suburb arrangements for the new urban area to:

- Distinguish between the development outcomes of the new urban area and adjoining rural areas, helping to maintain the existing Cambewarra and Merroo Meadow localities, while contributing to the identity of the new community.
- Recognise the significance and functions of the combined new urban area, noting its size, an emerging community, and the potential number of homes and other uses.
- Provide clear and consistent addressing for future residents to assist with the provision of emergency, postal and delivery services.

The GNB administers the process for new suburb naming arrangements, providing detailed guidelines in their [Place Naming Policy](#) to ensure that new names are unique, culturally appropriate, and easy to use. The Policy encourages the use of traditional Aboriginal names for local plant and animal species, and landscape and cultural features. It does not favour the use of family names, prevents the duplication of existing names already in use anywhere in Australia, and precludes the addition of prefixes or suffixes to existing names (for example, North, South, Heights, Downs, etc.).

An initial selection of twelve (12) names were identified with the assistance of the Shoalhaven Historical Society and Nowra LALC. These names were selected from the local Aboriginal language group (Dharawal) following a review of a broad range of Aboriginal history and language resources. The names were tested against the GNB's Policy and reduced to two (2) suitable options through consultation with the Nowra LALC and Council's Aboriginal Advisory Committee.

Given the framework of requirements governing a suitable suburb name, the GNB's expectation for Council to lead the naming process, and to respect of the work undertaken with local Aboriginal representative groups, the following names were tested through community engagement:

- **Badagarang** (Bada-garang) – Dharawal for Eastern Grey Kangaroo, a Dharawal totem.
- **Gumbeengang** (Goombee-nyang) - Traditional name for Cambewarra Mountain.

Council endorsed the public exhibition of these two names in July 2021, with the exhibition occurring in October and November 2021. The exhibition also provided the opportunity for comment on potential suburb boundaries.

While the limitations in naming options are noted, the exhibition of too many names may not have provided meaningful feedback and inviting community suggestions has often been found counterproductive, especially with an increasing number of stakeholders. In addition, any suggested names would still need to be vetted against the GNB's policy and potentially endorsed by the Nowra LALC and Aboriginal Advisory Committee.

Outcomes of Public Exhibition

139 submissions were received in response to the exhibition of the two naming options, including two written submissions from developers operating within the southern urban release area.

Just under half of the respondents (69 people) supported one of the two options, with **Badagarang** being the preferred option of the two (Figure 2).

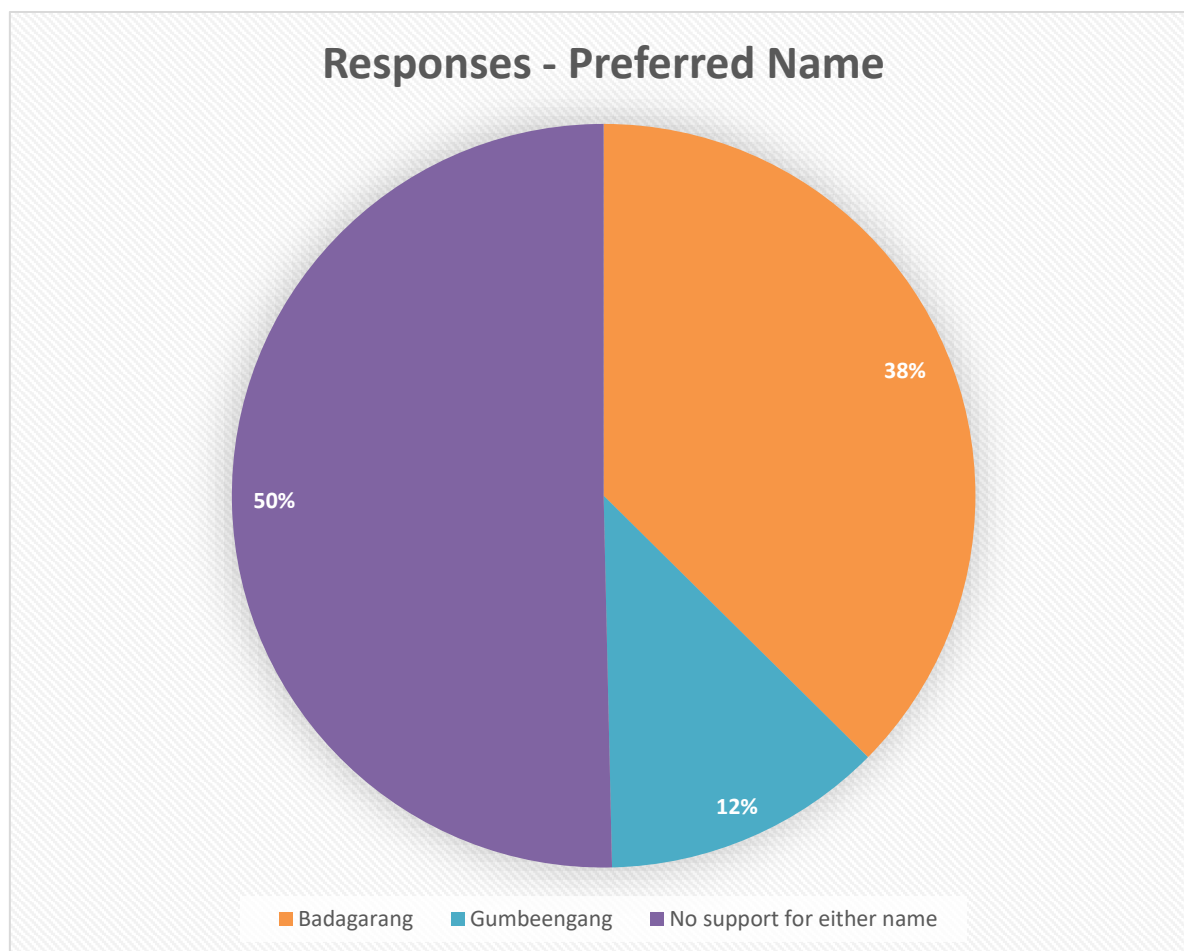


Figure 2: Submission responses to naming options

70 submissions did not support either name, with most of these respondents (50 people) identifying spelling and pronunciation difficulties as the primary reason. Other respondents provided feedback on the following:

- The origin of the names/use of an Aboriginal name.
- Limited choice or opportunities for community input.
- Unsuitable or unappealing names.
- Potential for slang or misunderstanding.
- Purchase of land marketed as being located within or associated with Cambewarra.

Some submissions suggested alternative names or the retention of current names. Two (2) submissions misunderstood the exhibition and objected to the development of the release areas in general, while five (5) others contained comments considered to be inappropriate or offensive.

A detailed summary of the issues raised in response to the exhibition and the evaluation of the issues is provided in **Attachment 1**.

Response to Submissions

The recommended name – **Badagarang** – is of the Dharawal language group, the local Aboriginal language for the area. It has a meaningful cultural connection to the traditional custodians of the land. A range of alternative names, or themes for names, were investigated earlier with the Nowra LALC and Shoalhaven Historical Society. The Historical Society

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cautioned against the use of European names because of the complexity of the history of the area, and instead supported the use of an Aboriginal name. The names were tested against the GNB's policy, which rules out the use of family names and the variations of existing or nearby names. This name was also considered and endorsed by the Nowra LALC and Council's Aboriginal Advisory Committee.

Some initial unfamiliarity with the spelling and pronunciation of the name is anticipated and the GNB's policy notes *"traditional names may at first appear to be complex but will, over time, become more familiar and accepted by the community"*. Adoption of an Aboriginal name is consistent with many of Shoalhaven's current suburbs. These have Aboriginal names and have been accepted by the community and are in daily use, for example, Cambewarra, Meroo Meadow, Bomaderry, Bangalee, and Nowra.

The remainder of the suburb naming process, administered by the GNB (independent of Council) will provide further opportunities for community feedback, including a further public consultation period. If alternative names are proposed during this process, the GNB will evaluate them against its policy and consult with Council. Alternative suggestions that have been provided by the community to date are considered unsuitable, due to their use in marketing material for new subdivisions, their relevance to a small area/limited landholdings within the release areas, or their duplication or similarities with nearby suburbs or existing localities elsewhere in NSW and Australia.

The feedback from the developers operating in the southern urban release area provided comment on behalf of a number of purchasers. This promoted the retention of the existing Cambewarra suburb name. A copy of the feedback is provided in **Attachment 1**. While it is appreciated that some people may have bought into the area because of the name of the locality, the 'rural charm' of Cambewarra as it currently exists is not representative of the final development outcome, which will be urban in nature. Changing the name of the release areas does not change the location of the property, nor its value; it is amending the administrative suburb boundary. The value and character of an area evolves over time and is not dependent solely on suburb boundaries or names.

While it may seem appropriate to retain the current locality names for the time being, it is important for the areas to develop their own identity, which will be noticeably different to the surrounding rural areas. A new name will help contribute to this sense of identity, as well as preserving the existing established localities of Cambewarra and Meroo Meadow.

Suburb Boundaries

The public consultation also provided an opportunity for feedback on an indicative new suburb boundary (Figure 3). This map generated significant feedback from the Cambewarra community, including a petition, in relation to the potential option to extend the new suburb west to meet Good Dog Creek, a natural or geographic boundary (yellow shading). Concerns raised related to potential:

- Loss/Change to Cambewarra's rural/farming history,
- Removal of/Encroachment into Cambewarra Village's scenic protection area, and
- Further urban development in the future.

A community meeting was held on 23 November 2021 to clarify the purpose of the exhibition and discuss these concerns. The meeting was attended by approximately 60 people and Council staff. Written feedback was provided by the meeting participants (**Attachment 2**). To address the concerns, it's recommended the boundary identified in red be nominated as the starting point for a new suburb boundary, i.e., not extended west to meet Good Dog Creek. All feedback will be provided to the GNB to inform its setting of any new suburb boundary.

The administrative process to identify new suburb boundaries does not provide the opportunity to change planning controls or development outcomes. The current land use zones and controls protecting identified scenic values remain unchanged.

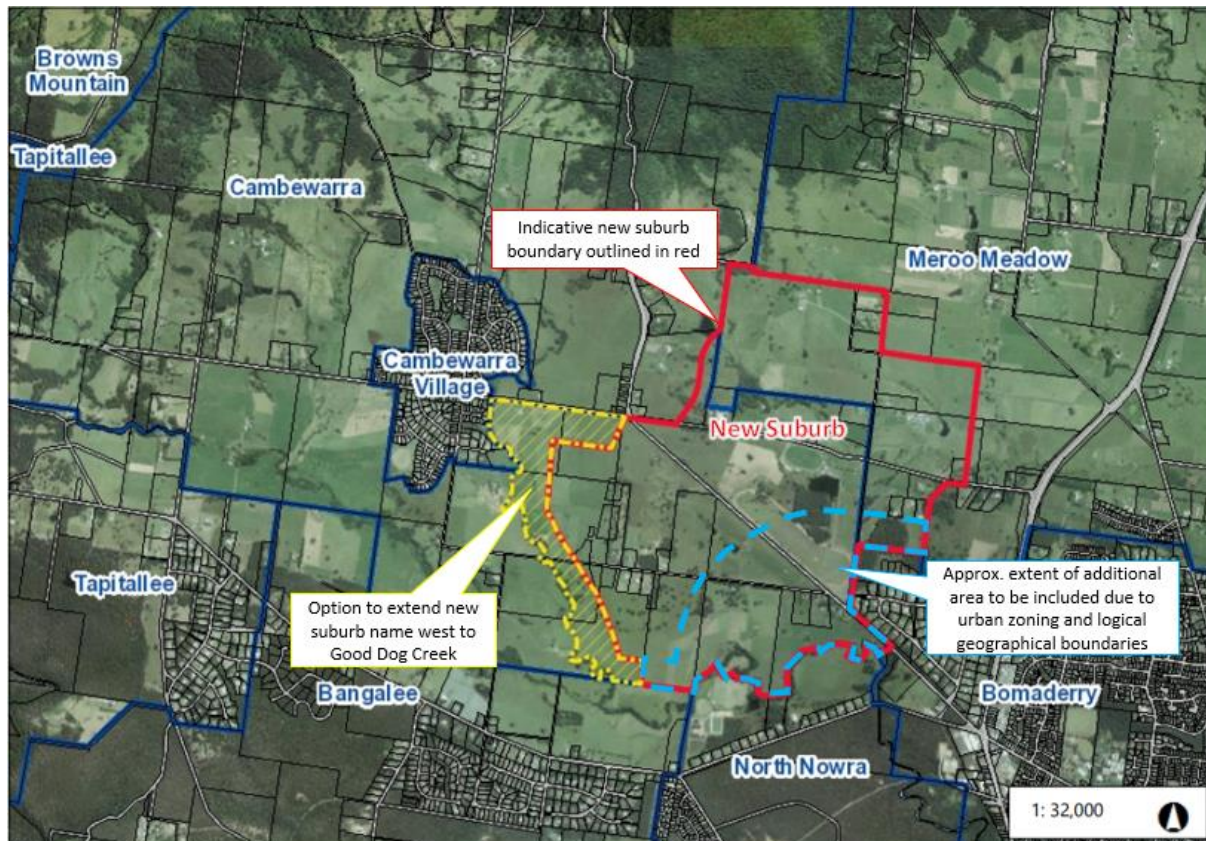


Figure 3: Indicative new suburb boundary (outlined in red).

Next Steps

The preferred name, recommended boundary, and a copy of community feedback will be submitted to the GNB to inform its process to settle the name and final suburb boundaries. Regular updates on this process will be provided to Council.

Community Engagement

Community engagement activities have consisted of the public exhibition of the two naming options identified through earlier collaboration with Nowra LALC, Council's Aboriginal Advisory Committee and Shoalhaven Historical Society.

The naming options were exhibited from 27 October to 28 November 2021 (33 days). The exhibition was supported with a webpage providing explanatory information, maps of potential boundaries, and an overview of the naming process. An online survey was also provided to collect feedback. Council's newsletters (staff and community) and social media outlets were also used to promote the opportunity to provide feedback.

Written notification of the exhibition was sent to landowners (affected and adjoining), LALCs, peak industry bodies and relevant Community Consultative Bodies. Developers operating in the southern release area were also notified and requested to inform purchasers and interested persons of the opportunity to provide feedback. Although Council holds the mailing information for current landowners it does not have access to the personal information held by the developers. It is unclear how many future/prospective owners were notified of the exhibition by the developers.

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Council received 139 submissions on the naming options, including two written submissions from developers operating in the southern release area. Additional feedback was also collected from the Cambewarra Residents and Ratepayers Association in relation to the exhibited suburb boundary.

Policy Implications

There are no policy implications. However, the gazettal of a new suburb name will require updates of the information held in Council's Geographic Information Systems and with the NSW Land Registry Services.

Risk Implications

The development of the southern urban release area is now underway and will be followed by early releases in the northern urban release area in coming years. If the settling of new suburb arrangements requires more time, the number of landowners and other stakeholders will increase, potentially making it harder to reach agreement on suburb arrangements.

As such it is critical to move forward with this and set the arrangements as early as possible to provide certainty for the new and emerging community and avoid the confusion of future address changes.

Attachment 1 - Summary of Submissions

Issue: Pronunciation	Number of comments
<i>The proposed names are difficult to pronounce and spell. New residents, visitors and children may have difficulty with these names.</i>	50
Staff comment The two options are from the local Aboriginal language group (Dharawal), and it is expected that most people will be initially unfamiliar with these words. However, the Names Board's Policy states that: <i>Geographical names shall be easy to pronounce, spell and write[...] An exception to this is in the use of Aboriginal names when it is accepted that a traditional name may at first appear to be complex but will, over time, become more familiar and accepted by the community.</i> It is noted that the majority of suburb / locality names within Shoalhaven are of Aboriginal origin, and these names are readily accepted by the community.	
Issue: Origin of name / Indigenous heritage	Number of comments
<i>We support the use of an Aboriginal name; however, consider these options unsuitable. Perhaps there are some other Dharawal words that would be more appropriate or easier to say?</i> <i>It would also be nice to see some other options that represent more than one side of history – not everyone feels represented by Aboriginal names and we should not be limited to names of Aboriginal heritage. Perhaps consider using Aboriginal words for streets or parks instead?</i>	17
Staff Comment As noted, the use of Aboriginal words is consistent with the Names Board's Policy and complements the names of surrounding suburbs / localities, the majority of which are also words of Aboriginal origin (for example, Cambewarra, Merroo Meadow, Bomaderry, Bangalee and Nowra). On the advice of the Names Board, staff contacted both the Nowra LALC and Shoalhaven Historical Society in the early stages of the project to seek guidance on potential naming options. Advice from the Historical Society indicated that the non-Aboriginal history of the area is bound up with family names and thus suggested that the use of European names, buildings, industries, etc. be avoided. It was also suggested that the local Aboriginal names for lyrebirds or Illawarra Flame Trees be used due to their prevalence on the mountain range. The Names Board's Policy does not favour the use of family names for the naming of new suburbs, nor the use of any variation of existing locality names. Extensive research of many Dharawal resources could not locate the traditional name for the Illawarra Flame Tree, and while the Dharawal word for lyrebird – "Calboonya" – made the shortlist of four (4) names, it was not endorsed by the Nowra LALC Board. While there may be other Dharawal words that are easier to pronounce (e.g., verbs and adjectives), it is important to find an appropriate word with a meaningful cultural connection to the traditional custodians of the land, rather than something generic for the sake of simplicity.	

Attachment 1 - Summary of Submissions

Issue: Limited choice / community input	Number of comments
<p><i>The two naming options are far too limited and do not represent the broader community. There should have been more opportunity for community input earlier in the project.</i></p> <p><i>We request that Council:</i></p> <ol style="list-style-type: none"> <i>1. Pause the progression of the suburb naming process until further consultation with interest holders has occurred.</i> <i>2. Provide more detail on the consultation undertaken to date, including feedback on the broader shortlist.</i> <i>3. Offer to meet with landowners and direct interest holders to discuss an appropriate way forward.</i> 	4
<p>Staff comment</p> <p>The above comments include a submission made by one of the developers within the Moss Vale Road South URA.</p> <p>The Names Board's Policy sets specific criteria that must be met in the naming of new places. This includes a preference for Aboriginal names, the use of local plants, animals, or landscape features, limiting the use of family names where possible, and avoiding duplication of existing locality names (including the addition of prefixes or suffixes to the names of neighbouring localities).</p> <p>Given these limitations, it is preferable for Council to present to the public a limited selection of naming options that have already been tested against the Names Board's criteria and endorsed by the LALC, rather than approach the community with a "blank slate".</p> <p>As noted, and on the recommendations of the Names Board, early consultation was undertaken with the Nowra LALC and Shoalhaven Historical Society to arrive at a shortlist of twelve (12) potential naming options. This was refined to four (4) options following consultation with the Names Board and Nowra LALC, with the majority of names excluded due to duplication / similarities with existing localities, or inappropriate / incorrect language words. The final four (4) shortlisted names were reported to Council's AAC, along with a summary of consultation activities, with links to all relevant Council reports made publicly available on the project webpage. Of the four (4) options, the Nowra LALC formally endorsed the two (2) exhibited names at their April 2021 Board meeting.</p> <p>It is acknowledged that some stakeholders, community members and landowners would have liked to provide some input into the initial selection of naming options. However, the Names Board prefer Councils to lead this process to mitigate the chances of stakeholders and communities becoming wedded to a particular name/s that may not meet the Names Board's criteria or be granted approval from the Board.</p>	
Issue: Alternative suggestions	Number of comments
<p><i>A number of alternative suggestions were put forward by respondents, as shown below.</i></p>	11
<p>Staff comment</p> <p>As noted, the Names Board have a specific set of criteria that must be met in relation to the naming of new places. The alternative suggestions below are unlikely to meet the Names Board's criteria for the following reasons:</p> <ul style="list-style-type: none"> <i>Taylor's Ridge / Taylor's Landing / Taylor and Bell</i> 	

Attachment 1 - Summary of Submissions

<p>The Names Board do not favour the use of family names for new suburbs. Instead, the connection to the Taylor family is retained through the naming of the internal street network and the developer branding within some of the proposed housing estates. Further, the area known locally as Taylor's Ridge / Taylor's Landing is located within a portion of the Moss Vale Road South URA only and is not relevant to the area north of Moss Vale Road.</p> <ul style="list-style-type: none"> Maculata Park As with Taylor's Ridge / Taylor's Landing above, the farm known locally as Maculata Park is located within a portion of the southern URA only. This name has been used in the developer branding for one of the proposed estates within the southern URA. Cambewarra Meadows / Camberry / West Bomaderry Not supported by the Names Board's Policy due to similarities / duplication of existing locality names. Greenacres Duplication of existing suburb names in NSW and South Australia. Would not be supported by the Names Board. Mount Vista / Wombat Flats Existing localities, streets, and landscape features with these names (or similar) in NSW and other states. Unlikely to be supported by the Names Board. 	
Issue: Suitability	Number of comments
<i>The proposed names are unsuitable and / or unappealing. They are unlikely to engender a sense of place for future residents.</i>	19
Staff comment <p>Most people who felt that the names were unappealing provided reasons that are addressed within this summary table; however, some respondents did not elaborate on why they thought the names were unsuitable or unappealing.</p> <p>The "appeal" of any name is subjective and, given the origin of the proposed names and the meaning that is ascribed to them, they are considered to be suitable options.</p> <p>In addition, a sense of "place" is not achieved through the name of the place or locality alone. Rather, it is the complex interplay of built form, urban form, landscape features and social elements that contribute to a sense of place.</p> <p>Anecdotally, there seems to be a degree of comfort with Badagarang as a suitable potential name, for its ease of pronunciation, its consistency with neighbouring locality names, and its cultural connection to the traditional custodians of the land.</p>	
Issue: Potential for slang / misinterpretation	Number of comments
<i>Due to the length of the proposed names, there is a chance that they will be shortened to something that may be offensive or inappropriate (such as Baddy or Gumby). This defeats the purpose of using an Aboriginal name as a sign of respect.</i>	7
Staff comment	

Attachment 1 - Summary of Submissions

This concern is noted and appreciated. It is commonplace for names to be abbreviated, and thus, it may be likely that any new suburb name will be abbreviated in some way, regardless of its name or origin.	
Issue: Purchased land as Cambewarra	Number of comments
<i>Future landowners purchased land "off-the-plan" within the release areas currently being marketed for sale. The land was purchased on the basis that they were buying into the idyllic rural charm of Cambewarra.</i>	5
Staff comment	
Two of the submissions that raised this issue were made by developers in the Moss Vale Road South URA, who provided comment on behalf of a number of their purchasers (number not disclosed).	
While it is appreciated that some people may have bought into the area because of the name of the locality, the 'rural charm' of Cambewarra as it currently exists is not representative of the final development outcome, which will be distinctly residential and urban in nature.	
Changing the name of the release areas does not change the location of the property, nor its value; it is amending the administrative suburb boundary. The value and character of an area evolves over time and is not dependent solely on suburb boundaries or names.	
Issue: Leave the names as they are	Number of comments
<i>The names should be left as they are – particularly Cambewarra. There is no reason why the Moss Vale Road South URA should be renamed when it is located wholly within Cambewarra.</i>	8
Staff comment	
The URAs combined will significantly alter the rural landscape through the provision of approximately 3500+ homes and associated infrastructure. This represents an urban area larger than Bomaderry and roughly 7 times the size of neighbouring Cambewarra Village.	
While it may seem appropriate to retain the current locality names for the time being, it is important for the URAs to develop their own identity, which will be distinctly different to the surrounding rural areas. A new name will help contribute to this sense of identity, as well as preserving the existing rural character associated with Cambewarra and Meroo Meadow.	

Attachment 1 - Summary of Submissions

22 November 2021

Submission

Shoalhaven City Council
36 Bridge Road
Nowra NSW 254100

Attention: General Manager

Dear Sir

**Moss Vale Road Urban Release Area – New Suburb Name
Submission**

Cambewarra Ventures Pty Ltd (Cambewarra Ventures) is the developer of land within Stage 1 of the Moss Vale Road South (MVRS) urban release area, along within land immediately to the west. The lots within Stage 1 have been sold with construction to be completed in late 2021. Further development applications for residential subdivision are now before Council. We write in relation to the public exhibition of the proposed new suburb names for the Moss Vale Road Urban Release Areas, comprising MVRS and Moss Vale Road North (MVRN). We understand a single suburb name is proposed.

We understand two potential names have been identified for the suburb, comprising either Badagarang or Gumbeengang. While we appreciate the *NSW Geographical Names Board Place Naming Policy* (Place Naming Policy) states that Aboriginal names are encouraged, we do have concerns regarding the length and complexity of the selected names. The proposed names are difficult to pronounce and complex to spell, particularly Gumbeengang.

We note the Place Naming Policy includes Universal Naming Principles, with point three stating:

Geographical names shall be easy to pronounce, spell and write, and preferably not exceed three words (including any designated term) or 25 characters. An exception to this is in the use of Aboriginal names when it is accepted that a traditional name may at first appear to be complex but will, over time, become more familiar and accepted by the community.

The Place Naming Policy clearly identifies that names should be easy to pronounce, spell and write, which they are not. While principle three then goes on to state that Aboriginal names are an exception and will become familiar over time, we can understand this may be the case for shorter more readily pronounced names. However, this acceptance over time is unlikely to be achieved due to the length and complexity of the proposed names. Furthermore, we are concerned that these names are unlikely to engender a strong sense of community and pride in the local area, which is essential to create the thriving community for which Council and Cambewarra Ventures are striving for.

Attachment 1 - Summary of Submissions

Shoalhaven City Council
Lot 51, Stage 1, Moss Vale Road South
Submission

660.20058 Prelodgement Note
Date: 22 November 2021

The area proposed to be located within the new suburb contains existing residents, with many of those residents along Taylors Lane having lived in the area known as Cambewarra for generations. Additionally, numerous residential lots have been purchased by people buying a piece of the idyllic rural charm of Cambewarra. The creation of a new suburb, particularly with the names proposed will impact the sense of place for both existing residents and recent landowners, with the potential to negatively impact the future character of the area.

We request Council reject the proposed names, with a preference to retain the existing name of Cambewarra for the MVRs. We are open to discussing the strategic direction of the future suburb and welcome the opportunity to discuss potential suburb names further. Please do not hesitate to contact me on the number below if you wish to discuss any of the above.

Yours sincerely



Cambewarra Ventures Pty Ltd

Lee Fahey
Sole Director

CL22.120 - Attachment 1

Attachment 1 - Summary of Submissions



29 November 2021

The General Manager
Shoalhaven City Council
36 Bridge Road
Nowra NSW 2541

Subject: 1836E/1 Moss Vale Road URA – Naming of New Suburb

Dear General Manager,

I am writing to you on behalf of Mbark, our landowner partner at 104 Taylors Lane, Cambewarra and our off-the-plan purchasers at Maculata Park (www.maculatapark.com.au) regarding Council's public consultation for the *Moss Vale Road URA – Naming of New Suburb*. This short letter highlights the immediate need to consult with key stakeholders that have not previously been consulted as part of the renaming process.

We understand that the only formal non-government consultation that has taken place to date is with the Aboriginal Advisory Committee and Local Aboriginal Land Council. This engagement is important, and we welcome the recommendations received from the land's traditional owners. However, there has not been any engagement with any other direct interest holders in the land concerned, namely current landowners and future landowners in the form of off-the-plan purchasers. These stakeholders' views should be considered early in the renaming process and before a shortlist of only two options are nominated and circulated with the wider community.

We have more than 50 off-the-plan purchasers who have committed significantly, financially and emotionally, into binding contracts on the basis that they were purchasing land at Cambewarra. We understand this number could exceed more than 150 off-the-plan purchasers when adjoining developments are considered. Our engagement with these interest-holders on the proposed naming options has not been overwhelmingly positive and as such we believe the consultation to-date does not consider the views of some of those most impacted by Council's proposal.

Our strong view (and that of our off-the-plan purchasers) is that the suburb name should remain as Cambewarra. We do not agree that it is "appropriate" to give the URA a new suburb name as this is inconsistent with Council's approach in other urban expansion areas across the region. It is in fact common for suburbs to have both rural and urban identities in the Shoalhaven region, the most obvious examples include Berry (including the Huntingdale expansion area), Worrigea and Milton.

T: 02 4464 3270 E: info@mbark.com.au www.mbark.com.au
PO Box R638, Royal Exchange NSW 1225 | Suite 111, 350 George Street, Sydney NSW 2000



Attachment 1 - Summary of Submissions



However, we acknowledge that a range of views may be relevant and that Council will be eager to resolve the issue ahead of titling of new lots in the URA. In the interest of working quickly and fairly together, we request that Council:

- **Pause the progression of the 'Moss Vale Road URA – Naming of New Suburb'** until a more representative and complete consultation process with direct interest holders has been completed;
- **Make available more detailed reporting on the nature of the consultation completed to-date**, including specific feedback on the broader list of names considered; and
- **Offer to meet with landowners and direct interest holders** (we would greatly appreciate such an invitation) to discuss the work completed to-date and consider a wider range of views on the most appropriate pathway forward.

We look forward to hearing from you.

Yours faithfully

James Robinson

Director

Mbark Pty Ltd & Watersplash Lane Pty Ltd

Attachment 2 - Submission from Cambewarra Residents & Ratepayers Association



**CAMBEWARRA
RESIDENTS & RATEPAYERS ASSOCIATION**
ABN: 8831253467

c/- 68 Main Road
CAMBEWARRA NSW 2540

President: Graeme Cord
Secretary: Gail Stebbings 444.60127
gailstebbing@westnet.com.au
Treasurer: Peter Broom

24 November, 2021

The General Manager
Shoalhaven City Council
PO Box 43
NOWRA NSW 2540

Shoalhaven City Council

Received 25 NOV 2021

File No. 1836E/1

Referred to: Kristy O'Sullivan.

ATTENTION: KRISTY O'SULLIVAN, STRATEGIC PLANNING UNIT

Moss Vale Road South Urban Release Area (URA)
Cambewarra Residents & Ratepayers Association – Special Meeting

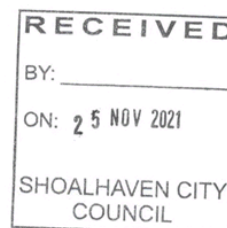
We enclose the minutes from the meeting of Tuesday, 23 November, 2021 where the Resolution was passed unanimously that:

1. The boundary for the URA Moss Vale Road South not extend into the farmland to the East of Good Dog Creek
- 2 Under no circumstances should the Council encroach into the Scenic Protection Hatching around Cambewarra.

We also enclose a Petition in relation thereto signed by 58 people who attended the meeting.

Yours faithfully

Graeme Cord – President
Gail Stebbings – Hon. Secretary



Attachment 2 - Submission from Cambewarra Residents & Ratepayers Association

MINUTES OF CAMBEWARRA RESIDENTS & RATEPAYERS SPECIAL MEETING HELD ON TUESDAY, 23 NOVEMBER, 2021 COMMENCING AT 7.30PM IN THE SCHOOL OF ARTS HALL, MAIN ROAD, CAMBEWARRA.

PRESENT:

Graeme Cord; Gail Stebbings; Peter Broom; Judy Cord; Maxine Sandry; Ken Sandry; Wendy Carter; Sue Finlay; Baz de Hoor; Maureen Binks; Hudson Binks; Dennis Harcombe; Pam Harcombe; Peter Stavert; Maree Stavert; Jonathan Stavert; A. Havadjia; H. Havadjia; Craig Llewelyn; Kynie Evison; Chris Evison; Peter McCarthy; Phillip Maguire; C. Mitchell; Lynne Thaler; Chris Thaler; J. Boenisch; C. Hatton; L. Hatton; Jan Cale; Denis Cale; John Tate; Jo Collins; Peter Collins; Rob McLean; Marj Willard; Cliff Gaudie; Ian Smith; Roberta Smith; Roz Phillips; Andrew Mazey; Tim O'Neill; Shannen Rebel; Ian Davison; Mark Bellamy; Chris ??; Phil Mill; Wilhelmina Mill; Laurinda Bailey; Mark Jones; Nicole McCann; Jeff Evans; Coralie Bell; Serena Copley; Fred Campbell.

APOLOGIES: John Edmonds; Colin Marstin; Jan Larson; John Wells.

Chairman opened the meeting by welcoming residents of Cambewarra, Council representatives and candidates for upcoming LGA elections. He explained his reasons for calling this special meeting of the community were to discuss the Council information material "In Your Neighbourhood" that mentioned the boundary of the new suburb of the Moss Vale Road South Urban Release Area (URA) possibly encroaching on our historical Cambewarra farmland to the east of Good Dog Creek. This raised concerns and deserved community discussion. He stressed the issue of the naming of the new suburbs were not intended to form part of this meeting, but did stress the need for the community to complete the on-line survey, as requested by the Council, to allow community participation in the naming process.

The Chairman did also stress that any communication he had had to date with members of the Shoalhaven Council strategic planning area in relation to this matter, had been very supportive and thanked Ms Coralie Bell, Acting Director, for her attendance at our meeting.

A petition form was placed at the back of the hall and the community were encouraged to consider signing after ensuing discussions and concerns had been heard.

Ms Bell who is Acting Director of the Strategic Planning Unit of Council, gave an in-depth overview of the Geographical Names Board process when proposing where boundaries will be, it has nothing to do with what gets built there, and the naming of the proposed suburbs. She felt that the community were possibly confusing the two processes. She acknowledged the community's concerns in relation to their Scenic Protection Hatching but stressed that the second map in the Council's papers, indicating a possible option to extend the boundary, was to make the process fully transparent to the people of Cambewarra. If it was fully intended to happen, there would definitely be a process of communication with our community.

She stressed that our community provide our comments to Council RSVP re boundaries and names and they will be forwarded to the NSW Geographical Names Board who will make their decisions.

At the completion of a lot of discussion and questions put from the floor, the following **MOTION** was put forward with an **amendment** by Paul Dean to be added.

We the residents of Cambewarra Village, object to the boundary of the new suburb of the Moss Vale Road South Urban Release Area (URA) encroaching on our historical farmland to the East of Good Dog Creek. Secondly, under no circumstances should the Council encroach into the Scenic Protection Hatching.

MOVED: Graeme Cord

SECONDED: Vicky Lloyd

CARRIED: Unanimously

Chairman advised that the committee would write immediately to Council, attention Kristy Sullivan, Strategic Planning Unit, advising of this Motion. A copy of the Petition will be forwarded also.

Council will be kept informed throughout the process late January, early February 2022. When a decision is made, information will be forwarded to our Cambewarra community.

The meeting closed at 8.30pm. The Chairman thanked everyone for their attendance and input into our discussions.

CL22.121 Proposed Submission - NSW Government discussion paper: 'A new approach to rezonings'

HPERM Ref: D22/36451

Department: Strategic Planning

Approver: Gordon Clark, Interim Director - City Futures

Attachments: 1. Discussion paper - A new approach to rezonings (under separate cover) [⇒](#)
2. Draft submission - Discussion paper - A new approach to rezonings [↓](#)

Reason for Report

- Advise of the release of a Discussion Paper by the NSW Department of Planning & Environment (DPE) proposing significant changes to the rezoning process (**Attachment 1**).
- Obtain endorsement for the proposed Council submission (**Attachment 2**).

Recommendation

That Council:

1. Receive the report on the 'Discussion paper - A new approach to rezonings' (**Attachment 1**) released by the NSW Department of Planning & Environment (DPE), for information.
2. Raise strong concerns with the proposed approach and endorse the attached submission (**Attachment 2**), with any adjustments resulting from the consideration of this report and advise DPE accordingly.
3. Provide a copy of Council's submission to Local Government NSW and support them in any advocacy/representations they undertake associated with this matter.
4. Strongly request that DPE undertakes further detailed and meaningful consultation and dialogue with Councils on the proposed changes to the rezoning process before they are finalised and implemented.
5. Receive future reports, if required, to enable further consideration of or comment on the detail of the proposed reforms to the rezoning process.

Options

1. As recommended.

Implications: This is the preferred option and will enable Council to provide an endorsed submission highlighting concerns and matters that should be considered.

2. Make changes to the draft submission (**Attachment 2**) and submit.

Implications: Any minor changes will be incorporated into the endorsed submission and forwarded to DPE, noting that the official deadline for submissions was 28 February 2022. More substantial changes may delay the provision of an endorsed submission.

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3. Not make a submission.

Implications: Not recommended. The Discussion Paper proposes to radically change the rezoning/LEP amendment process, which would have significant and potentially long lasting implications.

While some aspects are positive, others are highly concerning. The overriding concern is that the number of 'spot' or 'one off' rezonings will increase, at the detriment to strategic planning and generally achieving good outcomes for the community.

Background

The NSW Government is continuing with a suite of reforms that aim to improve the planning system and reduce timeframes, including in relation to the Planning Proposal (rezoning) process.

On 15 December 2021, the Department of Planning and Environment (DPE) released two related sets of documents:

1. New [LEP Making Guideline](#) which became effective immediately, replacing the following:
 - *Local Environment Plans: A guide to preparing local environmental plans* (2018); and
 - *Planning Proposals: A guide to preparing planning proposals* (2018).
2. Discussion Paper / broad review of the rezoning process. Among other things, this could ultimately lead to legislative changes to the current PP process (and presumably changes to the LEP making guideline). The Discussion Paper is provided as **Attachment 1**.

Structure of this Report

While the Discussion paper (**Attachment 1**) is the focus of this report, this cannot be considered without first considering recent changes to the PP (rezoning) process which came into effect via the new [LEP Making Guideline](#) on the same day that the Discussion Paper was released.

As such the new LEP Making Guideline is discussed first, before addressing the Discussion Paper 'A new approach to rezonings'.

What is a planning proposal (PP)?

A Planning Proposal (PP) is a document (including supporting information) that explains the intended effect of a proposed or requested amendment to the local environmental plan (LEP). LEP amendments can involve changes to land use zoning (rezoning) and/or other LEP map layers, and/or changes to the written instrument.

A PP includes a plain-English description of the intended outcomes, identifies and assesses the potential impacts that the changes to the LEP may have and provides justifications for making the LEP. *Note*: PP can be initiated by Council or by a proponent(s). Proponent-initiated PPs are currently required to be considered by the Council early in the process.

The statutory requirements for the PP process are set out in Division 3.4 of the *Environmental Planning and Assessment Act, 1979*. The guidelines for preparing PPs provide additional supporting detail on both the statutory and non-statutory aspects of the PP process.

The PP process was introduced in 2009, part way through the rollout of the Standard Instrument LEP format across NSW. A key element was the introduction of a 'gateway' or checkpoint before resources are committed to carrying out investigative research, preparatory work and consultation with agencies and the community.

The gateway step was introduced to enable PPs that lack strategic planning merit to be stopped early in the process before time and resources are committed.

The process was designed to allow costly / time consuming technical studies to be completed 'post gateway' if a request has merit and, to accommodate refinements to the proposal based on the outcomes of these studies. Any necessary studies and/or other conditions would be listed in the Gateway determination issued by DPE as matters to be completed/addressed before the PP could proceed further and be publicly exhibited.

As such, it is no surprise that the 'pre-exhibition' stage of the PP process was the most time-consuming stage in the PP process - see **Figure 1**.

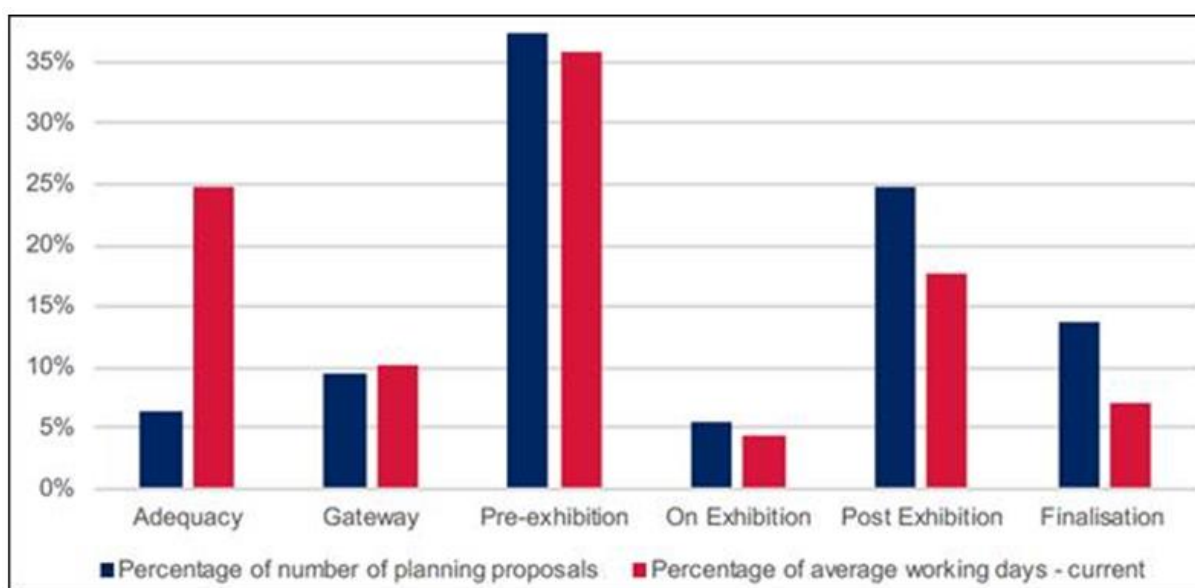


Figure 1 – Comparison of time involved in each stage of the PP process (Source: Department of Planning, Industry and Environment, 2021)

1. Local Environmental Plan Making Guideline (December 2021)

Aspects of the new [LEP Making Guideline](#) that differ from the previous guidance, including:

- Guidance and supporting information to improve 'pre-lodgement' consultation (but still not currently a statutory requirement) including:
 - Preparation of a scoping study
 - Initial government agency consultation
- Supporting studies now required up front, which is opposite to the original intent of the Gateway step.
- Councils can reject a PP within 14 days of lodgement if it is 'unclear'. The Guideline however does not elaborate on the criteria for rejection.
- Encourages infrastructure requirements and funding to be investigated early, and if a Contributions Plan amendment is required, this *should* be progressed in conjunction with the PP process.
- Council will no longer be the Planning Proposal Authority (PPA) for proponent-initiated PPs if the PP was not supported by Council.
- Includes more practical and detailed guidance on each step in the PP process, both for Council and proponent initiated PPs.

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- Breaks PPs down into categories: Basic, Standard, Complex and Principle (further detail is provided later in this Report).
- Non-mandatory maximum timeframes for each stage and the overall process, for each category of PP: 46 weeks for basic, 70 weeks for standard, and 88 weeks for a complex proposal or principal LEP. These seek to reduce assessment timeframes by 33%.
- Changes to rezoning review process.
- Linking the PP process to the NSW Planning Portal.
- Recognition that PPs can be amended after lodgement.
- Changes to the 'strategic merit test':
 - The presumption against satisfying the test, where a rezoning review request looks to amend LEP controls under 5 years old, has been removed.
 - New guidance about 'changes in circumstances' that would satisfy the test for a PP not aligned with existing strategies.

Except where a Gateway determination had already been issued prior to 15 December 2021, the Guideline applies to all new PPs.

2. Discussion Paper - A New Approach to Rezoning

What are the issues with the current system?

The Discussion Paper outlines options to reshape the rezoning process “...within a plan-led system...” after consulting with local government, the development industry and state government. **Table 1** shows the different issues/problems raised by Councils regarding the current system.

Table 1 – Key issues with Planning Proposal process (prior to 15/12/21) according to DPIE consultation¹

Councils	Development stakeholders
Poorer quality of PPs and not addressing key issues	Extensive timeframe to obtain a PP outcome/decision
Slow response and reduced engagement by Government agencies predominantly due to capacity	Local political influence and local councils changing the PPs unilaterally
Many PPs are contrary to Councils' vision and strategic alignment to local strategies	Extensive studies, detail and costs prior to Gateway
Significant pressure and reduced capacity of Council resources	Resolving issues and time taken of the consultation with Government agencies
Lengthy timeframes to resolve conflicting planning matters	Lack of transparency of the Gateway process and many have such detailed conditions
Timeframe to do digital mapping and use of portal	Voluntary Planning Agreement negotiations with Councils
Rezoning review process takes away Council's decision making	Rezoning review does not allow for minor changes and hence PP process has to start again.
No timeframe requirements for PPs	
Not all PPs are the same but it's the same process	

¹ J. Rudolf, 2021, Newplanner, Planning reform – Optimising the planning proposal process. December 2021.

Summary of the proposed new approach

The Discussion Paper proposes to fundamentally change the current PP / rezoning process, essentially based on the development application (DA) process. The proposed process is summarised below for a proponent-initiated PP / rezoning (for which the changes are most profound):

1. Pre-lodgement consultation would be mandatory, but the 'Gateway determination' step, which has historically been used to provide an early merit assessment based on preliminary information, will be removed.
 - Proponents submit a scoping report.
 - Rezoning authority (for the purpose of this report this is referred to as 'Council') reviews and seeks State Government agency feedback.
 - Council provides written feedback to the proponent outlining: if the application is consistent with strategic plans, any recommended changes, and the proposal's nominated category (basic, standard or complex) – including any technical studies needed to support the application.
2. Proponent lodges the rezoning application on the NSW Planning Portal. Council has 7 days to undertake an 'adequacy check' – this is not a merit assessment. Council will nominate the category (i.e., basic, standard, complex or principle).
3. Public exhibition starts immediately on the NSW Planning Portal - between 14 to 42 days, depending on the application's category (determined in the previous step).
4. Post exhibition – proponent is responsible for preparing response to submissions. Discussion Paper suggests information requests by the Council will be strongly discouraged.
5. Council either refuses or approves the application.
6. Discussion Paper proposes to create a potential appeal right for proponents; either to the NSW Land and Environment Court (LEC) or to an Independent Planning Commission.
 - Discussion Paper also seeks feedback on a 'planning guarantee', similar to one introduced in the UK in 2013, whereby proponents would receive a partial refund on fees if their application was not processed within an arbitrary timeframe. Even if a fee refund is given, assessment and determination continues.
 - The mechanism is being looked at to encourage more efficient processing of rezoning proposals and as a result a planning guarantee scheme is being considered for NSW. The Discussion Paper suggests an option based on four elements: the assessment clock; timing; refund amount; and extension of time agreement.

At this point, the reforms are aimed at being in place by mid-2022.

Key changes and implications

- The current key Gateway step (which requires Council and DPE to decide whether a proposal has sufficient merit to progress) will be replaced by a mandatory pre-lodgement process that is coordinated by Council staff in consultation with relevant State Government agencies.
- The elected Council would only consider proponent-initiated proposals after exhibition by the proponent. Currently, Council decides early whether or not to

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forward a PP to DPE for a Gateway determination, and if the PP proceeds, considers the PP after public exhibition and decides whether or not to finalise the PP. (In some cases, the PP may currently need to be reported to the elected Council at additional points, e.g., to consider the outcome of a key study to help shape the proposal.)

- Similar to above, the community would generally not be aware of a proposal until it is exhibited on the Portal (which would automatically commence when a Council officer completes the adequacy checklist on the Portal). Currently Council initially notifies adjoining landowners etc if a proponent rezoning/planning proposal application is received.
- Reduced timeframe for Council to notify community stakeholders, that is the formal exhibition would start as soon as the documentation is determined to be adequate (within 7 days of lodgement). It could then be one to two weeks before adjoining landowners etc. receive written notification. Council would potentially not have the discretion to extend exhibition periods. Currently, Council makes arrangements to notify affected landowners, prepares a public notice and other exhibition material (e.g., explanatory statement, frequently asked questions) prior to commencing an exhibition.
- Rezoning/PPs would only be exhibited on the NSW Planning Portal. Council would no longer exhibit proposals. Given the limitations and issues with the Planning Portal, it is questionable whether this will actually improve community engagement or be more problematic.
- Proponents would be responsible for:
 - Preparing all the supporting studies. Currently, Council has the ability to manage any key or sensitive studies that should be done at arm's length from proponents, e.g., independent peer reviews.
 - Preparing all exhibition material, including any proposed mapping changes (which requires a detailed understanding of the LEP, mapping conventions etc). Currently, Council has control over the exhibition material, and any proposed LEP map changes are prepared by Council using information supplied by the proponent. This ensures that the exhibited map changes are consistent with mandated conventions and the LEP and use correct mapping data.
 - Assessing and responding to submissions. This is currently managed by Council.
- DPE would generally not be directly involved anymore in proponent-led proposals (other than commenting on the proponent's scoping study).
- Council would assess the merit of the proposal **once only**; post-exhibition and this decision could be appealed by the proponent.

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Proposed Submission - Summary of comments

A summary of the points in the proposed submission (**Attachment 2**) is provided below. DPE's deadline for submissions was 28 February 2022. As such the draft submission was sent as a 'placeholder' until an endorsed version can be provided following this meeting.

Comments on Part A Background (Discussion Paper: pages 5 – 10)

- The intention to make the process more efficient is strongly supported, but this should not be at the expense of achieving good outcomes for the community.
- The focus on “uniformity” ignores individual circumstances and diminishes local Council autonomy – as has been the concern with other proposed planning reforms, **one size does not fit all.**
- Rezoning proposals can range from very straightforward/non-contentious to very complex/highly contentious, and not all are actually “rezonings”. The process for highly complex proposals is often more iterative, as new information comes to light and the views of other stakeholders emerge and are taken on board. The iterative nature of more complex proposals is often essential to get good responsive outcomes.
- Terminology needs to be considered: “rezoning” is more easily understood by the public if the land use zoning is proposed to be changed, but is misleading if the proposed LEP amendment does not include an actual zoning change. People often also confuse “planning proposal” with development application.
- Contributing to the problem is that a lot of key development standards are in the NSW Standard Instrument (SI) LEP when they were not previously (e.g. building height was previously largely managed via DCP’s). Hence, if a proposed variation has merit, but cannot be considered/approved under clause 4.6 (variation to development standards) a PP will be needed.
- Any discussion on the rezoning process should also consider opportunities to move some development standards out of the SI LEP and back into DCP’s, while also reinstating the weight given to DCP’s in the development application assessment process.
- ‘Spot’ rezonings can be time consuming and divert resources from strategic planning and too many of them suggests the planning system is reactive rather than plan-led.
- PPs are not the same as development applications (DAs); PPs often deal with complex issues and information that emerge as the process progresses. PPs are less amenable to imposed arbitrary timeframes.
- “Process” should not be the master of the outcome; the very nature of a PP (as opposed to a development application) should be expected to result in different approaches between Councils and between proposals. Amending an LEP was never intended to be a process that is undertaken lightly.
- It is argued that reporting a rezoning/planning proposal to Council twice is very appropriate to enable consideration of the matter ‘in principle’ early and up front and then to consider community input. This should not be viewed as a “delay” but due process. Limiting Council consideration/involvement is a concern.
- The Gateway process was good in principle, but the new LEP Making Guideline now effectively shifts all of the work (and cost) to the pre-lodgement / pre-gateway stage. This will superficially speed up the process by moving the most time-consuming stage into the informal process.

- Transparency – this takes time which the new LEP Making Guideline and proposed new approach seek to limit and constrain.
- While it is important to recognise the role of proponents, it is also critical that the accountability and responsibility for LEPs remains with councils.
- Poor response times from under-resourced Government agencies whose input is mandated by the Gateway is a common frustration and cause of delays. Agency responses are sometimes too detailed (i.e., treating a PP as if it is a development application) or do not recognise existing strategic planning background.

Comments on Part B: The new approach (pages 11 to 34 of Discussion Paper)

- The timeframes for the key steps in the process, for each category of proposal, need to be achievable. The timeframes currently identified may not be.
- The timeframes for the scoping stages are unrealistic given the number of variables (quality of proponent studies, delays with receiving Government agency feedback etc.)
- The post exhibition timeframes leave no room for revising the proposal to respond to competing submissions, negotiation with key stakeholders etc.
- Placing so much pressure on timeframes risks compromising good outcomes.
- The proposed shift in roles for proponent-initiated proposals would mean that the Council is no longer the ‘custodian’ of its LEP and would result in proposals being generated in a random, uncoordinated manner, and referred to Government agencies with no indication of public support or merit.
- It is not clear how this proposed shift in roles would mean that Councils retain full control of the process (p 19). One of the strengths of previous processes was that a Council could refuse to accept a speculative or similar proposal.
- What will prevent Council and proponent from preparing a rezoning/planning proposal over the same land at the same time?
- This proposed change in roles would likely result in an increase in demand for private consultancy services on matters that lack sufficient merit and a potential rise in speculative proposals.
- Removing DPE's decision-making role from all proponent-initiated rezoning proposals creates a risk in relation to more contentious proposals, where DPE currently plays an important role, particularly in relation to assessing proposals against Section 9.1 Ministerial directions. Removing DPE's role would remove this important ‘check’ and also potentially create the temptation for unsuccessful proposals to be resubmitted when Councils change, creating further demands on limited Council resources.
- It is considered important that DPE continue to have role for proponent-initiated proposals where:
 - A proposal is not minor and is not closely aligned with strategy OR
 - There is a s 9.1 inconsistency.

- Clearer guidance on 'strategic merit' is required, including consideration of weighting and/or scaling system, because it is rarely clear cut.
- Councils should be supported to review their Local Strategic Planning Statements (LSPS's) and relevant land use planning strategies, specifically to provide a stronger framework for determining PPs/rezonings. It needs to be acknowledged that this is a difficult task in a large and diverse local government area (LGA) like Shoalhaven, as opposed to smaller Council areas in Sydney where the task is somewhat easier/more defined.
- DPE should proactively facilitate Government agency consultation, which is often a cause of delays and frustration in the rezoning process. Detailed agency input is critical for assessing proposals against any relevant Section 9.1 Ministerial directions. The rezoning process will not be streamlined if Government agency concerns are not drawn out until post exhibition. The proposal (and potentially supporting studies) might need to be revised and re-exhibited.
- DPE should monitor agency response timeframes and provide additional resources (e.g., 'embedded' officers) where necessary.
- Council should remain responsible for coordinating Government agency consultation but there should perhaps be oversight by a central body so that referral response times can be monitored and addressed where necessary.
- If there are conflicting agency responses, a coordinated, whole-of-government response should be considered. *This approach was a key factor in progressing and finalising highly complex rezoning proposals for a number of paper subdivisions in the Jervis Bay area including Jerberra Estate, Verons Estate and the Heritage Estates.*
- Making proponents solely responsible for their proposal will give them full control over the consultants they engage to complete the required technical studies. This may not be appropriate and will remove the ability for key studies of a sensitive or critical nature to be managed by the Council, at arm's length from the proponent. This will inevitably reduce the public's faith in the independence of supporting studies.
- If Council is of the view that a proponent's proposal is inconsistent with strategy and cannot be modified to address that inconsistency, it should not be required to issue study requirements. Doing otherwise would be disingenuous and potentially create false expectations/hope to the proponent.
- If the planning system is truly intended to be 'plan-led', proposals that are clearly inconsistent with strategy and cannot be modified to address that inconsistency, should not proceed to be exhibited.
- Removing merit assessment until post exhibition should only be considered for very minor, straightforward proposals, such as where the proposal is strongly aligned with strategy and will have negligible impacts on surrounding property owners and/or the environment.
- The Discussion Paper does not demonstrate how the proposed approach will facilitate better community engagement in strategic planning. Making proponents responsible for community engagement as opposed to Council is unlikely to improve public trust and transparency in the planning system.

- Public exhibition represents a relatively small proportion of the overall rezoning/planning proposal timeframe. Further streamlining the public exhibition process would make little difference to overall timeframes, while reducing the opportunity for genuine community engagement.
- The new concept of a 'planning guarantee' is contentious, is not supported and should not be pursued further by the NSW Government.

The first time the concept was raised was by the NSW Minister for Planning as part of a speech to a development industry forum in November 2021. In its resulting media release *Councils furious at 'disrespectful planning announcement'* (November 2021), Local Government NSW expressed strong concerns about the proposed 'planning guarantee'

This proposal is considered an unnecessary punitive approach and would potentially create an incentive for proponents to not genuinely attempt to work with Councils in a constructive manner. No evidence has been provided to show that it will lead to improved outcomes, actually assist or speed up the process.

- It is unclear how amendments to LEP map overlays are proposed to be handled in relation to proponent-initiated proposals. Disputes and/or confusion will arise due to the lack of consistency and quality control in exhibited maps. LEP maps must be prepared in accordance with DPE's strict rules and conventions, and any map changes must be carefully considered in context of the LEP as a whole (maps and written instrument). This is why the process has always been and needs to remain under the control of the Council (including liaison with DPE, Parliamentary Counsel and other agencies).
- The concept of an assessment clock is not supported because:
 - PPs/rezonings can vary greatly in complexity (which is not accurately reflected in the new categories and benchmark timeframes).
 - Delays are usually caused by external factors such as Government agency consultation and/or the quality of consultant reports.
 - It implies that the timeframe is more important than achieving the best outcome and/or that councils seek to deliberately slow the process.
 - Lead-in times for Council reporting can vary, e.g., due to caretaker mode prior to local government elections, holiday periods etc.
- Preventing/discouraging information requests will ultimately result in incomplete/inadequate consultant studies and will discourage iterative improvements to proposals.
- Public interest should be a consideration and be supported by guidance on what is in the public interest in respect of rezoning/PPs.
- Councils have been able to manage the process of running PPs concurrently with Voluntary Planning Agreements (VPAs) adequately enough without interference. A VPA may have significant resource implications for a Council and as such a Council should be able to 'determine its own destiny' rather than have an outcome forced on it by an unaccountable external body.
- Fees should be determined by individual Councils to suit their particular circumstances, as appropriate costs will vary across the State.

- A fee structure that is broken down into all the phases and possible scenarios in the process (see comments above) for the different categories of proposals (reflecting the demands on staff resources) is favoured.
- There are many stakeholders in the rezoning process. Under the current system, delays are usually caused by external factors associated with supporting studies (which are generally managed by the proponent) and government agency consultation (especially where objections are raised post exhibition). The Discussion Paper implies that Councils deliberately delay the process, but there is no evidence of this.
- DPE has only recently made fundamental changes to the PP process, moving much of the work involved in formulating and preparing a PP to the pre Gateway phase. Prior to that, the PP process was deliberately designed to allow supporting studies to be completed post Gateway, as stipulated in the Gateway determination.

Comments on Part C: New Appeals Pathway (pages 35 to 38 of Discussion Paper)

- In regard to the potential appeal or review options (Land and Environment Court (LEC) vs Independent Planning Commission (IPC)) discussed in the paper:
 - An unelected non-judicial body such as IPC, would be less costly/time consuming, but lack accountability.
 - The LEC is more accountable but would be very costly and time consuming. It is also questioned how involving the LEC in the process will actually speed up or add value to the process.
 - Only giving councils one opportunity to consider the merit of a rezoning/planning proposal and giving the proponent the right to appeal will potentially incentivise speculative rezoning proposals and create an imbalance.
 - Rezoning proposals that are inconsistent with strategy and not supported by Council should be discontinued early in the process (the original intention of the Gateway step was precisely this). For proposals that have merit, the process should allow negotiation to resolve issues rather than create an appeal right to an external body, based on arbitrary timeframes. Any appeal right to the LEC should remain limited to procedural grounds.

Comments on Part D: Implementation (pages 39 to 40 of Discussion Paper)

- Given the extent of proposed changes and implications on all stakeholders, further consultation and dialogue is needed and is critical before DPE determines how to put the new approach into action.

Conclusion

The proposed new rezoning process outlined in the Discussion Paper proposes to radically change the rezoning/LEP amendment process, which would have significant and long-lasting implications.

While some aspects of the proposed changes are positive, others are highly concerning and may affect Council's ability to achieve good outcomes for the community. As such it is recommended that Council make a submission raising strong concerns and providing detailed feedback.

Further detailed and meaningful consultation and dialogue between DPE and Councils is considered critical to a good outcome that is in the public interest.

Community Engagement

Prior to exhibiting the Discussion Paper, DPE undertook targeted consultation on the PP process with the development industry, local Councils and State government agencies.

Council staff were also directly involved in DPE Working Groups regarding the possible Court appeal process for PPs – it is noted that these Working Groups have not met in over 12 months and there were significant concerns within the Local Government Working Group regarding a Court appeal process

Submissions on the Discussion Paper were due on 28 February 2022. DPE intends to implement the new approach in mid-2022.

Policy Implications

Council has resolved to update its own Planning Proposal Guidelines to reflect DPE's new LEP Making Guideline. Subject to staff resources and workloads, it is intended to prepare a report on this for Council to consider in the second quarter of 2022. If DPE rolls out its proposed new approach in mid-2022, Council's guidelines will have to be revised again.

Financial Implications

Council's PP (rezoning) fee structure is based on full cost recovery. Changes to Council's fee structure to better align with the new LEP Making Guideline is proposed to commence on 1 July 2022. This fee structure will have to be revised if/when the rezoning/planning proposal process changes.

The proposed introduction of a right for proponents to appeal a 'refusal' by Council would have significant resource and cost implications.

Introduction of a 'planning guarantee' would mean that Council would be required to partially refund fees paid by a proponent if their proposal had not been determined within an arbitrary timeframe. This would potentially create a financial incentive for proponents to not work constructively with the council.

Risk Implications

DPE is proposing to fundamentally rewrite the rezoning/PP process to mirror or be similar to the development application (DA) process. The most profound changes would be in relation to proponent initiated applications. The key concern and risk are that the new approach will encourage an influx of speculative spot rezonings/PPs, divert resources from and as a result undermine strategic planning work, which is a poor outcome for the Shoalhaven Community.

Draft Submission on Discussion Paper – A New Approach to Rezoning

Key changes and implications

- Gateway step (which requires Council and DPE to decide whether a proposal has sufficient merit to progress) will be replaced by a mandatory pre-lodgement process that is coordinated by council staff in consultation with government agencies.
- Elected Council would only consider proponent-initiated proposals after exhibition by the proponent. Currently, Council makes an 'initial' decision, i.e., whether or not to forward to DPE for a gateway determination.
- Similar to above, the community would generally not be aware of a proposal until it is exhibited on the Portal (which would automatically commence when a council officer completes the adequacy checklist on the Portal). Currently Council notifies adjoining landowners etc if a proponent rezoning/planning proposal application is received.
- Reduced timeframe for Council to notify community stakeholders. That is, formal exhibition would start as soon as the documentation is determined to be adequate (within 7 days of lodgement). It could be one to two weeks before adjoining landowners receive written notification. Council would potentially not have the discretion to extend exhibition periods.
- Rezoning/planning proposals would only be exhibited on the NSW Planning Portal. Council would no longer exhibit proposals. Given the limitations and issues with the Planning Portal, it is questionable whether this improves community engagement.
- Proponents would be responsible for:
 - Preparing all the supporting studies. Currently, Council has the ability to manage any key studies that should be done at arm's length from proponents, e.g., where independent peer reviews are required.
 - Preparing all exhibition material, including any proposed mapping changes (which requires a detailed understanding of the LEP, mapping conventions etc). Currently, Council has control over the exhibition material, and any proposed LEP map changes are prepared by Council using information supplied by the proponent. This ensures that the exhibited map changes are consistent with conventions and the LEP, and use correct mapping data.
 - Assessing and responding to submissions. This is currently managed by Council.
- DPE would generally not be directly involved in proponent-led proposals.
- Council would assess the merit of the proposal once only, post-exhibition, and this decision could be appealed.

A response to each part of the Background Paper and relevant questions within are provided below.

Part A: Background (pages 5 – 10 of the discussion paper)

Rezoning need to be an effective planning tool that can meet the objectives of strategic plans in a certain and timely way. Uncertainty about rezoning timeframes and process can affect developer confidence and the overall viability of projects, or the timing of housing supply. Uncertainty can also cause community disengagement and less public participation in the planning system.

Stakeholders have identified various issues with the existing rezoning framework. In summary:

- *Process takes too long and is overly complex*
- *A lack of transparency of process with referral agencies and the department*
- *Planning system is too prescriptive and not responsive to the varying size and complexity of rezoning requests*
- *Lack of accountability and certainty around timeframes*
- *Lack of trust and legitimacy of process amongst the community*
- *Inconsistent approaches to assessment and documentation requirements.*

Is this a fair summary of the issues with the current framework?

Council response: The intention to make the process more efficient is supported but this should not be at the expense of achieving good outcomes for the community. Rezoning proposals can range from very straightforward/non-contentious to very complex/highly contentious, and not all are actually "rezonings". The term "rezoning" is problematic if the land is not being "rezoned".

Given the nature of the Standard Instrument (SI) LEP, a PP might be needed to alter a development standard. A recent example was Council's PP to vary the maximum allowable height of buildings (HOB) in Ulladulla.

The process for highly complex proposals tends to be more iterative. For example, a complex proposal may require primary environmental and land constraint studies (e.g., biodiversity, Aboriginal cultural heritage, flooding etc) to be prepared to help define a suitable footprint, prior to undertaking secondary studies, infrastructure assessments etc. If key stakeholders have strongly opposing views on what is appropriate for the site (and with different interpretations of constraints), the process can get frustrated. It's a negotiation process.

The Government's focus on "uniformity" ignores individual circumstances and diminishes local council autonomy. ***One size does not fit all.***

Are there any other problems that need to be addressed?

Council response: Several documents make up the strategic planning framework. The reality is that in a large, geographically diverse LGAs like the Shoalhaven, 'consistency with strategy' is open to interpretation. The Government's intention to make the planning system "plan-led" (i.e., strategic rather than ad hoc) is strongly supported, but assessment of strategic merit needs to be more nuanced to achieve this.

Spot rezonings divert resources from doing strategic planning. An abundance of spot rezonings suggests the planning system is reactive rather than plan-led.

Any discussion on the rezoning process should consider opportunities to move some development standards out of the Standard Instrument Local Environmental Plan (SI LEP) back into development control plans (DCPs), while also reinstating the weight of DCPs in the DA assessment process.

Do you wish to make any other comments in relation to Part A of the discussion paper?

Council response: In relation to reasons for delays (p9 of discussion paper):

- A PP is not the same as a DA and is not as amenable to an imposed timeframe as it may deal with quite complex issues.
- Reporting a matter to Council twice may be very appropriate to consider the matter in principle up front, then to consider community input. This is NOT a "delay" but a result of due process.
- The Gateway process was good in principle, but the new LEP Making Guideline now effectively shifts all of the work to the pre-lodgement/pre-gateway stage.
- "Process" should not be the master of the outcome; the very nature of a PP (as opposed to a DA) should be expected to require different approaches between councils and between proposals.
- Transparency – this takes time, which the new LEP Making Guideline and proposed new approach seek to constrain.
- While it is important to recognise the role of proponents it is important that accountability and responsibility for LEPs remains with Councils.
- Poor response times from under-resourced agencies whose input is mandated by the Gateway is a common cause of delays. Agency responses are sometimes too detailed (i.e., treating a PP as if it is a DA).

Part B: The new approach (pages 11 to 34 of Discussion Paper)

New categories and timeframes

Clearer timeframes for completing each step in the rezoning process gives stakeholders certainty and encourages better performance. Our proposed timeframes will apply to councils, the department, state agencies and private proponents, depending on the category of the rezoning application.

Do you think benchmark timeframes create greater efficiency and will lead to time savings?

Council response: The timeframes for the key steps in the process, for each category of proposal, need to be achievable. The categories described in the LEP Making Guideline should be reviewed to ensure they reflect the full spectrum of rezoning proposals/LEP amendments and the demands of resources which they generate.

The timeframes for the scoping stages are unrealistic given the number of variables (quality of proponent studies, delays with receiving state agency feedback etc.)

The post exhibition timeframes leave no room for revising the proposal to respond to competing submissions, negotiation with key stakeholders etc.

The risk of placing so much pressure on timeframes is that shortcuts will be taken, and result in compromised outcomes.

The overriding factor determining timeframes is availability of resources. If the planning system is overloaded with spot rezonings, resources (in private and government sectors) will be spread thin and timeframes will suffer, regardless of the benchmarks.

Proponent and Council Roles

Councils – rather than private proponents – usually make changes to LEPs to ensure that LEPs give effect to strategic plans. Councils are sometimes limited by financial and resourcing constraints, both at the planning and infrastructure servicing stages, especially in regional areas. We expect there will always be a need for private proponents to initiate rezoning applications.

The current rezoning request process shifts responsibility to council to progress a planning proposal, with costs covered by the private proponent. This means that although the private proponent has the cost burden, they are not considered the applicant. They have little control over the processes, or any changes to the proposal.

Our proposed approach aims to recognise private proponents as applicants, as they are in the development application process. This will give the private proponent the right to:

- *meet with the rezoning authority to discuss a potential request*
- *submit a rezoning application and have it assessed and determined after public exhibition*
- *appeal a decision made about a rezoning application because of a delay or dissatisfaction with a decision (see Part C: New appeals pathways).*

Along with these rights, the private proponent will be responsible for all fees, meeting information requirements, consulting with state agencies, and reviewing and responding to any submissions received during consultation.

Council roles - For private proponent rezoning applications, councils will have full control of the process, including giving permission to exhibit, which is currently given by a gateway determination. Councils will review any changes after exhibition and make the final decision.

What do you think about giving councils greater autonomy over rezoning decisions?

Council response: The proposed shift in roles for proponent-initiated proposal would mean that the Council is no longer the custodian of its LEP and is not supported. It would result in proposals being generated in an uncoordinated, random manner, and referred to agencies with no indication of public support or merit.

This proposed change in roles would likely result in an increase in demand for private consultancy services.

It's not clear how this proposed shift in roles would mean that Councils retain full control of the process (p19).

Removing DPE's decision-making role from all proponent-initiated rezoning proposals would come at a risk in relation to more contentious proposals, where DPE plays an important role, particularly in relation to assessing proposals against s9.1 Ministerial directions. Removing DPE's role would also create the temptation for unsuccessful proposals to be resubmitted each time the makeup of the elected council changes, creating further demands on limited council resources.

What additional support could we give councils to enable high-quality and efficient rezoning decisions?

Council response:

- Clearer guidance on strategic merit.
- Support to councils to review their local strategic planning statements (LSPS's) specifically to provide a stronger framework for determining planning proposals/rezonings.

What changes can be made to the department's role and processes to improve the assessment and determination of council-led rezonings?

Council response: DPE should proactively facilitate government agency consultation, which is often a cause of delays in the rezoning process. The Warrah Road Planning Proposal at Bangalee (PP005) is an example where Council had to seek support from DPE's Planning and Delivery Unit (PDU) to help resolve concerns received post-exhibition from the NSW Rural Fire Service (RFS). The PDU facilitated a series of discussions with the relevant government agencies, Council and the proponent, resulting in a substantially improved outcome. This should be a core function of DPE.

What else could we do to minimise the risk of corruption and encourage good decision-making?

Council response: Making proponents solely responsible for their proposal will give them full control over the consultants they engage to complete the required technical studies. This will remove the ability for key studies to be managed by the Council, at arm's length from the proponent. This will inevitably reduce the public's faith in the independence of supporting studies.

DPE should continue to have role for proponent-initiated proposals where:

- A proposal is not minor and is not closely aligned with strategy OR
- There is a s9.1 inconsistency.

Is it enough to have agencies involved in scoping and to give them the opportunity to make a submission during exhibition?

Council response: No. Early agency feedback is typically broad and reserved, pending seeing the full detail and supporting technical studies. It is unlikely that agencies will provide detailed comment on the proposal at scoping study stage. Detailed agency input is critical for assessing proposals against any relevant s9.1 Ministerial directions.

S9.1 Ministerial Direction 4.4 (Planning for Bushfire Protection) specifically requires the RFS to be consulted after the gateway determination is issued and prior to public exhibition. In other cases, agencies need to play a more active role and provide direction in relation to supporting studies, e.g., biodiversity.

The rezoning process will not be streamlined if government agency concerns are not drawn out until post exhibition. The proposal (and potentially supporting studies) might need to be revised and re-exhibited.

Do you think it would be beneficial to have a central body that co-ordinates agency involvement?

Council response: Council should remain responsible for coordinating agency consultation but there should be oversight by a central body so that referral response times can be monitored and addressed where necessary.

If there are conflicting agency responses, a coordinated, whole-of-government response should be considered. This approach was a key factor in progressing and finalising highly complex rezoning proposals for a number of paper subdivisions in the Jervis Bay area including Jerberra Estate, Verons Estate and the Heritage Estates.

If a state agency has not responded in the required timeframe, are there any practical difficulties in continuing to assess and determine a rezoning application?

Council response: Yes. Proposals may need to be revised and re-exhibited if agencies raise significant concerns post exhibition. Refer to the Warrah Road example referred to above.

Scoping

The new approach includes a mandatory pre-lodgement stage for the standard, complex and principal LEP rezoning applications (optional for the basic applications) called scoping. The scoping process is the same as that set out in the new LEP Guideline, except that under the new approach, we propose that scoping should be mandatory.

Scoping allows relevant parties to come together early in the process to discuss the project and provide feedback and direction before detailed work has progressed. Early feedback saves time and costs later in the process and leads to better quality and complete applications. It can also give a proponent an early indication of whether or not an application is likely to be supported before significant time and costs have been expended.

Should a council or the department be able to refuse to issue study requirements at the scoping stage if a rezoning application is clearly inconsistent with strategic plans?

Council response: Yes, if Council is of the view that the proposal is inconsistent with strategy and cannot be modified to address that inconsistency, it should not be required to issue study requirements. Doing otherwise would be disingenuous and potentially create false expectations.

Should all proponents have the opportunity to submit a fully formed proposal for exhibition and assessment?

Council response: No, not if the system is intended to be 'plan-led' as espoused in the Discussion Paper. If Council is of the view that the proposal is clearly inconsistent with strategy and cannot be modified to address that inconsistency, it would not make sense to allow the proposal to be lodged and exhibited anyway.

What sort of material could we supply to assure community members that exhibition does not mean the rezoning authority supports the application and may still reject it?

Council response: This is a hypothetical question. The community may remain sceptical about this claim, especially given that the proposed system is untested. Ultimately, the community would judge this by the authority's record and political persuasion.

What do you think of removing the opportunity for a merit assessment before exhibition? Will it save time or money to move all assessment to the end of the process?

Council response: This should only be considered for very minor, straightforward proposals, such as where the proposal is strongly aligned with strategy and will have negligible impacts on surrounding property owners and/or the environment.

Should the public have the opportunity to comment on a rezoning application before it is assessed?

Council response: Community feedback should be considered as part of the assessment process, otherwise the public exhibition process is pointless. One round of community consultation (on the full planning proposal package) is sufficient unless the proposal has been substantially amended.

Public exhibition

There will be a standard public exhibition period of between 14 and 42 days, depending on the category of rezoning application (as is currently the case, there could be circumstances where no exhibition is required).

A key shift in the new approach is to exhibit the rezoning application as soon as possible after lodgement, allowing early public scrutiny and saving time. Currently, there can be a considerable lag between issuing a gateway determination that allows exhibition and the start of the exhibition.

Additionally, we see an opportunity to improve the level of community engagement in strategic planning and the rezoning process by making it more accessible and simpler to understand. Effective community engagement is key to developing trust and transparency in the planning system.

Council comments:

- In some circumstances the standard public exhibition timeframes may be insufficient, such as in respect of a city-wide LEP.
- The discussion paper does not demonstrate how the proposed approach will facilitate better community engagement in strategic planning. Making proponents responsible for community engagement as opposed to council is unlikely to improve public trust and transparency in the planning system.

What other opportunities are there to engage the community in strategic planning in a meaningful and accessible way?

Council response: There are multiple types of strategic planning documents including regional plans, local strategic planning statements, growth management plans / settlement strategies / structure plans. These generally deal with broader-scale planning issues that many people would not consider in their day-to-day lives.

Council is always looking at ways to engage more effectively with a broad cross section of the community when undertaking broader strategic planning exercises. This is challenging because people are generally time-poor, the planning system is complex, and unless people can see how they will be directly affected, they are understandably less likely to give up their time to participate and provide input.

The key is being able to explain how the strategic plan will impact on the individual. There is a limit to the amount of detail that can be provided through broader strategic planning processes, particularly in a large and geographically diverse LGAs like the Shoalhaven.

Do you have any suggestions on how we could streamline or automate the exhibition process further?

Council response: Not all people have ready access to the internet or are “digitally” able, particularly among the elderly and/or socially disadvantaged. These people, who can represent a significant proportion of the community, should not be disenfranchised. Councils are more connected and in touch with their local communities, and are best placed to undertake community engagement.

The public exhibition process represents a relatively small proportion of the overall rezoning timeframe. The current system already allows a shorter, 14 day exhibition timeframe for minor matters. Further streamlining the public exhibition process would make little difference to overall timeframes, while reducing the opportunity for genuine community engagement.

Changes after exhibition

Following exhibition, a proponent must both summarise and respond to submissions received, including working with state agencies to resolve any objections. This will help the rezoning authority in its final assessment, while also giving the proponent the opportunity to respond to issues raised. Those who provided submissions will know the proponent’s response to their submissions.

As part of the response, the proponent will need to submit any changes or amendments to the rezoning application before final assessment.

Once the response to submissions and any amended rezoning application has been forwarded to the rezoning authority, assessment will begin. At this point, the assessment ‘clock’ will start. This is the time allowed for the rezoning authority to assess, finalise and determine a rezoning application before a proponent can:

- *appeal (based on a decision that is deemed to be refused, a ‘deemed refusal’) and/or*
- *access a fee refund through a planning guarantee.*

Council comments:

- The concept of a planning guarantee is not supported. It would create an incentive for proponents to not genuinely attempt to work with councils in a constructive manner.
- It is unclear how amendments to LEP map overlays are proposed to be prepared under this model. Council is the custodian of its LEP and supporting map overlays. LEP maps must be prepared in accordance with DPE’s strict rules and conventions, and any map changes must be carefully considered in context of the LEP as a whole (maps and written instrument). This is why the process has always been and needs to remain under the control of the Council (including liaison with DPE, Parliamentary Counsel and other agencies).

Do you think the assessment clock should start sooner than final submission for assessment, or is the proposed approach streamlined enough to manage potential delays that may happen earlier?

Council response: No, because the assessment cannot be completed unless the rezoning authority knows there are no unresolved agency objections. The concept of a clock is not supported because:

- Planning proposals/rezonings can vary greatly in complexity (which is not accurately reflected in the new categories and benchmark timeframes).

- Delays are usually caused by external factors such as agency consultation and/or the quality of consultant reports.
- It implies that the timeframe is more important than achieving the best outcome and/or that councils seek to deliberately slow the process.

Ongoing requests for more information cause delays throughout the rezoning application process and create uncertainty for all parties to the process.

Do you think requests for more information should be allowed?

Council response: Yes. Not allowing requests will ultimately result in incomplete/inadequate consultant studies, and will discourage iterative improvements to proposals.

Assessment and finalisation

Following exhibition and any amendments, the rezoning authority will assess the rezoning application. The application may need to be exhibited again if changes made after the first exhibition are extensive – this will be determined by the rezoning authority. If re-exhibition is not required and a rezoning application is supported, the rezoning authority will engage with the Parliamentary Counsel's Office to draft the instrument and mapping can be prepared.

As is currently the case, the rezoning authority can vary or defer any aspect of an amended LEP, if appropriate.

In assessing a rezoning application, all decision-makers need to address the same considerations when determining if a plan should be made. Decisions will also need to be published on the NSW Planning Portal and with the reasons for the decision clearly communicated.

Rather than different assessment processes at gateway determination and finalisation, we will standardise matters of consideration, as relevant to the final decision made by the rezoning authority. These standard matters will also inform advice given during scoping.

Do you think the public interest is a necessary consideration, or is it covered by the other proposed considerations?

Council response: Public interest should be a consideration and be supported by guidance on what is in the public interest in respect of rezoning/planning proposals.

Are there any additional matters that are relevant to determining whether a Local Environmental Plan should be made?

Council response: Yes.

- Precedent – will the proposal create an undesirable precedent?
- Demonstrated need – are there more suitable sites?

A council with a conflict of interest should not assess and determine a proposal. Under the new approach, if a conflict of interest is unavoidable, the relevant local planning panel (or regional panel where no local panel exists) should determine the rezoning application.

Do you think a body other than the council (such as a panel) should determine rezoning applications where there is a VPA?

Council response:

Councils have been able to manage this process well enough without interference for well over a decade. A VPA may have significant resource implications for a council and the council ought to be able to 'determine its own destiny' rather than have an outcome forced on it by an unaccountable external body.

Do we need a consistent structure for rezoning authority fees for [proponent] rezoning applications?

Council response: A consistent fee structure would be helpful provided it is based on full cost recovery and flexible enough to account for different scenarios (such as public hearings, amendments, re-exhibitions etc).

What cost components need to be incorporated into a fee structure to ensure councils can employ the right staff and apply the right systems to efficiently assess and determine applications?

Council response: The fee structure should encompass all of the stages in the rezoning/LEP amendment process, including potential amendments, re-exhibitions, public hearings/reclassifications, preparation of maps, finalisation etc, so that councils are not left out of pocket.

If Council is required to commission consultant studies (e.g., peer reviews) the proponent should be required to pay Council for this upfront, plus a project management fee.

Should the fee structure be limited to identifying for what, how and when rezoning authorities can charge fees, or should it extend to establishing a fee schedule?

Council response: Fees should be determined by individual councils to suit their particular circumstances, as the costs will vary across the State.

What is your feedback about the 3 options presented below?

- ***Option 1: Fixed assessment fees***
- ***Option 2: Variable assessment fees***
- ***Option 3: Fixed and variable assessment fees***

Council response:

Council's current fee structure is more closely aligned with option 3, with separate fees for 'minor' and 'major' PPs that cover up to 40 hours and 80 hours of staff time respectively, after which an 'excess time' hourly fee applies. However, recording and costing staff time across the organisation has proven to be a significant administrative burden and is not favoured.

A fee structure that is broken down into all the phases and possible scenarios in the process (see comments above) for the different categories of proposals (reflecting the demands on staff resources) is favoured.

Should fee refunds be available if a proponent decides not to progress a rezoning application?

Council response: Yes, provided the council is not left out of pocket for work done to date.

Do we need a framework that enables proponents to request a fee refund if a rezoning authority takes too long to assess a rezoning application?

Council response: No. This is an unnecessary punitive approach.

There are many stakeholders in the rezoning process. Under the current system, delays are usually caused by external factors associated with supporting studies (which are generally managed by the proponent) government agency consultation (especially where objections are raised post exhibition). The discussion paper implies that councils deliberately delay the process. What is the evidence for this?

DPE has only recently made fundamental changes to the PP process, moving much of the work involved in formulating and preparing a PP to the pre gateway phase. Prior to that, the PP process was deliberately designed to allow supporting studies to be completed post gateway, as stipulated in the gateway determination.

If no, what other measures could encourage authorities to process rezoning applications promptly?

Council response: DPE should monitor agency response timeframes and provide additional resources (e.g. 'embedded' officers) where necessary.

Part C: New Appeals Pathway (see pages 35 to 38 of discussion paper)

As part of these overall reforms, we are considering a new appeals pathway for planning proposals.

Our proposed approach will include a review opportunity for private proponents at the end of the process, if progress has been delayed or if the proponent is dissatisfied with the final decision. Proponents will have a certain timeframe within which to lodge an appeal, similar to the right to appeal a decision about the merit of a development application.

We do not propose allowing an appeal to public authorities such as councils or state-owned corporations. Premier's Memorandum M1997-26 Litigation Involving Government Authorities, although not strictly applying to all public authorities, discourages litigation between public authorities. Rather, other avenues, such as the Planning Delivery Unit, could resolve disputes between the department and other public authorities.

An appeal based on a delay would be available once set timeframes have passed, like a 'deemed refusal' of a development application. Under our proposed appeal pathway, the deemed refusal period would begin once a proponent lodges their final rezoning application or confirms that no changes are required and responds to submissions after exhibition.

We are considering 2 options for an appeal or review - to the Land and Environment Court or a non-judicial body like the Independent Planning Commission.

A Land and Environment Court merit appeal could operate similarly to development application merit appeals, with an opportunity for conciliation and a final hearing if an agreement cannot be reached. The court would have powers to make any decisions required to finalise the proceedings.

Appeals to the Independent Planning Commission will require us to develop a new process, allowing various parties to present their position and new procedures relating to amendments to rezoning applications or hearing from the public. This process could be similar to the determination process for state-significant development with appropriate changes to account for it being a review function and to allow the commission to make the final decision on a rezoning application.

Do you think public authorities (including councils) should have access to an appeal?Council response:

The assumption here is that a rezoning/planning proposal is the same as a development application (DA). They are distinctly different. LEPs set the key statutory and strategic context under which most DAs are assessed. Amending the LEP is a more major step and should not be subject to arbitrary time frames or open-ended review mechanisms.

Agency issues should be resolved through consultation and negotiation as part of the rezoning/planning proposal process.

Which of these options – the Land and Environment Court or the Independent Planning Commission (or other non-judicial body) – do you believe would be most appropriate?Council response:

Both options have significant disadvantages. An unelected non-judicial body such as a panel or commission lacks accountability but would be timelier and more cost effective. A judicial body such as the LEC is accountable, but would be costly and time consuming. Any such appeal mechanisms should be limited to procedural grounds.

Part D: Implementation (see pages 39 to 40 of discussion paper)

Our focus in the discussion paper is to seek feedback on the concepts or principles of the new approach, rather than the means of carrying it out. Once it is clear which of the proposed elements will have the greatest benefit, we will use what we've heard to determine how we will put the new approach into action.

Do you wish to make any comments in relation to Part D of the discussion paper?

Council response: Given the extent of proposed changes and implications on all stakeholders, further consultation is needed before DPE determines how to put the new approach into action.

CL22.122 Proposed Submission - Draft Design and Place State Environmental Planning Policy (SEPP)

HPERM Ref: D22/69028

Department: Strategic Planning

Approver: Gordon Clark, Interim Director - City Futures

Attachments: 1. Proposed submission - Draft Design and Place SEPP [↓](#)

Reason for Report

Advise of the public exhibition by the NSW Department of Planning and Environment (DPE) of the draft *State Environmental Planning Policy (Design and Place) 2021* (draft SEPP) and supporting guides and obtain endorsement to make the submission at **Attachment 1**.

Recommendation

That Council make a submission (**Attachment 1** of this report) to the NSW Department of Planning and Environment in relation to the draft *State Environmental Planning Policy (Design and Place) 2021* and supporting guides.

Options

1. Endorse **Attachment 1** as Council's submission on the draft SEPP.

Implications: This is the preferred option as it will enable Council to provide a submission highlighting key matters/concerns.

2. Amend **Attachment 1** and include additional comments as necessary.

Implications: This option will still enable Council to provide a submission; however, the implications of any changes are unknown and may require closer consideration or refinement which may delay the submission.

3. Not make a submission.

Implications: This is not recommended as it would prevent Council from having any input on the draft SEPP and the opportunity to identify issues for consideration or resolution would potentially be missed.

Background

In April 2021 Council endorsed (MIN21.181) a submission on the Explanation of Intended Effect (EIE) for the proposed *State Environmental Planning Policy (Design and Place) 2021* which was on exhibition at that time.

Since then, DPE has consulted further with relevant stakeholders, including Council, and prepared the draft Design & Place SEPP. The draft SEPP and supporting guides were on public exhibition between 10 December 2021 and 28 February 2022 at the following link:

<https://www.planning.nsw.gov.au/Policy-and-Legislation/State-Environmental-Planning-Policies/Design-and-Place-State-Environmental-Planning-Policy>

The exhibition package is extensive and includes:

- The proposed [draft Design and Place State Environmental Planning Policy \(DP SEPP\) 2021](#).
- Proposed changes to the [Environment and Planning Assessment Regulation 2021 \(EPA Regulation\)](#).
- Proposed direction by the Minister under section 9.1 of the [Environmental Planning and Assessment Act 1979 \(9.1 Direction\)](#).
- The revised [Apartment Design Guide \(ADG\)](#).
- The proposed new [Urban Design Guide \(UDG\)](#).
- Updates to [residential sustainability \(BASIX\)](#).
- [BASIX sandbox tool](#).
- [Design Review Panel Manual for Local Government \(DRPM\)](#).
- Design & Place - [Cost Benefit Analysis \(Summary\)](#).

The SEPP will apply to the whole of NSW, other than specified land use zone exclusions, including some rural land, industrial land, environmental conservation land and waterways. The SEPP is also proposed to have some application to Planning Proposals on sites greater than 1 ha, such as land being converted to non-rural land or where built form controls are proposed to be changed. This is proposed to be achieved via a new Section 9.1 Ministerial Direction.

Other than the BASIX provisions, the SEPP will not apply to:

- Class 1A buildings (detached dwellings), Class 7a buildings (car parks) and Class 10 buildings (non-habitable buildings or structures), where they do not form part of a mixed-use development otherwise captured by this SEPP.
- The amalgamation and subdivision of 2 lots.

Definitions for certain development types to which the Apartment Design Guide and Urban Design Guide apply, and thresholds for design review, are also contained in the SEPP.

The SEPP will be 'principle-based', seeking to integrate and align good design and place considerations into planning policy. DPE has signalled an intention to move towards a principle-based system rather than one solely reliant on prescriptive controls and to enable a degree of flexibility in assessment. The SEPP will:

- Set out five principles for design in NSW;
- Establish matters for consideration and application requirements that collectively respond to each of the principles;
- Be supported by existing, revised and new guidance;
- Require the establishment of a local Design Review Panel;
- Repeal and replace SEPP No 65 – Design Quality of Residential Apartment Development and SEPP (Building Sustainability Index: BASIX) 2004.

The proposed SEPP is intended to be finalised mid-2022 and take effect towards the end of 2022.

Proposed Council Submission

Given the extensive and potentially wide-ranging nature of this proposal and its application to Shoalhaven it is recommended that Council make a submission on the draft SEPP.

The proposed Council submission (see **Attachment 1**) comments on the draft SEPP and associated guides. Some of the matters raised in the earlier submission on the EIE remain relevant to the draft SEPP. The key points in the proposed submission are as follows:

CL22.122

- Concerns about how a principle-based SEPP, flexibly applied, might work with regard to design outcomes and community expectations particularly in regional areas. A principles-based approach should operate alongside measurable design outcomes developed for local contexts.
- The new SEPP must fully consider and differentiate between metropolitan and regional locations in order to broadly capture the benefits of the SEPP but not inadvertently weaken local level design controls, such as those found in the DCP, which have often been developed in consultation with the local communities of Shoalhaven.
- Shoalhaven will be required to establish a Design Review Panel to meet the requirements of the SEPP, but questions remain as to the cost and resourcing implications and ultimately the effectiveness of a Panel of this nature.
- Further consideration needs to be given to the role of complying development and local character considerations with regard to the SEPP.
- Resources and State-funded training will be required to meet the assessment and engagement requirements of the SEPP.

Ultimately it will be necessary for Council to adapt to the requirements of the SEPP once it comes into effect, pending any modifications that might be made following public exhibition.

A copy of the submission at **Attachment 1** (i.e., draft staff submission) has already been lodged on the Planning Portal in order to meet the 28 February deadline. It is intended that a further copy of the submission, endorsed by Council, will be provided to replace the draft submission.

Community Engagement

The draft SEPP was on public exhibition between 10 December 2021 and 28 February 2022 to provide an opportunity for Councils, community members and industry stakeholders to provide comments and feedback.

The proposed SEPP is intended to be finalised mid-2022 and, following a six-month transitional period, take effect towards the end of 2022. The Department may engage further with Council during the implementation phase, which may include with any additional training (TBA).

Policy Implications

Generally, the policy package on exhibition does not propose to affect existing LEPs and DCPs, although when these plans are undergoing their five-year (or regular housekeeping) review, it is likely they will need to be revised where necessary to align with the DP SEPP and for consistency across NSW. The DCP may need to be amended for consistency with the new Urban Design Guide, if necessary.

A new section 9.1 Ministerial Direction will require future PPs to consider the SEPP requirements.

The proposed SEPP will repeal and replace SEPP No 65 – Design Quality of Residential Apartment Development and SEPP (Building Sustainability Index: BASIX) 2004. The existing Apartment Design Guide is being updated. The SEPP will interface with multiple other SEPPs.

Financial Implications

There will be cost implications for establishing and operating a Design Review Panel that will need to be further considered.

As per the Draft Local Government Design Review Panel Manual: “The fees the consent authority will charge to the proponent for review by a design review panel are set by the EP&A Regulation. The costs borne by the consent authority include payments to panel members; council staff resources; provision of the venue and any catering. The fee paid by the proponent will not cover all the costs of establishing and managing a design review panel. In addition to paying the fee to the consent authority, the proponent will also have costs relating to the work of the design team in preparing for and presenting to the panel.” As such, it is likely that Council will need to provide an ongoing budget for the Design Review Panel.

Council assessment teams may require additional training and resources. DPE has indicated that education and training for assessment teams may be provided during the SEPP implementation phase.

Additional resourcing requirements for Councils are addressed in the proposed submission. Council’s previous submission suggested that DPE should consider providing financial assistance to meet additional assessment requirements through the Joint Organisations, although the current exhibited materials appear to be silent on this particular option.

Risk Implications

The SEPP will increase requirements for design and development assessment which could impact Council planners, proponents and the community.

No immediate or serious risks have been identified for Council, however due to the intended ‘flexible application’ of the SEPP, unless decision making is guided at all times by a robust consideration of the local design and planning controls, there may be a risk that design outcomes diverge from the intended outcomes of those controls or the expectations of the broader community.



Address all correspondence to: The Chief Executive Officer,
PO Box 42, Nowra NSW 2541 Australia
shoalhaven.nsw.gov.au/contact | 1300 293 111
shoalhaven.nsw.gov.au     

Council Reference: 31157E (D22/69027)

20/02/2022

NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

By email: designandplacesepp@planning.nsw.gov.au and via Planning Portal

Dear Sir/Madam

Submission – draft Design and Place SEPP

Thank you for the opportunity to comment on the draft Design and Place SEPP (DP SEPP). Council welcomes the NSW Government's recognition of the importance of good design to local communities and its commitment to simplifying and strengthening this consideration in the NSW planning system.

The current exhibition material features a considerable amount of content to be reviewed in order to provide a response. Council has previously advised it is critical that exhibition periods for reforms of this nature allow sufficient time, at least 6-8 weeks, for the preparation of a properly considered and Council-endorsed response. Councils across NSW have been presented with wide ranging and significant reforms over recent months which may have broad implications particularly with regard to how these changes are coordinated and rolled out and ultimately impact on users. We acknowledge and appreciate a longer than usual exhibition period provided for the DP SEPP although it must be said that exhibiting during the holiday period is not ideal. We ask that similar timeframes be provided for any future reforms announced by the NSW Government.

This submission has been endorsed by Council at its Ordinary Meeting of 14 March 2022 (MINXXXX):

INSERT RESOLUTION

General

Shoalhaven City Council continues to support the broad intent of the DP SEPP to elevate, enhance and simplify design and place considerations in the NSW planning system and establish a consistent approach to design and assessment. Local government has an important role in facilitating and creating good urban environments and housing. The SEPP intends to assist in doing this, particularly by getting the fundamentals right at the neighbourhood scale and by mandating design input into certain developments early in the process. The encouragement and integration of good design and place-based planning and policy has the potential to result in improvements in this space that would be welcomed and would benefit the entire community. Nevertheless, there are also some potential impacts that warrant further consideration. As with Council's previous submission

CL22.122 - Attachment 1

on the Explanation of Intended Effects (EIE), this submission highlights some of the specific matters of concern to Shoalhaven.

Flexible approach

As per Council's previous submission, while supportive of the five principles of the DP SEPP and sympathetic to the *intent* of flexibility in a principles-based system (i.e. to foster innovation, optimise outcomes on a site specific basis, etc) there remains some concern about how this actually plays out in development applications and assessments.

The DP SEPP allows for a flexible approach to development assessment. Currently there is a tension between meeting acceptable solutions and performance criteria with the latter being difficult to assess. Working in a space without benchmarks could result in designs that diverge from a particular standard expected by the broader community. Performance solutions also take longer to assess which introduces an element of uncertainty, introducing another tension between timely assessment and achieving a good outcome (on this point we note certain expectations of the Minister set out in *Environmental Planning and Assessment (Statement of Expectations) Order 2021*). There is also potential for additional adjudication through the Courts. This process is costly. The existing clause 4.6 pathway (exceptions to development standards) has resulted in litigation, questionable approvals, consideration by ICAC and uncertainty. Development assessment teams already see proponents vary development standards and utilise clause 4.6 and it is not always so that they can demonstrate greater innovation. There are ongoing issues with the clause 4.6 pathway that need to be addressed. Furthermore, the interaction of the DP SEPP with the clause 4.6 pathway should also be analysed. The DP SEPP will likely be applied in regional councils differently to metro councils and uncertainty as to the application of development standards will cause concern in the community which might have particular expectations with regard to design outcomes.

The consent authority must be satisfied that applicable development is consistent with the design principles of the DP SEPP before granting consent. Section 30(3)(a) advises the design criteria and design guidance of the Apartment Design Guide (ADG) should be applied "flexibly and consider alternative solutions". Clause 24(3)(a) similarly applies to the Urban Design Guide (UDG). One inherent risk in 'flexible' interpretations is that these can lead to decisions being made for non-planning reasons with the potential to undermine the intent of the planning policies. Benchmarks or compulsory thresholds to be met for alternative solutions should at least be provided to ensure any flexible approach is also fully considered.

Another risk with a flexible approach is that it has the potential to be impacted by decisions made by the NSW Land and Environment Court (LEC), which could result in the court mandating certain approaches or principles being taken to how the ADG or UDG is enforced. The establishment of such legal precedents has the potential to remove any 'flexibility' which was otherwise intended to be provided. The implementation of more specific thresholds has the potential to provide more certainty regarding the design outcomes which are intended and reduce the potential for the interpretation of the DP SEPP to be impacted by interpretations of the NSW LEC.

Without sufficient and specific measurable design outcomes or quantitative examples of compliance provided, proponents are likely to find ways to argue that their proposal meets the relevant objectives of the ADG/UDG and therefore the principles of the DP SEPP. In some regional areas a design verification statement (DVS) might be prepared by a person

who, despite on-paper credentials, might not have the specific relevant experience anticipated by the DP SEPP. For these reasons the principle-based approach may not result in a quantifiable difference to design outcomes in development across the State. To ensure that improvements in design outcomes can be reached, designers and assessors must be able to refer to more quantifiable provisions and outcomes for developments. Guidelines need to empower consent authorities to make robust decisions founded in the intent of the relevant controls.

Metro and regional differentiation

It is noted that the DP SEPP has “universal aspirations that can be adapted to context, fit for our towns, cities and suburbs”. Shoalhaven’s previous submission on the EIE commented on the importance of Development Control Plans (DCPs) and local development controls in delivering development outcomes appropriate to a particular context, noting that context varies considerably across NSW. However, the DP SEPP and supporting documents seem better attuned to metropolitan locations. Where design criteria have been provided, there remains some concern about its application in parts of Shoalhaven. In applying some of these provisions State-wide, it should be understood that what is appropriate for metro Sydney is not always appropriate for the regions.

Car parking

Council raised the issue of car parking in its previous submission on the EIE and it is noted that certain measures have been circumscribed since the EIE to reflect differences between Sydney and regional NSW, including *“car parking being applied to areas of high public transport accessibility only, to ensure outer metro and regional areas reliant on cars are not faced with an undersupply of car parking”*.

Nowra is included as a Nominated Regional Centre for the purposes of the non-discretionary development standards under section 1.6 of the ADG. Council recognises the need to reduce car dependency where public transport and walkability are feasible options for transport, and the design considerations relating to sustainable transport and walkability are supported in principle. It is also recognised that the provisions of Section 1.6 may be suitable for some Nominated Regional Centres. However, in many regional areas, public transport is poor and travel distances are large, so there is a need to ensure that car parking is designed for and accommodated. Nowra as a locality is some 3.7km north to south and 3.2km east to west. Public transport is intermittent and infrequent, topography is undulating and as a Regional Centre is very car dependent. There are sites in Nowra zoned B4 Mixed Use under Shoalhaven Local Environmental Plan 2014 that are as far as 1.5km as the crow flies from the town centre (e.g. 205-223 Kinghorne St). The minimum car parking requirements under Guide to Traffic Generating Developments (RTA 2002) differ from (i.e. are less than) those in the DCP and if relied upon may instead promote poor amenity outcomes for future occupants in some parts of Nowra. Such areas are unsuitable to be nominated for a reduced parking rate. The unique circumstances of individual development sites and Regional Centres need to always be considered in the assessment of development applications (DAs) in relation to car parking.

Residential apartment development

‘Residential apartment development’ retains the same broad definition as the current SEPP 65 and ADG. Accordingly, the provisions of the draft DP SEPP and ADG will continue to only apply to buildings three storeys or more that contain at least four

dwellings. The revised SEPP is a missed opportunity to extend the application of the relevant controls to all development defined as a 'residential flat building'.

Being a regional council with economic factors different to the metro environment, it is not unusual to see applications for residential flat buildings of two storeys in height. This type of development is suitable for larger sites that may adjoin low density residential areas and can provide more affordable housing types both for renters and owners. While Council's DCP has the ability to 'call in' the ADG, its provisions are then only treated as secondary DCP controls and routinely overlooked and argued by applicants. The ADG should broaden its applicability to include lower rise residential flat buildings to deliver good quality design outcomes to this more affordable form of housing.

Density

The UDG contains residential density minimums as design criteria to meet Objective 3: 'Compact and diverse neighbourhoods connect to good amenity'. One of these criteria is a minimum average gross residential density of 15 dwellings per hectare, unless called out in certain neighbourhood catchments. This objective and the density minimums are understood and not objected to in principle. Shoalhaven's DCP, for some Urban Release Areas (URAs), already requires residential density minimums that would meet or exceed the requirements under the UDG. However, there have been and are likely to be other developments in Shoalhaven to which the DP SEPP and UDG would apply where this particular standard may not be appropriate due to certain site constraints or where a large lot, lower density character is intended. Some established developments, or those that are underway, may have changed substantially in terms of infrastructure requirements, neighbourhood character etc, had these density minimums been implemented.

It is understood that the design criteria are quantitative benchmarks that enable the relevant objective to be met, and that alternative solutions to the design criteria *can* be proposed, however it remains to be seen if this is workable in practice or if it causes local planning objectives in certain regional or semi-rural areas to come in conflict with, for example, a proponent's desire to maximise yield. (It is noted that increasing yield due to density requirements is categorised as a 'benefit' in the Deloitte Cost Benefit Analysis, but this is really only part of the story.)

There may be occasions where Council as the consent authority ends up seeking flexibility from design criteria set in the UDG in circumstances where local development controls expect a different outcome. The key issue is not that Council is density-averse, but simply that context-specific local planning should determine density outcomes. Perhaps additional wording to the design criteria could assist: "(design criteria) *unless otherwise specified in a local council's DCP*". Alternatively, these standards could be presented as design guidance rather than design criteria or, rather than design criteria that prescribes density minimums, perhaps the guidance should talk to a typical density minimum subject to context and put the focus squarely on existing local controls.

It is noted that clause (6) of the proposed Ministerial Direction says the planning proposal must give effect to design criteria and guidance in the UDG, whereas it would seem more accurate that effect be given to the 'objectives' given the intended flexible application of these criteria and the potential to propose an alternative solution. Perhaps the Direction should 'give consideration to' rather than 'give effect to' or add wording along the lines of 'or give effect to an alternative solution that meets the relevant objective'.

Codes SEPP and local character

We note the former Planning Minister's comments lamenting what he describes as the current the "computer says no" approach to urban development.¹ It is submitted that the 'computer says yes' approach promoted through complying development must also be reconsidered if the Department truly wants to elevate the design and place outcomes of new development in NSW. On this point we note, with some disappointment, that the DP SEPP will not apply to development under Codes SEPP nor does the exhibited policy package amend the Codes SEPP.

It is also understood that the proposed local character clause for the Standard Instrument LEP has not progressed and may very well not be implemented, and that this is at least in part due to relevant matters being addressed in a new way through the DP SEPP. The draft clause sought to identify areas of significant local character values, make reference to a statement of desired future character, and in some instances identify areas where complying development was restricted due to character values. If the DP SEPP and guides are intended to instead be the statutory mechanism for dealing with local character, the SEPP needs to enable a consent authority to clearly identify local character and/or desired future character. The ongoing impacts of complying development with regard to these matters will need to be addressed at some point.

In the unfortunate event that the DP SEPP does not progress to finalisation, and without a local character clause in the Standard Instrument LEP or a strengthening of the role played by a council's DCP, there will remain a gap in the planning system for dealing adequately with local character.

Design Review Panel

The draft DP SEPP sets out the various development types or thresholds where advice from a Design Review Panel (DRP) will need to be obtained and considered. A new Local Government Design Review Panel Manual will support local government in establishing a DRP and meeting the requirements of the DP SEPP. In recent years, Council resolved to provide 'in principle' support for the establishment of a DRP for Shoalhaven, or for a joint DRP in the Illawarra-Shoalhaven region, subject to further investigations including terms of reference and potential costs. However, this process was never concluded and no DRP currently exists that services Shoalhaven.

Not all regional councils have significant numbers of applications warranting the regular briefing or convening of a panel which the Manual envisages. Establishing a DRP for Shoalhaven individually would be an expensive and detailed process, for a relatively narrow field of development types that would apply. Nevertheless, it is clear that a DRP would be called upon by Shoalhaven from time to time. The proposed EP&A Regulation requires a DRP to be constituted for a local government area, or for two or more councils. Council would likely consider establishing a regional DRP for different LGAs to refer DAs to as necessary. Any specific support or guidance from DPE in setting up a regional DRP would be valuable.

Skills/Capacity

¹ Thompson, Angus. "Computer says no": NSW Planning Minister says rules are stifling good design." *Sydney Morning Herald*, July 9, 2021

The ability for Councils in regional areas to establish DRPs with requisite skills may be challenging. Desirably, panel members should not have conflicting interests but would have some familiarity with or appreciation for local issues of relevance to design outcomes. For planning proposals assessed as per the new s9.1 Direction, it is also desirable that panel members have appropriate strategic-level skills in addition to DA assessment skills. Shoalhaven is a large local government area, with different neighbourhood character, community expectations and other local planning considerations across different areas. If panel members have limited experience in the LGA there will be resourcing implications for Council or other local groups for DRP briefings. Panels will need to be given documentation such as plans, an agenda, conflict of interest declarations, briefing packs, have site inspections arranged, venues and meetings arranged and set up. Minutes will be required, and a design advice letter provided. Smaller councils have limited capacity in staff numbers, funding and experience. There is an administrative workload that must be absorbed by already stretched administration and assessment teams.

Costs

Further, the cost of establishing and maintaining a panel could be a concern. As no DRP is currently utilised by Shoalhaven, the full costs implications are yet to be determined. It is still likely that the fees associated with a DA may not cover the full assessment cost inclusive of a DRP. It is noted that Council resolved in April 2020 to provide development application fee concessions in response to COVID 19. Accordingly, there is concern that the current fee arrangement would not provide adequate funding to support a panel.

Councils will also be required to evaluate and monitor the panel for continuous improvement and to capture lessons learnt. This is another resource impost.

Decision making

The framework to improve design and consistency in assessment and determination, of which the DRP requirements are part, is commendable. However in regional areas it is theoretically possible for an elected Council to set aside design advice and feedback in the decision making process. The manual indicates that the advice of a panel must (only) be *considered* in the assessment process. Despite provisions in the draft EP&A Regulation (clauses 57A(c) and 57B(c)) there is the potential for proposals inconsistent with the advice of a DRP to be accepted.

Design Review Panels: Council and Crown DAs

Section 34 (1)(c) and (2) of the DP SEPP applies to Council and Crown development with a capital investment value between \$5 million and \$30 million. This is the same threshold for a DA to be referred to a Regional Planning Panel (RPP) for determination, making the RPP the consent authority.

Is there a process to be established to find out if the RPPs will require a DA to be referred to a DRP as part of the assessment? This should not be determined by the assessing authority due to potential conflict of interest, particularly when the DA may then proceed to a determination with the RPP who may have a different view.

Assessment, Engagement and Resourcing

In addition to the costs anticipated in setting up a DRP, there will be further costs and resourcing burdens with the implementation of the DP SEPP. Full consideration of this, or the capacity of councils to fund assessment, panels etc does not appear to have yet occurred. It is well known that there is a shortage of assessment professionals and related professions and that this can be felt acutely in regional areas. Council staff may need additional education or training to grow their skill sets in light of the requirements of the DP SEPP. Again, this may have a cost impact. The State government should provide and fund relevant training for council staff as required.

The Connecting to Country Framework is still in draft form but is intended to be finalised around the same time the DP SEPP comes into effect. It is also understood that the requirement to respond to Country may be expanded in future years beyond what is proposed in the draft DP SEPP. At the appropriate point, further clarification about the relationship between the Connecting to Country Framework and the DP SEPP (and UDG) would be appreciated. Time, resources and training will need to be provided to all parties involved to allow these considerations to be properly integrated in planning processes. We reiterate our previous comments on the potential resource burdens placed particularly on Aboriginal stakeholders due to additional engagement requirements. It is understood from stakeholder engagement sessions that DPE is aware of these matters.

Reforms generally: Simplifying and Consolidating Policies and Guidance

Council has previously expressed concern over the proliferation of new SEPPs and guidelines and therefore supports the Department's ongoing efforts to simplify the current NSW planning system through consolidation or reduction of the number of SEPPs. The status of some design guidance documents considered relevant to Shoalhaven, such as Urban Design for Regional NSW and Coastal Design Guideline, remains unclear in the exhibited materials although the UDG makes a very minimal reference to each.

Generally, we continue to request that the ongoing planning reforms initiated by DPE be considered with utmost regard to the coordination (and pace) of these reforms and their impact on users.

Specifically, it will be important that the application of the DP SEPP is closely monitored to ensure that its aspirations are ultimately resulting in improved design and place outcomes in all contexts.

Thank you again for the opportunity to comment on the draft Design and Place SEPP. We further thank DPE and Government Architect's engagement with stakeholders through the project working groups and other online events in the period between the EIE and current exhibition. We remain available to discuss the content of this submission further, if required.

If you need further information about this matter, please contact Richard Carter, City Futures on (02) 4429 3482. Please quote Council's reference 31157E (D22/69027).

Yours faithfully

CL22.123 Employment Zones Reform - Translation Detail - Shoalhaven Local Environmental Plan 2014

HPERM Ref: D22/64120

Department: Strategic Planning

Approver: Gordon Clark, Interim Director - City Futures

Attachments:

1. Employment Zones Translation - Shoalhaven LGA existing Business and Industrial Zones and Future Employment Zones [↓](#)
2. DPE's Proposed Shoalhaven Land Use Table Translation (under separate cover) [⇒](#)

Reason for Report

Obtain endorsement of the proposed translation detail for Shoalhaven associated with the NSW Government's Employment Zones Reform, prior to public exhibition by the NSW Department of Planning and Environment's (DPE).

Recommendation

That Council:

1. Endorse the proposed Employment Zones Translation detail as outlined in this report and its attachments.
2. Acknowledge that the associated public exhibition process will be managed by the NSW Department of Planning and Environment (DPE) and request meaningfully consult with Council throughout the public exhibition and implementation process to avoid unintended consequences.
3. Strongly request DPE to send correspondence to all directly affected landowners (i.e., landowners of employment zoned land) advising of the exhibition arrangements, and actively and meaningfully engage with the Shoalhaven community to ensure they understand the full implications of the employment zones reform and what it means for them.
4. Receive a further report in due course either during (if needed) or following the conclusion of DPE's public exhibition process.

Options

1. As recommended.

Implications: This is the preferred option as it predominantly reflects a 'like for like' transfer of land uses from existing to proposed zones and includes tailored solutions (local clauses and additional permitted uses) where a direct transfer is not considered suitable. Whilst it is unfortunate that the Reforms are imposed on Council, it is considered that the proposed translation is in the best interest of the Shoalhaven community and affected landowners. The proposed mailout by DPE will draw the exhibited translation to the attention of those directly affected, which is considered an important step as these landowners know their land best (including future aspirations). Council will continue to be updated as the Employment Zones reform process progresses, and follow-up reports will be provided as appropriate.

CL22.123

2. Adopt an alternative recommendation.

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

Although, this is an option for Council to consider, there is limited opportunity for alternative approaches with the land use table or other instrument mechanisms as a significant number of land uses are mandated as ‘permissible’ with consent, and as such, there is no opportunity for flexibility with those land uses (i.e., Council cannot prohibit them).

Background to the Employment Zones Reform

The Employment Zones Reform (the reform) project is being undertaken and implemented by DPE state-wide as part of the ongoing broader NSW planning reform program.

Essentially, the reform seeks to consolidate the existing Business (B) and Industrial (IN) zones in Shoalhaven LEP 2014 (and LEP’s throughout NSW) to a range of what are now called Employment (E) and supporting zones, as detailed in **Table 1** below.

For convenience, **Attachment 1** details the proposed translation of existing Business (B) and Industrial (IN) zoned land into the future employment zones for each of Shoalhaven’s towns and villages.

Table 1: Existing and Future Shoalhaven Local Environmental Plan (LEP) 2014 Zones

Existing Shoalhaven LEP 2014 Zone	Future Shoalhaven LEP 2014 Zone
B1 Neighbourhood Centre	E1 Local Centre
B2 Local Centre	
B3 Commercial Core	E2 Commercial Core
B4 Mixed Use	MU1 Mixed Use
B5 Business Development	E3 Productivity Support
B7 Business Park	
IN1 General Industrial	E4 General Industrial
IN2 Light Industrial	
IN4 Working Waterfront	W3 Working Foreshore

Council recently received an update report on the Employment Zones Reform on 7 February 2022 and resolved (MIN22.104) to:

1. *Receive the update on the Employment Zones Reform for information*
2. *Write to DPIE expressing concern that that the feedback provided by this Council is not being listened to; that the issues and concerns raised by Council have not been considered and instead DPIE is pressing ahead; and strongly request a meaningful dialogue to avoid unintended consequences and unnecessary changes to the LEP.*

Translation Background

In November 2021, DPE provided a proposed translation package to Council detailing their preference for the translation of existing Business (B) and Industrial (IN) zoned land across Shoalhaven to the future employment zones (**Attachment 2**). Council was asked to review the translation detail and respond with support or changes as relevant.

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Due to the timing associated with the Reform, there was a need to submit a draft Return Translation Detail to DPE before it could be considered by Council. The content provided to DPE is now outlined in this report for Council's consideration. It is DPE's intention that the Employment Zones Translation Package will be publicly exhibited by DPE in April 2022 and there will also be an opportunity to provide detailed comments on it at that point.

Throughout the translation process, Council staff have sought to:

- Ensure the translation of zones is predominantly on at least a 'like for like' basis (i.e., no-one is to be disadvantaged where possible);
- Maintain the existing retail centres hierarchy; and
- Reduce reliance on 'existing use' rights, where possible.

However, it is noted that the new zones have already been notified (i.e., they officially are part of contemporary legislation) and this means that the permissibility of certain land uses are mandated under the Standard Instrument Local Environmental Plan (SI LEP). As such, Council has limited flexibility within the translation process.

The Proposed Translation

The proposed employment zones translation was comprehensively reviewed, and the recommended approach for each new zone is detailed below.

To assist in interpretation, the following colours have been used to represent mandatory land uses/objective (black and green) or objectives/land uses where Council has flexibility for application (blue), as follows:

- Black – DPE mandated objectives and land uses, which are unable to be amended in any way by Council;
- Green – Mandated as either "Permitted without consent" or "Permitted with consent", however Council can specify a preference;
- Blue – Local objective or land use. Council can determine whether additional local objectives should be included, as well as whether the land uses should be "Permitted without consent", "Permitted with consent" or "Prohibited".

Proposed E1 Local Centre Land Use Table (current B1 Neighbourhood Centre and B2 Local Centre zones)

E1 Local Centre	
1 Objectives of zone	<ul style="list-style-type: none"> • To provide a range of retail, business and community uses that serve the needs of people who live, work or visit the area. • To encourage investment in local commercial development that generates employment opportunities and economic growth. • To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. • To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. • To ensure that development is of a scale that is compatible with the character of the surrounding residential environment.
2 Permitted without consent	Nil

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3 Permitted with consent

Amusement centres; Artisan food and drink industries; Backpackers' accommodation; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Home businesses; Home industries; Home occupations; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Residential Care facilities; Respite day care centres; Roads; Service stations; Serviced apartments; Shop top housing; Tank-based aquaculture; Veterinary hospitals; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Pond-based aquaculture; Registered clubs; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Resource recovery facilities; Restricted premises; Rural industries; Sex service premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Wharf or boating facilities

The *E1 Local Centre* zone has been translated from the existing *B1 Neighbourhood Centre* and *B2 Local Centre* in as close as possible to a 'like-for-like' manner, with the exception of the land uses in **Table 2** below:

Table 2: E1 Local Centre zone exceptions to like-for-like translation.

Land Use	What has changed?	Why has it changed?
<ul style="list-style-type: none"> Entertainment facilities Function centres Retail premises (certain sub-land uses) Service stations 	Previously prohibited on land zoned <i>B1 Neighbourhood Centre</i> and will now be permissible.	Mandated as 'permitted with consent', Council has no flexibility in this regard.
<ul style="list-style-type: none"> Local distribution premises Veterinary hospitals 	Previously prohibited on land zoned <i>B1 Neighbourhood Centre</i> and <i>B2 Local Centre</i> and will now be permissible.	
<ul style="list-style-type: none"> Artisan food and drink industry 	Previously prohibited on land zoned <i>B1 Neighbourhood Centre</i> and will now be permissible.	<p>The Housekeeping 2020/21 Amendment to Shoalhaven LEP 2014 (PP044) intends to permit 'artisan food and drink industries' with consent in the <i>B2 Local Centre</i> Zone (currently prohibited).</p> <p>Subsequent to the collapsing of the zones, the land use will also be permitted with consent on existing <i>B1 Neighbourhood Centre</i> land, where it is currently prohibited.</p>

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		A local clause has been proposed (see commentary below) that seeks to ensure future development in the former <i>B1 Neighbourhood Centre</i> zone is compatible with the existing neighbourhood character and does not adversely affect the local amenity. This coupled with consideration of the zone objectives will help manage this use in former <i>B1 Neighbourhood Centre</i> locations.
<ul style="list-style-type: none"> Residential care facilities Vehicle repair stations 	Previously prohibited on land zoned <i>B1 Neighbourhood Centre</i> and will now be permissible.	<p>There are a number of existing vehicle repair stations on <i>B2 Local Centre</i> zoned land, as such it would be appropriate to retain this use as 'permitted with consent' in the <i>E1 Local Centre</i> zone as the take up in the former <i>B1</i> zone is unlikely.</p> <p>Residential care facilities in the former <i>B1</i> zone are unlikely (due to size and ownership arrangements), but not necessarily incompatible if it were to occur.</p>
<ul style="list-style-type: none"> Camping grounds 	Previously permitted with consent in the <i>B2 Local Centre</i> zone and will now be prohibited.	Not considered a likely or appropriate land use for a <i>E1 Local Centre</i> . It is noted that there are no camping grounds on existing land zoned <i>B2 Local Centre</i> .
<ul style="list-style-type: none"> Registered clubs 	Previously permitted with consent in the <i>B2 Local Centre</i> zone and will now be prohibited.	Will be prohibited on land zoned <i>E1 Local Centre</i> ; however, an additional permitted use will be inserted for existing registered clubs on <i>B2 Local Centre</i> zoned land to acknowledge this existing use.
<ul style="list-style-type: none"> Tourist and visitor accommodation 	Previously permitted with consent on land zoned <i>B2 Local Centre</i> and will now be prohibited.	<p>Despite the prohibition of the group term 'Tourist and visitor accommodation', all land uses in that group term will continue to be 'permitted with consent' on land zoned <i>E1 Local Centre</i> except 'farm stay accommodation'.</p> <p>'Farm stay accommodation' is not considered a likely or appropriate land use for land zoned <i>E1 Local Centre</i>.</p>
<ul style="list-style-type: none"> Home industries 	Previously prohibited on land zoned <i>B1 Neighbourhood Centre</i> and <i>B2 Local Centre</i> zone and will now be permissible with consent.	DPE required a decision to either include as 'permitted with consent' or 'permitted without consent.' It is considered more appropriate to be 'permitted with consent' in the <i>E1 Local Centre</i> zone.

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E2 Commercial Core Land Use Table (current B3 Commercial Core)

E2 Commercial Core
1 Objectives of zone <ul style="list-style-type: none"> To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity. To encourage investment in commercial development that generates employment opportunities and economic growth. To encourage development that has a high level of accessibility and amenity, particularly for pedestrians. To enable residential development that is consistent with the Council's strategic planning for residential development in the area. To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
2 Permitted without consent Nil
3 Permitted with consent Amusement centres; Artisan food and drink industries; Backpackers' accommodation; Boarding houses ; Building identification signs; Business identification signs; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Home businesses ; Home industries ; Home occupations ; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Mortuaries; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Roads ; Seniors housing ; Shop top housing ; Tank-based aquaculture; Vehicle repair stations; Veterinary hospitals; Any other development not specified in item 2 or 4
4 Prohibited Agriculture ; Air transport facilities ; Airstrips ; Bed and breakfast accommodation ; Boat building and repair facilities ; Boat launching ramps ; Boat sheds ; Camping grounds ; Caravan parks ; Cemeteries ; Correctional centres ; Crematoria ; Depots ; Eco-tourist facilities ; Electricity generating works ; Environmental facilities ; Exhibition homes ; Exhibition villages ; Extractive industries ; Farm buildings ; Farm stay accommodation ; Forestry ; Freight transport facilities ; Heavy industrial storage establishments ; Highway service centres ; Home occupations (sex services) ; Industrial retail outlets ; Industrial training facilities ; Industries ; Jetties ; Marinas ; Mooring pens ; Moorings ; Open cut mining ; Pond-based aquaculture ; Recreation facilities (major) ; Research stations ; Residential accommodation ; Residential care facilities ; Resource recovery facilities ; Rural industries ; Signage ; Storage premises ; Transport depots ; Truck depots ; Vehicle body repair workshops ; Warehouse or distribution centres ; Waste disposal facilities ; Wharf or boating facilities .

The E2 Commercial Core zone has been translated from the existing B3 Commercial Core in as close as possible to a 'like-for-like' manner, with the exception of the land uses detailed in **Table 3** below:

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Table 3: E2 Commercial Core zone exceptions to like-for-like translation.

Land Use	What has changed?	Why has it changed?
<ul style="list-style-type: none"> Local distribution premises Mortuaries Recreation facilities (major) Vehicle repair stations Veterinary hospitals 	Previously prohibited in <i>B3 Commercial Core</i> and will now be permissible with consent.	Mandated as 'permitted with consent' by DPE, Council has no flexibility in this regard.
<ul style="list-style-type: none"> Home industries 		DPE required a decision from Council to either include as 'permitted with consent' or 'permitted without consent.' It is considered more appropriate to be 'permitted with consent' in the <i>E2 Commercial Core</i> .

E3 Productivity Support Land Use Table (current B5 Business Development and B7 Business Park)

E3 Productivity Support
<p>1 Objectives of zone</p> <ul style="list-style-type: none"> To provide a range of facilities and services, light industries, warehouses and offices. To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres. To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity. To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones. To provide opportunities for new and emerging light industries. To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site. To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.
<p>2 Permitted without consent</p> <p>Nil</p>
<p>3 Permitted with consent</p> <p>Animal boarding or training establishments; Backpackers' accommodation; Boarding houses; Boat building and repair facilities; Building identification signs; Business identification signs; Business premises; Centre-based child care facilities; Community facilities; Depots; Function centres; Garden centres; Hardware and building supplies; Hotel or motel accommodation; Industrial retail outlets; Industrial training facilities; Information and education facilities; Kiosks; Landscaping material supplies; Light industries; Local distribution premises; Markets; Mortuaries; Neighbourhood shops; Office premises; Oyster aquaculture; Passenger transport facilities; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Respite day care centres; Roads; Rural supplies; Service stations; Serviced apartments; Shop top housing; Specialised retail premises; Storage premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Wholesale supplies; Any other development not specified in item 2 or 4</p>

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4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Eco-tourist facilities; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Helipads; Highway service centres; Home businesses; Home occupations; Home occupations (sex services); Home-based child care; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Pond-based aquaculture; Registered clubs; Residential accommodation; Resource recovery facilities; Restricted premises; Retail premises; Rural industries; Sex services premises; Signage; Tourist and visitor accommodation; Transport depots; Truck depots; Waste disposal facilities; Water recreation structures; Wharf or boating facilities

The *E3 Productivity Support* zone has been translated from the existing *B5 Business Centre* and *B7 Business Park* zones in as close as possible to a 'like-for-like' manner, with the exception of the land uses detailed in **Table 4** below:

Table 4: E3 Productivity Support zone exceptions to like-for-like translation.

Land Use	What has changed?	Why has it changed?
<ul style="list-style-type: none"> Mortuaries Storage premises 	Previously prohibited in <i>B5 Business Development</i> and <i>B7 Business Park</i> and will now be permissible with consent.	Mandated as 'permitted with consent' - no flexibility in this regard.
<ul style="list-style-type: none"> Boat building and repair facilities Hotel or motel accommodation Places of public worship Recreation facilities (major) Recreation facilities (outdoor) Self-storage units Service stations Vehicle body repair shops Vehicle repair stations Veterinary hospitals 	Previously prohibited in <i>B7 Business Park</i> and will now be permissible with consent.	
<ul style="list-style-type: none"> Amusement centres Entertainment facilities Freight transport facilities Home businesses Home occupations Home-based childcare Retail premises Registered clubs Signage Transport depots Water recreation structures 	Previously permitted in <i>B5 Business Development</i> and will now be prohibited.	<p>Not considered a likely or appropriate land use for the former B7 land in the new <i>E3 Productivity Support</i> and is therefore now 'prohibited', which also means these land uses will become prohibited for the former B5 land where it is currently permissible.</p> <p>However, an additional permitted use (or similar) is proposed to permit retail premises, signage and transport depots on existing <i>B5 Business Development</i> zoned land.</p> <p>Additionally, an additional permitted use will be inserted to</p>

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		permit registered clubs, at 90 Kalandar Street, Nowra to reflect this current use.
<ul style="list-style-type: none"> Air transport facilities (including airport/heliport) Airstrips Helipads 	Previously permitted in <i>B7 Business Park</i> and will now be prohibited.	<p>Not considered a likely or appropriate land use for all <i>E3 Productivity Support</i> zoned land (i.e., the former B5 land) and is therefore now 'prohibited'.</p> <p>However, an additional permitted use will be inserted to permit these land uses at the Albatross Aviation Technology Park.</p>
<ul style="list-style-type: none"> Industries (includes light industries, heavy industries and general industries) 	Previously permitted in <i>B7 Business Park</i> and will now be prohibited.	<p>Not considered a likely or appropriate land use for all <i>E3 Productivity Support</i> zoned land (i.e., the former B5 land) and is therefore now 'prohibited.'</p> <p>'Light industries' is permissible with consent and an additional permitted use additional permitted use will be inserted to permit 'general industries' on existing <i>B7 Business Park</i> zoned land at Albatross Aviation Technology Park, and Part of Lot 4 DP 268209, Cambewarra.</p> <p>'Heavy industries' (i.e., hazardous or offensive) would become prohibited in the former B7 zoned land (already prohibited in former B5 land), however it is noted that all approvals at the Albatross Aviation Technology Park are under the 'General industries' land use. It is unlikely that heavy industry would be considered (or be appropriate) in this location.</p>
<ul style="list-style-type: none"> Backpackers' accommodation Boarding houses Serviced apartments Shop top housing 	Previously permitted in <i>B5 Business Development</i> and will now be prohibited.	<p>Not considered an appropriate land use for the former <i>B7 Business Park</i> zoned land and is therefore now 'prohibited'.</p> <p>However, an additional permitted use will be inserted to permit these land uses on land formerly zoned <i>B5 Business Development</i>.</p>

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E4 General Industrial Land Use Table (current IN1 General Industrial and IN2 Light Industrial)

E4 General Industrial
<p>1 Objectives of zone</p> <ul style="list-style-type: none"> To provide a range of industrial, warehouse, logistics and related land uses. To ensure the efficient and viable use of land for industrial uses.

<ul style="list-style-type: none"> To minimise any adverse effect of industry on other land uses. To encourage employment opportunities. To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers. To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.
2 Permitted without consent Nil
3 Permitted with consent Building identification signs; Business identification signs; Depots; Freight transport facilities; Garden centres; General industries; Goods repair and reuse premises; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Local distribution premises; Markets; Neighbourhood shops; Oyster aquaculture; Plant nurseries; Roads; Specialised retail premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Warehouse or distribution centres; Any other development not specified in item 2 or 4
4 Prohibited Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Camping grounds; Caravan parks; Cemeteries; Centre-based child care facilities; Charter and tourism boating facilities; Correctional centres; Crematoria; Eco-tourist facilities; Educational establishments; Environmental facilities; Exhibition villages; Extractive industries; Farm buildings; Forestry; Function centres; Health services facilities; Highway service centres; Home businesses; Home occupations; Home occupations (sex services); Home-based child care; Information and education facilities; Marinas; Mooring pens; Moorings; Office premises; Open cut mining; Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Retail premises; Sex services premises; Tourist and visitor accommodation; Water recreation structures; Wharf or boating facilities

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The *E4 General Industrial* zone has been translated from the existing *IN1 General Industrial* and *IN2 Light Industrial* in as close as possible to a 'like-for-like' manner, with the exception the land uses detailed in **Table 5** below:

Table 5: E4 General Industrial zone exceptions to like-for-like translation.

Land Use	What has changed?	Why has it changed?
<ul style="list-style-type: none"> Industries 	Previously permitted in <i>IN1 General Industrial</i> and will now be prohibited.	An additional permitted use will be inserted to permit heavy industries on existing <i>IN1 General Industrial</i> zoned land.
<ul style="list-style-type: none"> Amusement centres Markets Respite day care centres 	Previously permitted in <i>IN2 Light Industrial</i> and will now be prohibited.	Not considered a likely or appropriate land use for land zoned <i>E4 General Industrial</i> .

MU1 Mixed Use Land Use Table (current B4 Mixed Use)

MU1 Mixed Use
1 Objectives of zone <ul style="list-style-type: none"> To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities. To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.

<ul style="list-style-type: none"> To minimise conflict between land uses within this zone and land uses within adjoining zones. To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
2 Permitted without consent Nil
3 Permitted with consent Amusement centres; Attached dwellings; Boarding houses; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Group homes; Information and education facilities; Light industries; Local distribution premises; Medical centres; Multi dwelling housing; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations; Any other development not specified in item 2 or 4
4 Prohibited Agriculture; Air transport facilities; Airstrips; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Recreation facilities (outdoor); Research stations; Residential accommodation; Resource recovery facilities; Rural industries; Sex services premises; Signage; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste disposal facilities; Wharf or boating facilities

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The *MU1 Mixed Use* zone has been translated from the existing *B4 Mixed Use* in as close as possible to a 'like-for-like' manner, with the exception the land uses detailed in **Table 6** below:

Table 6: MU1 Mixed Use zone exceptions to like-for-like translation.

Land Use	What has changed?	Why has it changed?
<ul style="list-style-type: none"> Farm stay accommodation Light industries Local distribution premises 	Previously prohibited on land zoned <i>B4 Mixed Use</i> and will now be permissible with consent.	Mandated as 'permitted with consent' - no flexibility in this regard.

W3 Working Foreshore Land Use Table (current IN4 Working Waterfront)

W3 Working Foreshore
1 Objectives of zone <ul style="list-style-type: none"> To retain and encourage industrial and maritime activities on foreshores. To identify sites for maritime purposes and for activities requiring direct foreshore access. To ensure that development does not have an adverse impact on the environment and visual qualities of the foreshore. To encourage employment opportunities.

<ul style="list-style-type: none"> To minimise any adverse effect of development on land uses in other zones.
2 Permitted without consent Nil
3 Permitted with consent Aquaculture; Boat building and repair facilities; Boat launching ramps; Heliports; Hotel or motel accommodation; Jetties; Kiosks; Light industries; Liquid fuel depots; Markets; Restaurants or cafes; Roads; Serviced apartments; Take away food and drink premises; Vehicle sales or hire premises; Any other development not specified in item 2 or 4
4 Prohibited Agriculture; Air transport facilities; Airstrips; Amusement centres; Camping grounds; Caravan parks; Cemeteries; Centre-based child care facilities; Commercial premises; Correctional centres; Crematoria; Eco-tourist facilities; Educational establishments; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Farm buildings; Forestry; Function centres; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home businesses; Home occupations; Home occupations (sex services); Home-based child care; Industries; Information and education facilities; Local distribution premises; Mortuaries; Open cut mining; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Resource recovery facilities; Respite day care centres; Restricted premises; Rural industries; Service stations; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste disposal facilities

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The *W3 Working Foreshore* zone has been directly translated from the existing *IN4 Working Waterfront* zone.

Part 7 Additional local provisions, Shoalhaven LEP 2014

Part 7 Additional local provisions in the LEP contain a number of clauses that address the matters to be considered when proposing development on certain land.

One (1) existing additional local provision is proposed to be amended, and two (2) additional local provisions are proposed to be inserted into Part 7 of the LEP to respond to the Reform, as follows:

- Amend existing *Clause 7.24 Location of sex services premises*, to additionally apply to the location of ‘restricted premises.’ This is intended to minimise potential land use conflicts and adverse amenity impacts that may arise, by providing a reasonable level of separation between restricted premises, specified land uses (residential zones) and places that are regularly frequented by children.

Restricted premises are defined as meaning “*premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises, but does not include a pub, hotel or motel accommodation, home occupation (sex services) or sex services premises*”.

- Insert a new local clause that addresses development on certain *E1 Local Centre* zoned land (i.e., former B1 zoned land), to ensure future development is compatible with the existing neighbourhood character and does not adversely affect the local amenity.

This addresses the potential *B1 Neighbourhood Centre/B2 Local Centre* conflict with the collapsing of the zones as they are translated to the future *E1 Local Centre* zone.

- Insert a new local clause that addresses the location of local distribution premises (now mandated as permissible with consent in all new employment zones and MU1 Mixed Use zone), intended to mitigate potential adverse impacts on surrounding residential development.

The proposed clause will ensure that development consent is not granted, unless the consent authority has considered the impact on adjoining development, and whether the operation of the local distribution premises will interfere with the amenity of the neighbourhood. Local distribution premises are defined as meaning *“a building or place used for the storage or handling of items (whether goods or materials) pending their delivery to people and businesses in the local area, but from which no retail sales are made. Note - Local distribution premises are a type of warehouse or distribution centre—see the definition of that term in this Dictionary”*.

Schedule 1 Additional permitted uses of Shoalhaven LEP 2014

Schedule 1 Additional permitted uses (APU) enable specified uses to be added to the list of development that is permitted or prohibited for particular land in a zone. Two (2) existing APU's are proposed to be removed, and seven (7) APU's are proposed to be inserted into Schedule 1 of the LEP, as follows:

- Remove Schedule 1, Clause 7; which applies to Lot 1 DP 531751, 13 Wilfords Lane, Milton.
The APU permits development for the purpose of a concrete batching plant, which is considered to be 'general industry' and will now be permitted with consent in the *E4 General Industrial* zone.
- Remove Schedule 1, Clause 13; which applies to land at Vincentia District Town Centre.
The APU permits development for the purposes of specialised retail premises, garden centres, hardware and building supplies, landscaping material supplies, plant nurseries and timer yards, which will now be permitted with consent in the *E1 Local Centre* zone.
- Insert a new APU, which applies to Lot 1000 DP 1209457, 90 Kalandar Street, Nowra (Archer Hotel) to permit registered clubs with development consent (a current approved use), which are proposed to be prohibited within the *E3 Productivity Support* zone.
- Insert a new APU, which applies to existing *B5 Business Development* zoned land that permits development for the purposes of backpackers' accommodation, boarding houses, retail premises, serviced apartments, shop top housing, transport depots and signage with development consent, which are proposed to be prohibited within the *E3 Productivity Support* zone.
- Insert a new APU, which applies to Albatross Aviation Technology Park that permits general industries, air transport facilities, airstrips and helipads, which are proposed to be prohibited within the *E3 Productivity Support* zone.
- Insert a new APU, which applies to Part Lot 4 DP 268209, Cambewarra (former B7 zoned land that is part of the Moss Vale Road North Urban Release area), that permits development for the purpose of general industries with development consent, which is proposed to be prohibited within the *E3 Productivity Support* zone.
- Insert a new APU, which applies to Lot 7 DP 564180, South Nowra being 35 Quinns Lane, South Nowra (JD Interstate Transport), that permits development for the

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purpose of freight transport depots with development consent (a current approved use), which is proposed to be prohibited within the *E3 Productivity Support* zone.

- Insert a new APU, which applies to Lot 1 DP 1171713 & Lot 1 DP 578257, Queen Street, Berry; Lot 1 DP 509922, Greenwell Point Road, Greenwell Point; and Lot 25 DP 789217 & Lot 1 DP 872508, Princes Highway, Milton (Great Southern Hotel, Berry Hotel Greenwell Point Hotel, The Milton Hotel & The Star Hotel Milton), that permits development for the purpose of registered clubs with development consent (current approved uses), which are proposed to be prohibited within the *E1 Local Centre* zone.
- Insert a new APU, which applies to existing IN1 General Industrial zoned land that permits development for the purposes of heavy industries with development consent, which are proposed to be prohibited within the *E4 General Industrial* zone.

Conclusion

This is a state-wide process that is being driven by DPE. The translation documentation has been prepared with the aim of achieving the best outcome for the Shoalhaven community, within the parameters of the established legislative framework. The zone translation has been conducted on predominantly a 'like-for-like' basis to minimise disadvantage wherever possible, with additional mechanisms proposed to ensure minimal land use conflicts and the retention of the established hierarchy of Shoalhaven business centres and industrial land.

At this stage, DPE appear to be generally supportive of Shoalhaven's aspirations for the translation, however DPE will be coordinating and managing the public exhibition and the ultimate outcome is unknown.

It is imperative that DPE consult directly with affected landowners as part of the forthcoming formal exhibition process, as they know their own land and their aspirations.

Community Engagement

DPE's implementation plan indicates that the proposed LEP amendments across the State will be publicly exhibited in April 2022. DPE will be coordinating and facilitating the public exhibition of the proposed LEP amendments.

There is a risk that DPE will not send correspondence to notify all directly affected landowners of the proposed changes (relying on website/newspaper notifications instead), and that Council will possibly need to coordinate a mail merge to over 2100 directly affected landowners. A mailout of this magnitude would cost in the vicinity of \$2600 and should not be borne by Council, especially when Council is not running the process and has general concerns about the Reform.

Policy Implications

Despite Council's objection to the Reform, the process is substantially progressed, with the framework already embedded in legislation. Council has limited flexibility with the translation, however as close as possible to a 'like for like' approach has been taken where possible.

The Reform will result in changes being made to the Shoalhaven LEP 2014 and this amendment process will be managed by DPE, including public exhibition.

At this stage it is unclear what the amendment will ultimately look like, and there is a risk that the Shoalhaven LEP 2014 may need to be further amended in the future to resolve unforeseen issues. This would be undertaken as part of Council's regular housekeeping amendment process (not by DPE).

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Financial Implications

The Employment Zones Reform amendments will be undertaken by DPE so there are limited financial implications for Council, apart from resourcing mapping changes. If any changes are required to Shoalhaven LEP 2014 to resolve any unintended consequences of the Reform however, this will need to be undertaken by Council as part of a planning proposal and will need to be funded by the Strategic Planning budget.

It is considered imperative that DPE to coordinate a mailout to directly affected landowners advising of the Employment Zones Reform public exhibition, however, if this is not supported by DPE, the cost to Council to undertake this mailout itself is in the vicinity of \$2,600.

Risk Implications

The Employment Zones Translation process is complex and has been completed in a relatively short timeframe (over the Christmas/January period). As a result, there may be some unintended consequences resulting from the translation – however this timing was out of Council's control.

It is imperative that DPE send correspondence to notify all directly affected landowners of the proposed changes. This will achieve greater exposure of the Reform and trigger landowners to undertake a detailed review of how the proposal may affect their land. Although this mailout should be undertaken by DPE, if they refuse, such a mailout would be in the vicinity of \$2,600 for Council to fund itself.

Employment Zones Translation – Shoalhaven Local Government Area (LGA) Business and Industrial zoned land.

Suburb	Existing Zone (B/IN/W)	Future Zone (E/MU/W)
Basin View	B2 Local Centre	E1 Local Centre
	IN1 General Industrial	E4 General Industrial
Bawley Point	B1 Neighbourhood Centre	E1 Local Centre
Berry	B2 Local Centre	E1 Local Centre
	IN1 General Industrial	E4 General Industrial
Bomaderry	B1 Neighbourhood Centre	E1 Local Centre
	B4 Mixed Use	MU1 Mixed Use
	B5 Business Development	E3 Productivity Support
	IN1 General Industrial	E4 General Industrial
	IN2 Light Industrial	E4 General Industrial
Burrill Lake	B1 Neighbourhood Centre	E1 Local Centre
	B2 Local Centre	E1 Local Centre
	B4 Mixed Use	MU1 Mixed Use
Callala Bay	B1 Neighbourhood Centre	E1 Local Centre
Callala Beach	B1 Neighbourhood Centre	E1 Local Centre
Cambewarra (MVR)	B1 Neighbourhood Centre	E1 Local Centre
	B7 Business Park	E3 Productivity Support
Cambewarra Village	B1 Neighbourhood Centre	E1 Local Centre
Cudmirrah	B4 Mixed Use	MU1 Mixed Use
Culburra Beach	B1 Neighbourhood Centre	E1 Local Centre
	B2 Local Centre	E1 Local Centre
	B4 Mixed Use	MU1 Mixed Use
	B5 Business Development	E3 Productivity Support
	IN1 General Industrial	E4 General Industrial
Cunjurong Point	B1 Neighbourhood Centre	E1 Local Centre
Currarong	B1 Neighbourhood Centre	E1 Local Centre
Erowal Bay	B2 Local Centre	E1 Local Centre
Greenwell Point	B2 Local Centre	E1 Local Centre
	IN2 Light Industrial	E4 General Industrial
	IN4 Working Waterfront	W4 Working Waterfront
Huskisson	B2 Local Centre	E1 Local Centre
	B4 Mixed Use	MU1 Mixed Use
	IN1 General Industrial	E4 General Industrial
Manyana	B2 Local Centre	E1 Local Centre
Milton	B2 Local Centre	E1 Local Centre
	IN2 Light Industrial	E4 General Industrial
Mollymook	B4 Mixed Use	MU1 Mixed Use

Mollymook Beach	B1 Neighbourhood Centre	E1 Local Centre
	B2 Local Centre	E1 Local Centre
	B4 Mixed Use	MU1 Mixed Use
Mundamia	B1 Neighbourhood Centre	E1 Local Centre
Narrawallee	B4 Mixed Use	MU1 Mixed Use
North Nowra	B1 Neighbourhood Centre	E1 Local Centre
	IN2 Light Industrial	E4 General Industrial
Nowra	B1 Neighbourhood Centre	E1 Local Centre
	B3 Commercial Core	E2 Commercial Core
	B4 Mixed Use	MU1 Mixed Use
	B5 Business Development	E3 Productivity Support
	IN2 Light Industrial	E4 General Industrial
Nowra Hill	IN1 General Industrial	E4 General Industrial
	IN2 Light Industrial	E4 General Industrial
Sanctuary Point	B2 Local Centre	E1 Local Centre
	B5 Business Development	E3 Productivity Support
	IN2 Light Industrial	E4 General Industrial
Shoalhaven Heads	B2 Local Centre	E1 Local Centre
	B4 Mixed Use	MU1 Mixed Use
	IN2 Light Industrial	E4 General Industrial
South Nowra	B5 Business Development	E3 Productivity Support
	IN1 General Industrial	E4 General Industrial
	IN2 Light Industrial	E4 General Industrial
St Georges Basin	B2 Local Centre	E1 Local Centre
	B4 Mixed Use	MU1 Mixed Use
	IN2 Light Industrial	E4 General Industrial
Sussex Inlet	B2 Local Centre	E1 Local Centre
	B4 Mixed Use	MU1 Mixed Use
	IN1 General Industrial	E4 General Industrial
Ulladulla	B3 Commercial Core	E2 Commercial Core
	B4 Mixed Use	MU1 Mixed Use
	B5 Business Development	E3 Productivity Support
	IN1 General Industrial	E4 General Industrial
	IN2 Light Industrial	E4 General Industrial
	IN4 Working Waterfront	W4 Working Waterfront
Vincentia	B2 Local Centre	E1 Local Centre
West Nowra	IN1 General Industrial	E4 General Industrial
Worrigee	B4 Mixed Use	MU1 Mixed Use
Yerriyong	B7 Business Park	E3 Productivity Support

CL22.124 Business Assistance Provided Locally - COVID & Disaster programs

HPERM Ref: D22/34676

Department: Economic Development

Approver: Gordon Clark, Interim Director - City Futures

Reason for Report

Provide an update of the financial assistance offered/provided by the Federal and State to local businesses in this regard.

Recommendation

That the report on Business Assistance Provided Locally - COVID & Disaster programs be received for information

Options

1. As recommended.

Implications: Provides information to the Council and others on relevant programs.

2. Alternate recommendation.

Implications: Will depend on its nature.

Background

Periodically an update is provided to Council on the amount of financial assistance that is flowing from the Government assistance packages to help sustain business in Shoalhaven.

In this report statistics are provided for Shoalhaven for the period from late July 2021 to mid-January 2022.

2021 Covid-19 Micro Business Support Program:

- 748 applications
- \$8.2 million provided
- Main recipients by industry categories:
 - Construction Services - 19% of applications
 - Professional, Scientific & Tech Services – 10%
 - Personal & other services – 9%
 - Building Cleaning Pest Control – 8%
 - Road transport – 2%
 - Transport Support Services – 1%

2021 Covid – 19 Business Grants Program:

- 1816 Applications
- \$18.8 million provided

Small Business Fees & Charges Rebate:

- 1826 applications
- 99.1% settled

NSW Dine & Discover Vouchers Program:

- Vouchers redeemed in Shoalhaven
 - Dine = 121,791
 - Food & Beverage services – 97%
 - Discover = 56,254
 - Motion Pictures – 30%
 - Sport & Recreation - 28%
 - Museums & Heritage – 16%

The NSW Government also recently introduced a new package which commenced on 1 February 2022. This program basically offers:

- A payment of up to \$5,000 per week (20% of payroll) for businesses with turnover between \$75,000 and \$50 million who suffered a 40% downturn in January and project to do the same in February.
- The Small Business Fees and Charges rebate program extended to \$3000 and can include 50% of the costs incurred to acquire Rapid Antigen Tests (RATs) for the workplace.
- Commercial landlord relief extended until 13 March.

The working details and website for the above were not to hand at the time of writing this report.

Local businesses are restructuring their work practices to have separate work teams that do not mix, adopting two teams each working separate shifts (morning/afternoon) or Monday/Wednesday/Friday and Tuesday/Thursday/Saturday over fewer but longer days. One business reported that they had purchased 5,000 RATs and were testing employees twice/week as they arrive at the workplace.

Council will continue to work with the Government agencies involved on provided financial assistance packages to sustain business operations across NSW, especially Service NSW. Where appropriate advice is sent to specific business in our area that may qualify.

Community Engagement

Local businesses are made aware of these financial business assistance programs by various sources. Council's business website is one of the forums used to circulate latest packages. If considered appropriate a targeted broadcast email can be sent.

It is noted that Shoalhaven has one of the better take up rates for these assistance programs mainly because of Council's pro-active promotion in this space

Financial Implications

Council staff time is the only direct cost in this regard to Council.

CL22.124

CL22.125 NSW Regional Defence Networks Program - Regional Lead - Shoalhaven City Council

HPERM Ref: D22/89785

Department: Economic Development

Approver: Gordon Clark, Interim Director - City Futures

Reason for Report

Advise Council that it has been selected to lead a Defence Business Readiness program for the Illawarra-Shoalhaven region.

Recommendation

That Council:

1. Note and accept the outcome of the public tender process to the implement Regional Defence Network Program across NSW through which Council has been selected as the partner agency to deliver the program in the Illawarra-Shoalhaven.
2. Support this initiative of the NSW Government and extends its thanks for doing so.

Options

1. As recommended.

Implications: Enables a business network specifically around defence contracting and business collaboration to be further nurtured.

2. Reject or propose an alternate recommendation.

Implications: Council would have to turn down the offer from the Government and the Shoalhaven defence industry may miss out on future opportunities.

Background

In late 2021 the NSW Government invited tenders for consortiums to form and gain access to financial resources to help build and grow the defence industrial base of NSW.

Some years ago, Council formed a business network with Regional NSW called the "Shoalhaven Defence Industry Group" (SDIG). This group was an alliance of Government agencies and local/regional businesses that had a common goal to strengthen the Shoalhaven economy through securing additional defence contracts through individual businesses and joint venture alliances.

Although the Shoalhaven has a natural aviation strength, there are many local businesses that interact with the Australian Defence Force (ADF) and military in other nations that are not solely aviation related. This strength was presented as part of the tender process by the consortium and was successfully led by Council staff.

The aim of the NSW Government is to boost the State's commitment to sovereign defence industry capabilities with the launch of a new \$1.23 million Regional Defence Networks Program aimed at making it easier for local businesses to expand and supply to the defence and aerospace industry.

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According to the NSW Minister for Enterprise, Investment and Trade Stuart Ayres MP, the three-year program will focus on driving business growth across four key regions: Western Sydney, Illawarra-Shoalhaven, Riverina-Murray and the Hunter.

Minister Ayres (3rd March 2022 Media Release) noted:

"We know that procurement requirements and entering the defence market requires a deep understanding of the industry, so we want to do all we can to help existing suppliers grow, and support new players to enter the sector,

Following a competitive procurement process, Investment NSW, working with Western Parkland City Authority and Regional NSW, has appointed four partner agencies to deliver the program:

- *Ai Group for the Western Sydney region*
- *Shoalhaven City Council for the Shoalhaven/Illawarra region*
- *Hunter Defence Cooperative for the Hunter region*
- *NSW Business Chamber for the Riverina-Murray region.*

These organisations have a deep understanding of the defence ecosystem in their respective regions, which is critical to achieving the program's objectives and in turn expand NSW's defence and aerospace capabilities,".

For example, in the Hunter and Shoalhaven, the economic activity attributable to defence is estimated to be between 8 and 12% of gross regional product. The defence industry is a major employer and attractor of skilled workers in these regions and the local economy also benefits from the movement of skilled workers out of defence and defence industries into local education and technology-dependent sectors.

NSW is home to the largest number of defence bases and capabilities of any state or territory and is home to nearly 30% of Australia's military and Defence civilian personnel.

According to the NSW Government's Defence and Industry Strategy report, defence makes a substantial contribution to the NSW economy and is critical in supporting the delivery of the NSW Premier's priorities in areas such as jobs growth, regional activation and industry investment.

In 2014-15, defence contributed just over 20,000 jobs to the NSW economy with a direct spend of approximately \$7.9 billion, including \$5.5 billion in operations and \$2.4 billion in capital expenditure.

In addition, there are around 6,500 defence industry jobs and a further 29,500 from supporting industries whose activities make a major contribution to the wider NSW economy.

The NSW Government recognises the significant contributions made by Defence and defence-related industries to the state in terms of attracting investment, economic growth and job creation.

Significant Defence acquisition decisions are currently being made now and over the next decade and NSW industry is well placed to respond to capability and capacity requirements, either within NSW or in partnership with other states and territories. The Defence and Industry Strategy report outlined that a strategic and coordinated approach to developing NSW industry has potential to substantially increase direct defence expenditure in NSW with significant flow-on benefits.

For every \$1 billion recurrent defence operational spending (non-capital) that comes into NSW, the estimated economic impact is approximately \$1.4 billion in gross state product (GSP) and 10,000 jobs supported.

"This program is about helping businesses understand the defence supply chain and identify that their offering has value and need," Minister Ayres concluded.

"We want to turn local businesses from being 'Defence Interested/Able' to 'Defence Ready'."

Shoalhaven Perspective

The Shoalhaven/Jervis Bay area has a high element of defence activity, and the relative statistics for the combined Defence and Aviation Manufacturing sectors are:

- Economic Output = \$1,294 million or 11.8% of Shoalhaven/Jervis Bay economy
- Employment = 2059 or 5.7%
- Economic value-add for Shoalhaven/Jervis Bay = \$768m or 13.2%

Defence is a key industry sector in this area.

Whilst Shoalhaven City Council submitted the tender bid, it was on behalf of the Shoalhaven Defence Industry Group (SDIG). This network of defence contractors, government agencies and other related businesses will be the group that administers the program and funds. Already a steering committee has been formed and a draft program of events has been created but needs to be placed before SGIG.

The program will run for 3 years and has a budget of \$257,950.

Events proposed include:

- Annual Defence Industry Showcase
- Thought Leadership Events
- Defence Ready Training
- Capability Mapping
- Supply Chain Development
- Trade Show Expo
- Aboriginal Procurement
- Monthly meetings of SDIG

The tendered proposal was to work with local business by sharing intelligence into upcoming acquisition programs, attending trade shows and wherever possible have local business join global supply chain networks.

Community Engagement

The existing defence contractors and support industries already have a strong network and regularly in programs that this project will support.

Policy Implications

This work with a network of similar businesses has been the mainstay of the economic growth of Shoalhaven as implemented by Council over several decades.

Financial Implications

Council will administer the grant funding.

There was no requirement for any Council funds to be committed. The main additional funds will come from businesses as they participate in the programmed activities

CL22.126 Jervis Bay Regional Boat Ramp, Woollamia - Master Plan - Boat Maintenance Facility

HPERM Ref: D22/52676

Department: Economic Development
Approver: Paul Keech, Director - City Services

Attachments:

1. Previous Council report, 26 October 2021 (councillors information folder) [↗](#)
2. Feedback from Kennedy Shipwrights, 29 October 2021 - Resolved Changes Boat Maintenance Facility [↓](#)
3. Huskisson Wharf Committee - Maintenance Area - Draft Proposal [↓](#)

Reason for Report

Detail advice received from the Woollamia Boat Ramp Precinct Management Committee (the Management Committee) for this precinct requesting the modification of the most recent Council resolution (MIN21.765 - 26 October 2021) in this regard.

The Council resolution made three late changes to the adopted Master Plan (Option H) for the partially completed boat maintenance facility and impacted on the proposed lease with the identified shipwright. The Management Committee has requested that these requirements be deleted and that work on the facility be completed.

Recommendation

That Council endorse the resolution of the Woollamia Boat Ramp Precinct Management Committee (8 December 2021) and thus:

1. Amend MIN21.765 to remove Parts 5-7 as requested by the Woollamia Boat Ramp Precinct Management Committee and proceed to complete the construction of the Boat Maintenance Facility as soon as possible.
2. Lease the use of the Boat Maintenance Facility at Woollamia to local shipwright, Paul Kennedy, for three (3) years with an option of a further 3 years.
3. The Chief Executive Officer (City Services) confirm a “fair” rental for the first 18 months to be reviewed after 12 months of operations and reset for the final 18 months of the initial lease term and thereafter reviewed at 12 monthly intervals, should the option be taken up.
4. The lease be subject to adequate commercial insurance coverage and trading terms to the satisfaction of the Chief Executive Officer (City Services).
5. Engage with both the Woollamia Boat Ramp Management Committee and Huskisson Wharf Management Committee as required in relation to Parts 3 and 4.
6. Include the ability for a representative from the Huskisson Wharf Management Committee to participate in the Woollamia Boat Ramp Management Committee as required given the crossover of interest in regard to the maintenance facility.

Options

1. As recommended.

Implications: Allows facility to be completed as intended and to be leased to an operator, an outcome endorsed by the Jervis Bay Boat Ramp Management Committee.

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The following outcomes can then be delivered/finalised:

- The facility to be fully enclosed by fencing with a storage container inside which meets the shipwright's insurer's requirement for a working boatyard.
- The shipwright and Council can conclude the leasing arrangements as soon as possible.
- Council's trailer and the shipwrights tow vehicle can be commissioned and moved to Woollamia to commence operations
- Government grant funding requirements can be met to have a boat repair facility operational by end March 2022
- Certain local commercial craft will be able to meet marine survey requirements with minimal disruption to their local operations

2. Not to adopt the recommendation and retain MIN21.765 as resolved.

Implications: The resulting outcome would be problematic and requirements of the contractor, or any other provider, to negotiate insurance coverage could be difficult. Council may struggle to regulate uncontrolled and unauthorised maintenance activities taking place.

The following implications could eventuate:

- The storage container outside the fenced compound does not meet the shipwright's insurer's requirement for a working boatyard.
- The shipwright and Council will be at difference over the arrangements previously advertised and negotiated which will delay conclusion to the leasing arrangements and jeopardise Council's requirements under the grant funding agreement to be operational by end March 2022
- Council's trailer and the shipwrights tow vehicle will remain uncommissioned in storage
- Grant funding requirements cannot be met to have a boat repair facility operational by end March 2022
- Certain local commercial craft will need to travel to Sydney or beyond to be lifted out of the water to meet marine survey requirements causing disruption to their local operations

3. Modify or defer the recommendation.

Implications: Would place Council at reputational and financial risk with the Commonwealth funding agency and open the opportunity for damages claims by the preferred contractor and other commercial operators working out of Woollamia/Jervis Bay area. Other implications could result, similar to those for Option 2.

Background

Following approaches from various vessel owners including the Jervis Bay Cruising Yacht Club, Council commenced work to establish a facility to undertake vessel maintenance at the Regional Boat Ramp at Woollamia. With the facility to include a secure compound with appropriate environmental protection devices and a purpose-built trailer to safely lift a greater range of vessels in and out of Currumbene Creek utilising the boat ramp.

Funds were sought from the Australian Government to assist and \$180,900 was granted to Council. The facility has been partially completed and sediment control systems installed. The proposed fencing is yet to be fully installed.

The proposal was primarily to provide a compliant facility to enable the hulls of vessels to be cleaned, capturing the waste materials for disposal at an appropriate facility rather than

having it run off into the adjacent Crown Land and wetland areas. Other maintenance activities of a 'minor' nature can be undertaken in the repair facility fenced compound.

The attached report (**Attachment 1**) was considered at the last Council meeting in 2021. This report was intended to endorse the proposed leasing arrangements for the facility and allow the fencing and other finalisation works to be completed.

It was subsequently resolved on 26 October 2021 that:

1. Council completes the construction of the Boat Maintenance Facility at the Woollamia Boat Ramp as soon as possible.
2. Council lease the use of the Boat Maintenance Facility at Woollamia to local shipwright, Paul Kennedy, for three (3) years with an option of a further 3 years.
3. The Chief Executive Officer (City Futures) confirm a "fair" rental for the first 18 months to be reviewed after 12 months of operations and reset for the final 18 months of the initial lease term and thereafter reviewed at 12 monthly intervals, should the option be taken up.
4. The lease be subject to adequate commercial insurance coverage and trading terms to the satisfaction of the Chief Executive Officer (City Futures).
5. The shipping container be relocated off the hard stand area.
6. A 3m section (at the western end) of the hard stand, be excluded from the leased area.
7. Council defer decision making until there is further broadscale community consultation.

Parts 5 to 7 of the resolution (underlined above) were added at the Council meeting.

The Management Committee subsequently considered the Council resolution at its meeting on 8 December 2021. The following resolutions were formulated, considered and carried by the Committee:

That

1. The Jervis Bay Regional Boat Ramp Management Committee fully supports the resolution passed at the October meeting of the Committee to accept and endorse the plans tabled at that October meeting by Council's Economic Development Manager (attached).
This clearly showed the concrete area to be fully fenced, the storage container to be inside the compound and a garden bed to the west of the maintenance compound.
2. The Management Committee disagrees with points 5, 6 & 7 of Council MIN21.765 of 26 October 2021 and seeks that Council withdraw these parts of the motion asap so that the Boat Maintenance area can be concluded as originally planned.

Motion Carried: For 7, Against 2, Abstained 2

Rationale for motion:

- The Maintenance area was built to address the issues of contamination of the adjoining land and waterway. To endorse an area to be outside of the compound for use in an uncontrolled manner can be interpreted as endorsing pollution from that area
- The Maintenance area needs to be fully controlled by a single operator
- The container outside the compound is not practical for the operator
- The container outside the compound takes away 1-2 car and trailer parking spaces
- Removal of the container from the compound takes away the visual screen and noise attenuation from the residences
- How practical is a 3m wide strip to be used by the public when an area for 4 washdown bays is adjacent.

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Information was also sought from Kennedy Shipwrights (the selected lessee) on the resolved motion, who advised on 29 October 2021 that they strongly objected to parts 5 to 7 of the Council resolution and provided a detailed reasoning (see **Attachment 2**). The feedback concludes by requesting that the changes be reconsidered and revert back to what was originally intended, and the proposed business model/lease was based on.

Kennedy Shipwrights also emailed Council on 6 February 2022 as follows when they became aware of an alternate proposal for the hardstand area:

My argument to this proposal would read exactly the same as the last proposal.

1. *I legally tendered and won based on the original design and hard stand area.*
2. *My area is bunded, filtered and water catchment.*
3. *I had to meet extremely strict guidelines to obtain insurance, guidelines the other yards will not meet.*
4. *The other yards will be uphill from my yard and therefore I will be responsible for their waste water runoff.*
5. *The other yard does not use weight rated legal boat stands or registered trailers so will put my vessels at risk.*
6. *The other yard could be water blasting right next to where I could be trying to paint a vessel.*
7. *All of the above will undoubtedly void my insurance.*

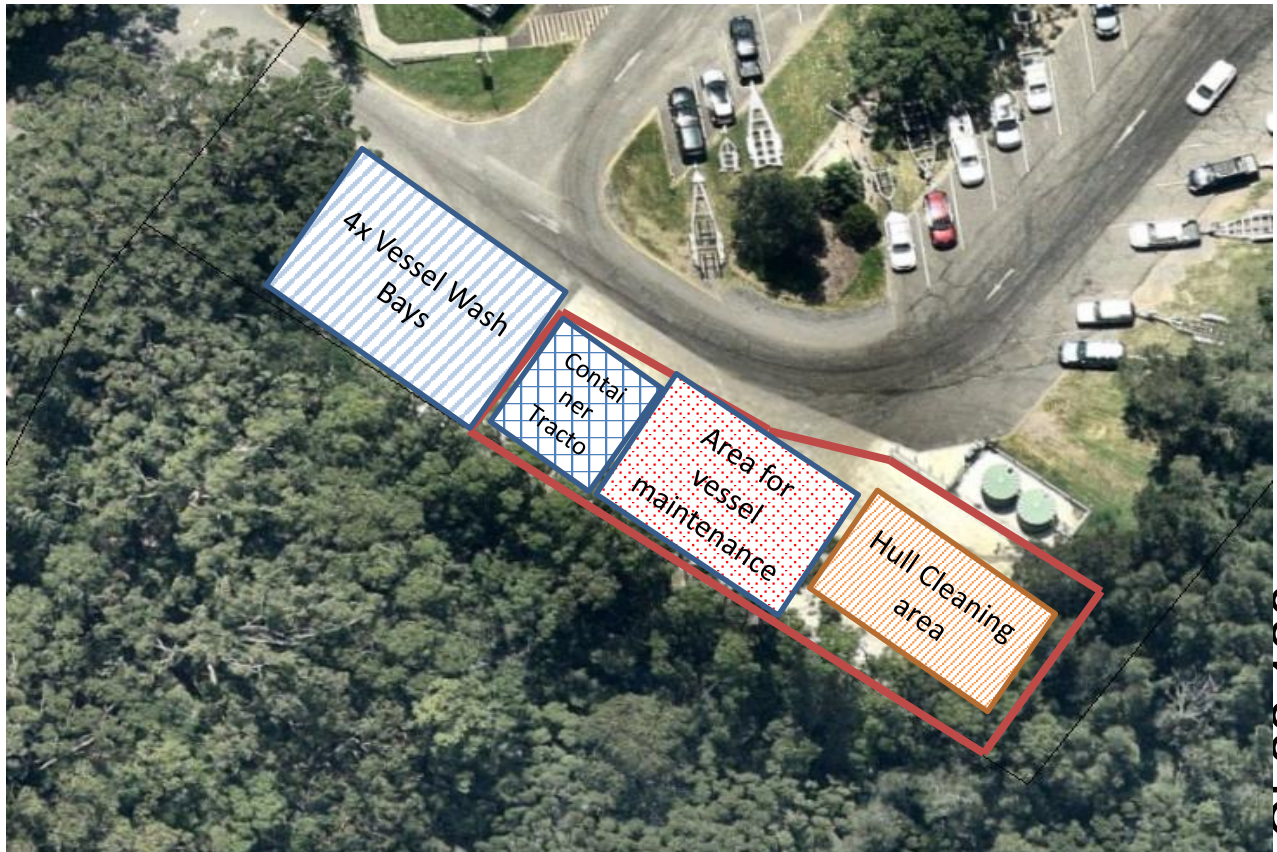
The area of hardstand is approximately 650m², about the size of a medium sized housing block, and to be included on this is:

- Boat trailer – 12m x 4m = 50m²
- Tow tractor – 6m x 3m = 20m²
- Storage container – 7m x 3m = 20m²
- Work area for hull cleaning – 15m x 8m = 120m²
- Total committed space = 210m²

Vessels would generally require a working area of:

- Medium sized monohull - 13m x 5m = 65m² or
- Large catamaran - 15m x 7m = 105m²

So, in a working area of say 450m² it is likely that the maximum number of boats at any time would be 4 to 6. To ensure a business success the vessels would be constantly turning over and co-ordination of this needs to be managed by a single operator.



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Figure 1 – Maintenance Facility - Intended Configuration

An alternate proposal (**Attachment 3**) was put forward to Council on behalf of the Huskisson Wharf Committee. This proposal relates to Parts 5 and 6 of the October 2021 Council resolution and shows the proposed facility split into three different areas as show in Figure 2: Area 1 Used by Council's preferred contractor; Area 2 Separate fenced and available for others to use for maintenance; and Area 3 Open Emergency Works Area.



Figure 2 – Maintenance Facility – Proposed Alternate Configuration

The proposed alternate configuration was referred to the Woollamia Boat Ramp Precinct Management Committee on 9 February 2022 for early feedback. When the extent of the area was explained at the meeting, it was agreed that a single area was optimal. The need for a single contractor and matters pertaining to insurances, co-ordination of work practices etc

were discussed. All at the meeting agreed that an environmentally compliant facility was essential.

At present the commercial operators based at Huskisson wharf may use an existing different provider, at a cost, in the Woollamia Industrial Estate. Even with the new Maintenance Facility operating, this option will still be available to them. The new independently operated facility will offer a comparable service and choice/competition.

In regard to Part 7 of the October 2021 Council resolution, specifically regarding consultation with the Huskisson Wharf Users, open meetings/forums occurred in 2019 and 2020 and were attended by representatives from the wider community, including users of the Huskisson Wharf. At these open meetings it was explained from the start and made clear that the maintenance facility was to be leased out by Council to a qualified shipwright.

Woollamia Boat Ramp Precinct Management Committee reiterated that representatives of the Huskisson group attended the earlier meeting in 2019 but their interest appeared to wane given that the focus at Woollamia was for the smaller craft.

The Woollamia Maritime Precinct Management Committee provided the following as a result of their deliberations at their Management Committee meeting on 9 February 2022:

The Management Committee met on last Wednesday evening 9/2/2022 to consider, amongst other matters, the Draft Alternate Proposal for the Vessel Maintenance Area submitted to Council by Morgan Andrews representing members of the Huskisson Wharf Committee. Council had requested that the WMPMC consider the proposal and to discuss this with Morgan Andrews.

Following the outline of the Proposal by Mr Andrews, he admitted that the main objection was to the exclusive use of the area by one contractor. He admitted that an area of approximately 600m² was really only capable of a single operation and that the objection was primarily about the exclusive nature of the proposal.

Mr Andrews went on further to request that the WMPMC should be party to the leasing contract and conditions of operations for the contractor. Representatives of the WMPMC, many of whom are independent business owners, felt that this was quite unreasonable and it was intimated by members that this was Commercial in Confidence and that the principles of the arrangement were clear to them, including:

- *Contracted shipwright would enter into a lease with Council*
- *Only activity that would be exclusively undertaken by contractor would be hull cleaning. (This would necessitate being lifted into maintenance area using Council trailer & tow vehicle)*
- *All vessel owners would need to enter into an agreement with shipwright/operator, as per other maintenance areas in NSW. (A standard agreement drafted by insurers, contractors & MIA)*
- *Other contractors can work on boats subject to approval of head contractor, subject to adequate insurance coverage; SWMS etc*
- *If work was required outside of contractor's regular work hours, then payment for a staff member to remain onsite would be required, providing he cannot be meaningfully employed on other tasks.*

With regard to the cleaning of vessels, there will be no mandate that all vessels MUST be cleaned at Woollamia but that work at Woollamia will be undertaken by the contracted shipwright and he will be the only operator able to do this work in the Woollamia Maritime precinct.

The discussion expanded into whether an "unrestricted area" should be allowed for cleaning of hulls and other maintenance activities and the consensus view was that a single operator is the best way to ensure compliance.

Mr Andrews currently has arrangements for his vessel(s) to be cleaned, in an environmentally compliant manner, by his staff at the boat yard in the Woollamia Industrial Estate. The WMPMC pointed out that this option would continue to be available to him and his vessel(s) and also for any other commercial boat owner from Huskisson or elsewhere. It was reemphasized that the Woollamia based option was just that, an alternative option.

As for information being made available to the Huskisson boatowners, when the original forum was called in 2019 by Council to explain what was happening at Woollamia, the then Huskisson Wharf Committee was invited and WMPMC members remember that some members of the boating fraternity at Huskisson were in attendance. Whether they continued to attend forums or open meetings was not recalled. Mr Andrews said that he did not recall being aware of the forums and that he had not attended any meeting or forum.

With regard to very minor works, these would still be able to be undertaken in the carpark at Woollamia. Works that would take say 1-2 hours and were not of an environmentally sensitive nature that could be undertaken in the non-peak periods would be permitted as they have been for many years.

The point about the positioning of the container was not discussed but the WMPMC is still firmly of the opinion that it needs to be within the compound for operational and insurance coverage reasons.

Council staff also subsequently met with Morgan Andrews from the Huskisson Wharf Committee to further discuss this matter and understand his position. From the discussion it was clear that there is generally no opposition to the completion of the maintenance facility, as originally planned, but a desire to understand how the facility will run and how third parties (e.g. other contractors working for boat owners) will be able to access and use the facility and the associated costs. Parts 5 and 6 of the recommendation are intended to assist in this regard and ensure that there is further dialogue with both interested Committee's as the operational detail of the how the facility will be run is concluded.

Conclusion

Given that this is a grant funded project there is a need to draw it to a conclusion in a timely manner. As such it is recommended that the previous Council resolution (MIN21.765) be amended to remove Parts 5-7 as requested by the Woollamia Boat Ramp Precinct Management Committee and Council proceed to complete the construction of the Boat Maintenance Facility as soon as possible.

Community Engagement

A series of open forums were conducted by Council during 2019 and 2020 leading up to the adoption of the Jervis Bay Regional Boat Ramp Master Plan (Option H).

Many interest groups raised issues which were addressed by Council. These groups included:

- Local residents
- Recreational boat owners of moored vessels (across Jervis Bay area)
- Commercial boat owners of moored vessels (across Jervis Bay area)
- Visiting trailer boat owners
- Government authorities
- Recreational craft users of the Woollamia boat ramp facilities

Issues raised included:

- Damaged boat ramp toe – repaired in 2021
- Insufficient pontoon length – additional pontoons implemented in 2021

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- Inadequate facilities to crane vessels in/out of water – new loading/crane platform built in 2021
- Better queuing area for use of boat ramp – area widened with line marking in 2021
- Inadequate car parking – new 28 space carpark built in 2021
- More car/trailer parking required – by moving single cars away from main carpark, more trailer parking is now available
- Perceived unsightly maintenance area – container and landscaping sited to mitigate noise and visual impact
- More picnic tables etc – some installed in 2021 with additional to come in future years
- A purpose-built trailer to lift vessels up to 20t – Council has purchased this to be leased to shipwright for safer and more practical vessel retrieval from creek – still to be available at Woollamia in 2022
- Maintenance facility required for vessel cleaning, maintenance and survey – still to come in 2022

Policy Implications

Council periodically undertakes capital improvements on both Crown Land and Council owned land and for resulting facilities to be leased to independent businesses or community groups.

This facility, like Greenwell Point slipway, is such an improvement aimed at improving and enhancing the facilities available to the public. In this instance, an environmentally compliant facility will result and benefit recreational and commercial boat owners.

Financial Implications

Council obtained a Federal Government grant to offset cost of construction and purchase the purpose-built trailer. Failure to deliver the completed project by end March 2022 will place council in breach of its contractual undertaking with the Government.

The selected contractor, Kennedy Shipwrights, has purchased equipment for use as part of the venture and is geared up to purchase stands and other equipment to meet the insurer's requirement.

Risk Implications

This facility was primarily developed to address a compliance issue of particulate matter contaminating the land and waterways at Woollamia Boat Ramp. The facilities constructed are comparable with those in other boat maintenance facilities.

Having the facility operated by a shipwright who understand the NSW EPA requirements and has adequate safeguards and operating procedures as approved by his insurer is a measure to mitigate that risk.

CL22.126

**Attachment – Feedback from Kennedy Shipwrights
29 October 2021
Resolved Changes - Boat Maintenance Facility**

Thank you for sending me the latest report.

I would like to strongly object to motions 5, 6 and 7 for the following reasons.

I received an EOI/ tender document from SCC with a closing date of 28th February 2019 for the purpose of leasing and contractually running the Woollamia boat maintenance facility.

This document included a plan of the working area I would be leasing.

After careful consideration and business planning Kennedy Shipwrights submitted our EOI/tender document believing we were bidding on an open market.

Therefore, all other parties had their chance to submit their bids on the same open market.

Since being awarded the lease, Kennedy shipwrights have outlaid substantial time and money to prepare for the efficient running of the maintenance facility.

On request of the hydraulic trailer manufacturer, I have already purchased at a cost of over \$30,000 the tow vehicle with the sole use to be the safe tow vehicle for the Woollamia boat maintenance facility.



I have also engaged and paid Lawyers to prepare our boat owner contracts which is a requirement to obtain business insurance for this facility.

When I met with Greg Pullen on site a few weeks ago to discuss council's intentions for the facility, Greg showed me council intended to provide 2 x 20' shipping containers separated by a roof to park the trailer and tow vehicle.

I requested council only provide 1 shipping container as I explained in my 40 years' experience in this industry, in marina and hardstand areas the real estate needs to be as big and fluid as possible.

The working area will always change depending on what size, shape and quantity of vessels are in the working space at any one time.

I also explained Kennedy Shipwrights will be keeping the launch and retrieve fees relative to the Greenwell Point slipway fees.

So, for \$300 per launch and retrieve, Kennedy shipwrights needs to pay Council for the use of the trailer, recover the costs of the tow vehicle, insurance, labor for 2 Kennedy shipwrights staff, water blast equipment as well as the weight rated legal boat stands.

Quote for a basic start up set of boat stands of \$12,900 attached.

I explained that Kennedy Shipwrights business model for the facility was based on in time building up the facilities reputation to enable multiple vessels being maintained in the space as possible.

The profits are not in the vessel launch and retrieve but in the vessel maintenance.

So to have 33 square meters of that area removed from my working space seriously affects the amount of vessels able to be worked on at any one time. Which is not what I legally tendered for or agreed to.

The entire maintenance area concrete slab is designed to fall from the north to the south east, where the bunding, drain, catchment and water filtration is.

Kennedy shipwright's standard operating procedure will be as soon as the vessel is on the trailer, transport the vessel to the southern, eastern most part of the hardstand.

To maintain safe environmental policy, Kennedy Shipwrights staff will be the only people allowed to water blast the vessels.

We will then clean the vessel of the underwater growth whilst the vessel is still on the trailer, once clean and the water captured by the filtration system and the solid mass placed into paid waste management bins, the vessel will be moved north on the hardstand area, have the stands placed under and the trailer removed to be free for the next vessel.

Once on the stands, the vessel will undergo its painting and any other maintenance required.

As we all know, marinas and boat maintenance facilities are coming under more serious scrutiny every year.

To obtain business insurance for this facility, Kennedy shipwrights must provide the insurance company strict written operating procedures before the insurance company will consider insuring Kennedy shipwrights to operate in the facility.

So, to have other operators cleaning and water blasting vessels in the other 33 square metres uphill of my leased area where there is no bunding, water catchment or filtration system will undoubtedly lead to their waste flowing through my area where I will be liable to clean and remove.

To have no control over when the other area is water blasting their vessels will entail them water blasting at the same time as when Kennedy shipwrights or vessel owners are painting their vessels with only a chain wire fence separating the two.

The smallest trace of silicon can destroy a paint job.

Kennedy shipwrights will have no control over silicon based polish compound being used by the other hardstand and could serious damage my customers vessels.

With understanding what Kennedy shipwrights must do to obtain business insurance for this facility, I am certain the other hardstand will not be able to obtain insurance as the infrastructure is not there, therefore destroy my chance of obtaining insurance as the risk of damage from, water, silicon or another vessel falling into my area would be too high.

To not have the provided shipping container placed within the securely fenced with security cameras fitted and insured hardstand area, I will not be able to include the container in my insurance.

That container will be my tool storage and office.

Kennedy shipwrights is not prepared to carry that risk.

As a requirement to obtain insurance, Kennedy shipwrights will require all boat owners wanting to use the maintenance facility to present for filing each year their boat insurance policy covering their vessel for such work.

Once sighted and filed, Kennedy shipwrights will allow boat owners and their crew to be onsite and working on their own vessels.

The vessel owners have every right to hire the services of subcontractors to work on their vessels as required.

Kennedy shipwrights will require the subcontractor to provide for annual filling a copy of their \$20 million public liability policy before being allowed on site.

As a requirement for Kennedy shipwrights to obtain insurance, all work must be done only when a Kennedy shipwrights staff member is on site.

If Kennedy shipwrights is not gainfully employed by another boat owner, the boat owner will be required to pay for Kennedy shipwrights to be on site at our normal hourly rate.

This is greatly benefitted by having as many vessels on the maintenance facility at any one time.

To remove 33 metres of working space, the vessels able to be on site is reduced.

Kennedy shipwrights invite all boat owners to benefit from the facility but is aware some boat owners will not require our services.

Kennedy shipwrights is working hard to follow legal and environmental procedures for efficient boat maintenance in this area.

I am very aware that vessel insurance has become much harder to obtain due to the lack of legal boat maintenance facilities in our area as the insurance companies deem the vessels as a higher risk without proper maintenance.

The Woollamia boat maintenance facility is a greatly wanted and needed facility for our area, but the new proposed changes to my leased area massively changes the viability for Kennedy Shipwrights to make it work.

I ask that you reconsider these changes and revert back to what I built my business model and agreed to sign a lease on.

Huskisson Wharf Committee - Draft Consultation Proposal

19 Dec 2021**INTRODUCTION**

The Huskisson Wharf Committee and several local businesses and organisations became aware of the proposal to secure and appoint a sole Primary Contractor for the Wollamia Maintenance area on 26 October 2021. The Council's plan would force the Local Community to pay the contractor to use the Government Funded Facility. The Huskisson Wharf Committee met, and we immediately lodged an objection to all Councillors.

This decision by Council had apparently been made with only consultation from a limited, non-commercial segment of the boating community.

We understand that at the final meeting of the old Council there was a decision to hold over the finalisation until the new Council was formed in 2022 to allow for consultation to occur more broadly than a single interest group.

As of the end of December we are still waiting for contact from Mr Greg Pullin the Councils representative for this to occur.

AFFECTED PARTIES

The following organisations have expressed concern over the current proposal.

- Huskisson Wharf Committee
- Marine Rescue NSW
- Dive Jervis Bay
- Dolphin Wild
- Dolphin Watch
- Husky Ferry
- SeaKing Holdings
- South Coast Mariculture

Together these organisations are the main Marine Industry employers in the local area and employ hundreds of local staff.

Marine Rescue NSW is particularly concerned over the additional costs to a volunteer organisation that Council is directly causing through this program. They were looking to use the facility to maintain their smaller boat on a 3 monthly basis.

All these organisations have the means to remove their vessels already, and do not need assistance in that area. Additionally, many have existing contracts and service agreements in place, or have their own staff capable of conducting repairs and maintenance and are highly resistant to being forced by Council to use a single provider at the facility or have to pay to have an unnecessary "observer" present from the Principal Contractor.

MAJOR CONCERNS

1. Lack of broad-based consultation leading to there being no input or suggestions from other groups except the Wollamia Wharf Committee. This group is NOT REPRESENTATIVE of local business or other users needs.
2. Opportunities are being missed that will limit the functionality of the site so that it won't meet its core purpose, such as stopping leaking of harmful chemicals into the environment and providing a facility for the broader community to carry out works on boats without the added problems of moving them outside of the Wollamia Boat Ramp Precinct.
3. The forced introduction of additional fees for the use of the Facility by a Council Appointed Contractor, who provides no benefit to other potential users, and is profiting from the building of the facility (using Govt Funds) with **Council Imposing an effective Private Monopoly for use of the area.**
4. The imposition of an unnecessary direct cost to local businesses who are trying to recover from Bushfires and Covid, and the effective shutting out of many other struggling local businesses such as Shipwrights and Boat Mechanics who may need to use the area unless they agree to pay an unnecessary fee to the Council's contractor.

PROPOSAL

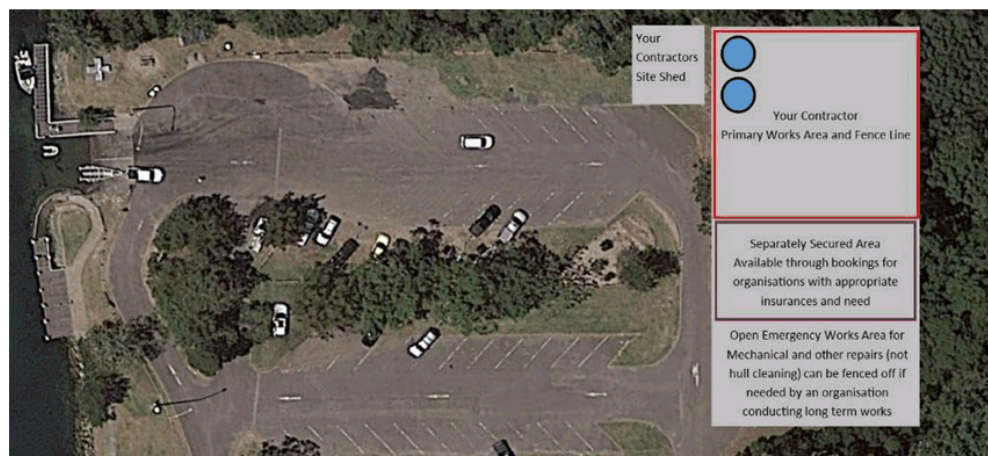
We are proposing that the area is split into three different areas rather than simply fully handed over to a Private Contractor. These three areas can be easily separated through fencing and would not add a significant cost to the project. The areas are as follows:

- Area 1** The Council's preferred Contractor and Primary Operator. This area would be completely fenced and under the sole control of the Principal Contractor and used solely by his company. Any works that occur in that area are to be carried out by the Principal Contractor and are under their control.
- Area 2** A separately fenced area that can be rented for a nominal daily fee to cover Council expenses and costs. It should allow boat cleaning and painting as well as mechanical repairs.
 - a. This area is to be available for use by any organisation that has appropriate insurance coverage to carry out the necessary works.
 - b. They will need to use all their own equipment including hard stands if necessary and be able to pull / lift the boat out themselves with all their own equipment and provide for the transport to that section.

- c. They can then carry out works as necessary using their own staff or contractors without the need for the involvement of the Council appointed contractor.
- d. Council can set the requirements as it sees fit regarding insurance and fees, and then it will be the responsibility of the organisation to demonstrate that they meet those requirements to use this work area.
For example, council may decide:
 - i. \$10,000,000 public liability
 - ii. In force Workers Compensation Policy
 are the minimum standards.
- e. When the special trailer is not in use it could also be stored in this area, on condition that the Principal Contractor removes it (at no cost to the renting organisation) before they need to move their vessels into the area.
- f. This area would need to be returned to its original empty state after use, and the Principal Contractor can then replace the trailer.

Area 3 An Open Emergency Works Area where boats can be placed for day works, or emergency works, as necessary. This area should be able to be used by any of the boat owners, local Shipwrights and Boat Mechanics as necessary to work on boats on trailers that need minor repairs or emergency works.

- a. To use this area the vessel must be on a trailer and be able to be moved. (no Hard Stands)
- b. Individual boat owners may need to be observed by the Principal Contractor if they are not covered by appropriate insurances.
- c. Other workers, companies or organisations may carry out works here as necessary as long as they are covered by appropriate insurances.
- d. Temporary fencing can be erected if necessary, around particular work sites if the work is on-going or hazardous.



CONCLUSION

This proposal has been outlined to all parties above and we believe that it will meet the needs of the council to control the area in a safe manner and make it even more usable than the current proposal that does not meet the needs of entire segments of the community.

It also allows the use of the facility by other organisations and users who do not need the services of the Council appointed Contractor and are capable of meeting any of the Councils requirements for the safe use of the space.

Acceptance by Council of this proposal would alleviate the concerns of the above-mentioned parties.

RECOMMENDATION

A small initial meeting is arranged to discuss this proposal before the First Council meeting of the New Council so that this project can move to completion.

CL22.127 Tenders - Replacement of four timber bridges with concrete structures as part of the Fixing Country Bridges Program - Round 1

HPERM Ref: D22/43088

Department: Works & Services

Approver: Paul Keech, Director - City Services

Reason for Report

To inform Council of the tender process for the replacement of four timber bridges with concrete structures as part of the Fixing Country Bridges Program - Round 1.

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

Recommendation

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

Options

1. Accept the recommendation

Implications: Consider a separate confidential report on the matter

2. Council make a different resolution

Implications: This is not recommended as an extensive evaluation process has been undertaken by the tender evaluation team in accordance with the tender evaluation plan

Details

Project Description

Council was successful in obtaining a grant of \$2.98M to match Council's contribution of \$1.45M for the replacement of six (6) timber bridges with concrete bridges, as part of the Fixing Country Bridges Program – Round 1 (D21/96296).

Four bridges form Phase 1 of Council's current bridge replacement program. The four bridges in this package of works are detailed below:

- "Tannery Bridge" - located on Tannery Road, over Good Dogs Creek – Cambewarra
- "Henry's Bridge" – located on Main Road, over Tapitallee Creek tributary– Cambewarra
- "Koloona Bridge" – located on Koloona Drive, over Bangalee Creek – Bangalee
- "Petty's Bridge" – located on Croobyar Road, over Croobyar Creek tributary – Croobyar

CL22.127

Another two bridges, Yarramunmum and Bundewallah, will form Phase 2 of Council's current bridge replacement program and will be offered to public tender within the next two months.

Tendering

Council called tenders for the replacement of four timber bridges with concrete structures as part of the Fixing Country Bridges Program - Round 1 Program on 2 February 2022 which closed at 10:00 am on 1 March 2022.

Six tenders were received at the time of closing. Tenders were received from the following:

Tenderer	Location
A Plus Excavations Pty Ltd	Albion Park Rail
Brefni Pty Ltd	Smeaton Grange
GC Civil Contracting Pty Ltd	St Georges Basin
HD Civil Pty Ltd	Moruya
Jirgens Civil Pty Ltd	South Nowra
Menai Civil Contractors Pty Ltd	Smeaton Grange

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

Policy Implications

Nil. The tender process has followed the requirements under the provisions of the Local Government Act 1993.

Financial Implications:

Sufficient funds have been allocated in the Fixing Country Bridges Program - Round 1 budget for 2021/22 and 2022/23 financial years. Funding is available to cover the tender amount including other project costs.

Risk Implications

Details relating to the Risk Implications are contained in the confidential report.

CL22.127

CL22.128 Tenders - Panel for Tree Services for Bushfire Road Verge Cleanup

HPERM Ref: D22/43106

Department: Works & Services

Approver: Paul Keech, Director - City Services

Reason for Report

To inform Council of the tender process for Panel for Tree Services for Bushfire Road Verge Cleanup.

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

Recommendation

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

Options

1. Accept the recommendation

Implications: Consider a separate confidential report on the matter

2. Council make a different resolution

Implications: This is not recommended as an extensive evaluation process has been undertaken by the tender evaluation team in accordance with the tender evaluation plan

Details

Project Description

From late November 2019 and until early February 2020, the Shoalhaven local government area was severely impacted by bushfires. The fires burnt out over 320,000 hectares of land and affected the localities of:

Northern Zone: Illaroo, Budgong & Kangaroo Valley

Central Zone: Comberton, Nowra Hill, Parma, Barringella, Buangla & Burrier

Basin Zone: Sassafras & Wandandian

Southern Zone: Bawley Point, Bendalong, Brooman, Conjola, Conjola, Conjola Park, Croobyar, Depot Beach, Durras North, East Lynne, Fishermans Paradise, Lake Conjola, Little Forest, Manyana, Mondayong, Morton, Pebbly Beach, Pointer Mountain, Sussex Inlet, Termeil, Woodburn, Woodstock & Yatte Yattah

CL22.128

As a result of the bushfires, 75 Roads were heavily affected with fallen trees and limbs. The affected sections of these roads total 271 kilometres.

Council were successful in obtaining \$5M as part of the NSW Natural Disaster Essential Public Asset Restoration Program.

The development of the Tree Services for Bushfire Road Verge Cleanup Panel is to engage suitably qualified and experience contractors to safely and efficiently remove, and mulch fallen trees and limbs along the fire affect road verges.

Tendering

Council called tenders for Tree Services for Bushfire Road Verge Cleanup on 2 February 2022 which closed at 10:00 am on 24 February 2022. Eleven (11) tenders were received at the time of closing. Tenders were received from the following:

Tenderer	Location
A & D Tree Services Pty Ltd	South Nowra
All About Tree Services	Quakers Hill
Asplundh Tree Expert	Bomaderry
Asset Arbor	Tomakin
BC Tree Services Pty Ltd	Taree
Bohmers Tree Care	Woonona
C & S Tree Services (NSW) Pty Ltd	North Nowra
Forest Tree Service Pty Ltd	Belrose
Mike Tree Services	St Georges Basin
Parrish Son Pty Ltd	Cobbitty
Parrish Son Zenith Tree	Moruya

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

Policy Implications

Nil. The tender process has followed the requirements under the provisions of the Local Government Act 1993.

Financial Implications:

No financial implications as the Tree Services are purchased from Natural Disaster Funding.

CL22.128

CL22.129 DA21/1612– Bolong Road Bolong - Lot 1 DP 531429

DA. No: DA21/1612/4

HPERM Ref: D21/350834

Department: Development Services

Approver: James Ruprai, Director - City Development

Attachments:

1. Applicant's Clause 4.6 Request - redacted (under separate cover) [⇒](#)
2. Visual Impact Assessment (under separate cover) [⇒](#)
3. Planning Report S4.15 Assessment (under separate cover) [⇒](#)
4. Draft Determination (under separate cover) [⇒](#)
5. Consolidated Plan Set (under separate cover) [⇒](#)

Description of Development: Concrete batching plant, ancillary structures, associated signage and civil and landscape works

Owner: Manildra Energy Australia Pty Ltd

Applicant: Cleary Bros (Bombo) Pty Ltd

Notification Dates: 30 June 2021 to 30 July 2021

No. of Submissions: Six (6) submissions by way of objection

Purpose / Reason for consideration by Council

Clause (cl) 4.3(2A) of the Shoalhaven Local Environmental Plan 2014 references a “Height of Buildings Map”. If the “Height of Building Map” does not show a maximum height for the land, the height of a building on the land is not to exceed 11 metres. This application, DA21/1612 includes proposed silos with a maximum height of 23.75 metres, exceeding the control by 12.75 metres. This is a 116% variation.

The extent of the exceedance proposed is such that Council staff do not have delegation to determine the variation. Where a development standard is more than 10%, the variation request must be determined by the elected Council.

Council can assume the concurrence of the Secretary of the Department of Planning and Environment for cl 4.6 variations to vary a development standard. Further information is available in the Department of Planning and Environment’s “Planning Circular” PS 20-002.

[Link to Circular.](#)

Recommendation

That Council:

1. Confirm it supports, pursuant to cl 4.6 (Exceptions to development standards) of the SLEP 2014, the applicant’s request to vary the height limit of 11m to 23.75m; and
2. Determine application DA21/1612 for a concrete batching plant, ancillary structures, associated signage, and civil and landscape works at Lot 1 DP 531429, Bolong Road, Bolong by way of approval subject to the recommended conditions of consent contained in **Attachment 4** of this report.

CL22.129

Options

1. Support the requested variation to the maximum height of buildings requirement and approve the development application (DA) in accordance with the recommendation of this report.

Implications: Will permit the application to be determined in its current form.

2. Not support the proposed variation to the maximum height of buildings control under SLEP 2014 and deferral back to staff for to discuss with the applicant.

Implications: Will require the applicant to reconsider the design of the proposal, noting the proposed height variation is a direct result of the utility of the proposed silo building. Should any redesign still exceed the maximum height of building control by more than 10%, a future report would be prepared for consideration by Council with regard to the cl 4.6 variation. Otherwise, the DA may be deferred back to staff for determination under delegated authority.

3. Refuse the development application (DA).

Implications: Council would need to determine the grounds on which the application is refused, having regard to section 4.15(1) considerations. This would mean that the development is unable to proceed as applied for. An appeal with the Land and Environment Court of NSW (LEC) is possible in the event of a refusal of the application. A review under section 8.2 is not possible for designated developments.

4. Alternative recommendation.

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

Location Map



Figure 1: Aerial Photography – Subject Site

CL22.129

Background

Proposed Development

Development application DA21/1612 seeks approval for the construction of a concrete batching plant and ancillary works at Lot 1 DP 531429, Bolong Road, Bolong (Manildra Group – Shoalhaven Starches).

The facility is intended to replace an existing concrete plant at 26 and 34 Bolong Road, Bolong for operational efficiency and longevity (refer to Figure 2).

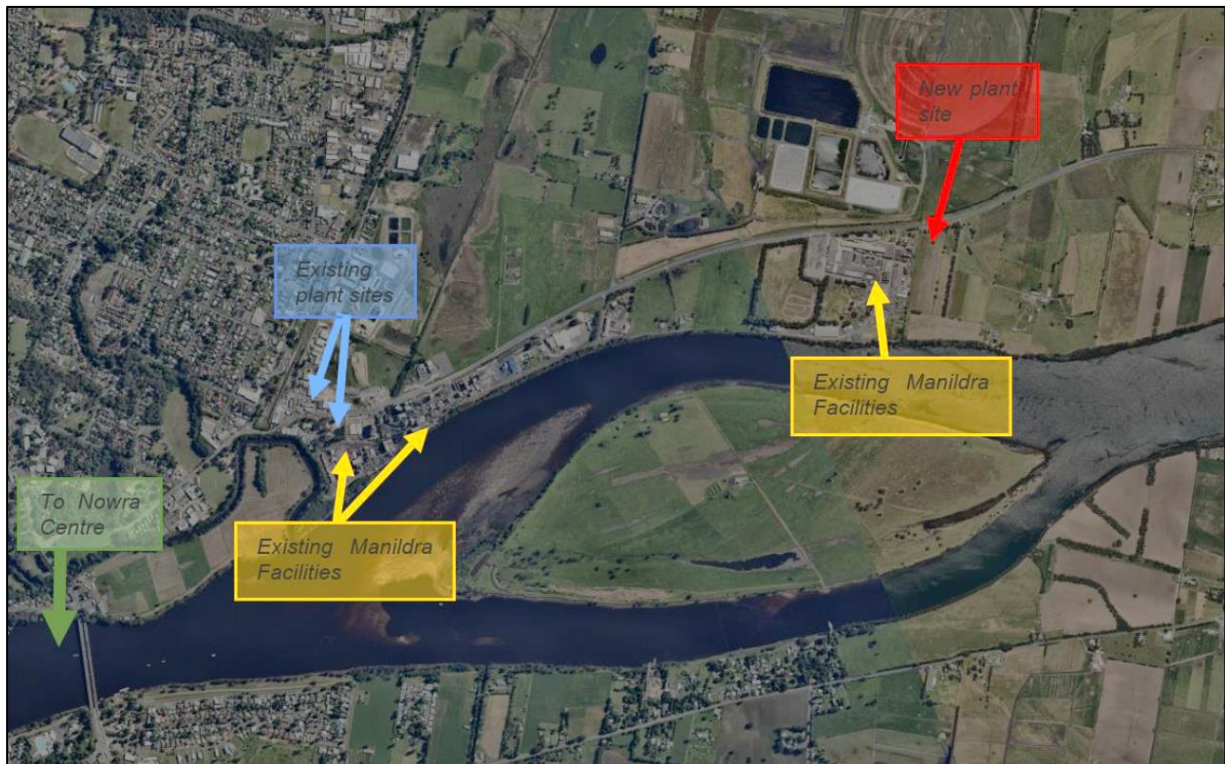


Figure 2: Existing and New Batching Sites (Source: submitted EIS – City Plan)

The decommissioning of the existing plant is not proposed as part of this application.

The proposed plant on Lot 1 DP 531429 will produce concrete. The concrete product will be provided in ready mixed form (RMC). The RMC is batched or manufactured and tailored to individual construction projects, combining gravel, sand, water, cement, and admixtures to meet the structural specifications of a project.

The current proposal is for a dry plant only - individual components are weighed in individual batches, then discharged into a chute into the mixer truck where mixed in the agitator at the plant and during transportation.

The plant output will be maintained at the current levels of the existing concrete plant site – that is no greater than 30,000m³ or 72,000 tonnes per annum (tpa), with projected similar employment and traffic generation levels.

Hours of operation are proposed to be 24 hours, 7 days a week.

More specifically, the application seeks approval for the following works:

- The construction of:
 - o a batch point with slump inspection point, five aggregate and sand weigh bins, a conveyor, stackers, six (6) aggregate/sand storage bays, three (3) cement silos, a batch control room; and
 - o Various supporting structures/facilities including: a new office, lunchroom, toilets, and showers.

CL22.129

- Civil works, including:
 - o road shoulder widening of Bolong Road and construction of a new signalised (line marking and signage) and right-hand turning lane;
 - o driveway and parking arrangements onsite; and
 - o road and directional signage.
- Fencing and identification signage, including:
 - o fencing is around the development (part of lot 1) to be 2.4m in height. Along the front, fencing will be a palisade (vertical steel pales secured to horizontal rails) and along the remaining three boundaries, chain, and wire; and
 - o four (4) business identification signs (2.4m x 1.2m) to be placed on either side of the front entrance gates – one sign on both sides of each gate to enable identification when the gates are open and closed.
- Stormwater drainage works. This includes gross pollutant traps (GPTs), pits and pipes to the existing Bolong Road system and rainwater tanks for reuse onsite.
- Earthworks, filling and sediment and erosion controls. The area of the development is to be filled (max. 1.11m of fill required, refer to S4.15 assessment for further details), to approximately 3m AHD for flood planning levels (approximately 11,500m³ of fill to be imported by truck).
- Vegetation clearance. This includes trees within the footprint of the driveway, carpark area and drainage lines and a single hollow bearing tree in the centre of the development footprint.
- Landscaping and lighting.
- Pump out sewerage system.

The development is classed as Designated Integrated development. This means that an Environmental Impact Statement (EIS) in accordance with requirements specified by the Planning Secretary's Environmental Assessment Requirements (SEARs) was warranted and an additional approval(s) is required from another State Agency. The approval being sought is an Aboriginal Heritage Impact Permit under the *National Parks and Wildlife Act 1974*.

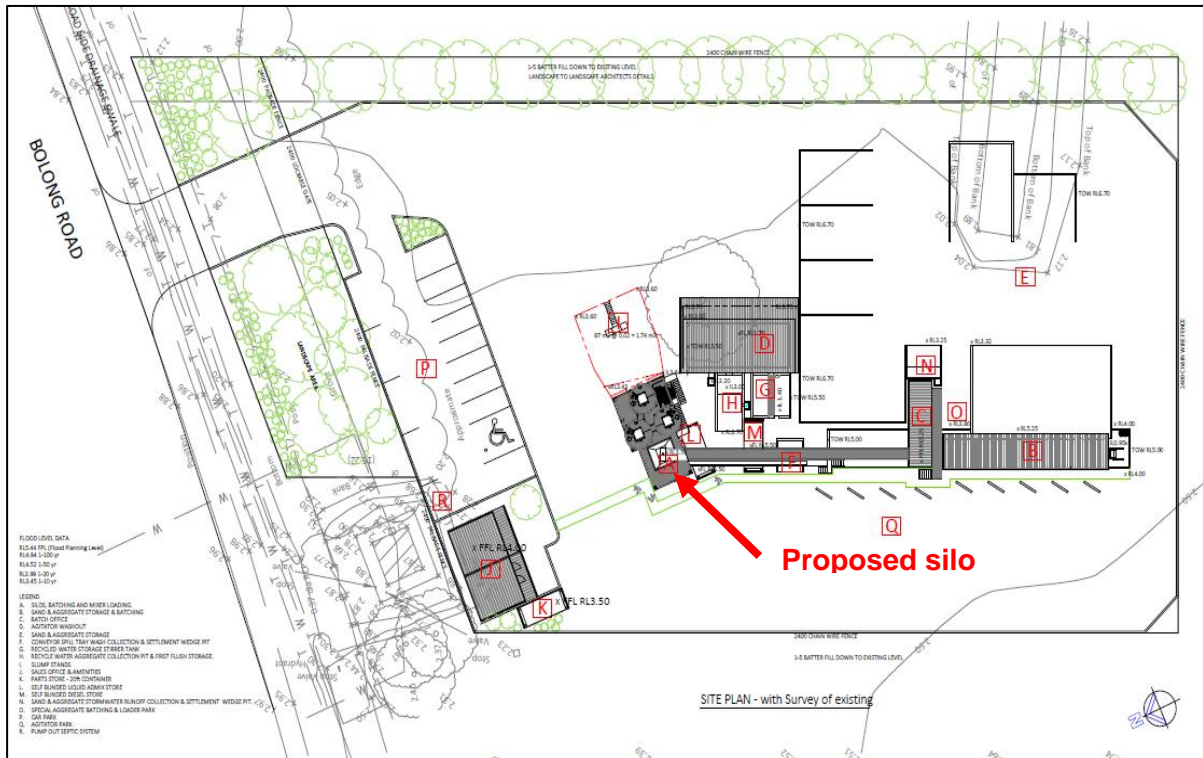


Figure 3: Site Plan

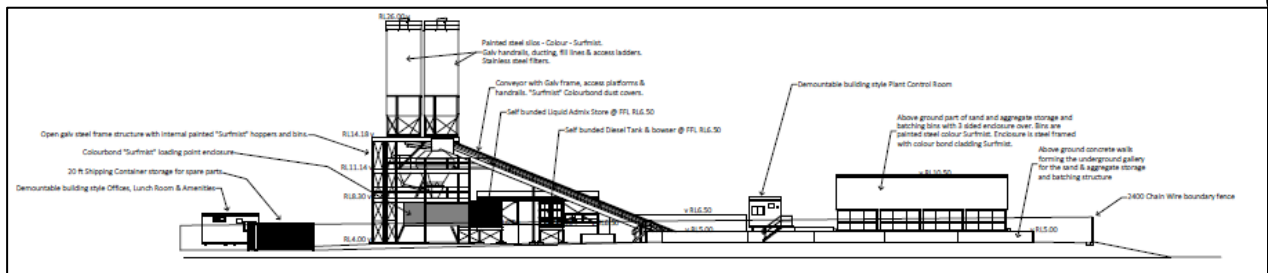


Figure 4: Western Elevation Plan

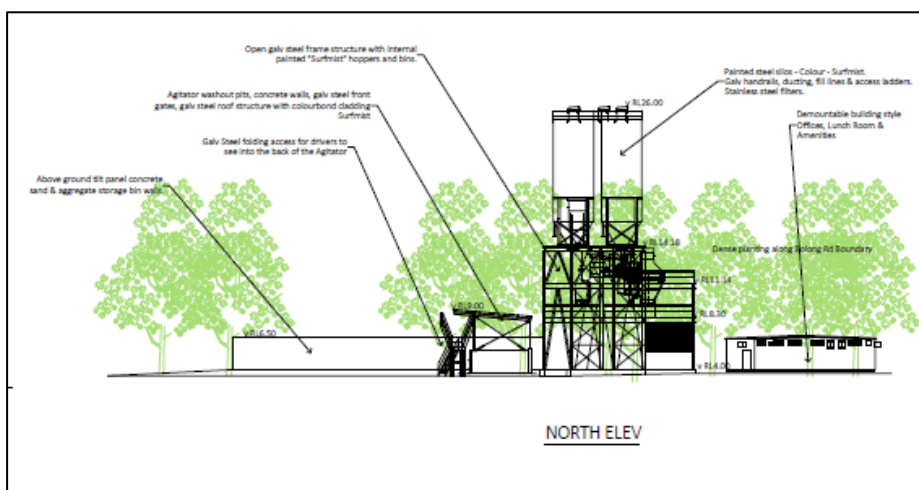


Figure 5: Northern Elevation Plan

Subject Land

The subject site is located in an industrial area (land zoned IN1 – General Industry) on the northern side of the Shoalhaven River, identified as Lot 1 DP 531429, Bolong Road, Bolong.

CL22.129

The site is regular in nature with frontage to Bolong Road. It is largely clear of vegetation and structures, aside from an existing water pumping station at the front of the allotment and Endeavour Energy overhead power lines running along the western boundary. The site is mapped as; flood prone land, containing acid sulphate soils and as having the potential to be contaminated. At the time of lodgement, the site was not identified as bushfire prone land.

While the site is not identified as containing any locally listed items of heritage significance under Schedule 5 of the Shoalhaven Local Environmental Plan 2014 (SLEP 2014), the supplied Aboriginal Cultural Heritage Assessment has confirmed one subsurface archaeological deposit consisting of a chert flake (known as Bolong-1A-1 / AHIMS# 52-5-0968) is located at the front of the site - Heritage NSW have provided General Terms of Approval (GTA's) to be included in any determination.

The development is proposed on the front portion of Lot 1 only, this is proposed Lot 101 in SF10831 – A consolidation and two lot subdivision of the site approved 30 November 2020 but has yet to be registered (see 'History' section for details).

Site & Context

Land to the west is similarly zoned IN1, with Manildra Group's facilities located in the area – wheat starch and gluten plants which operate in conjunction with an ethanol distillery. The Manildra facilities directly adjoins the subject site to the west and extends along Bolong Road towards Bomaderry.

To the northwest is a wastewater plant which treats effluent from the Manildra's operations.

Land to the north, east and wider area surrounding IN1 zone, is zoned RU1 – Primary Production and comprises mainly agricultural land and rural residential development. The nearest residence is approximately 470m to the southeast (see Figure 6).

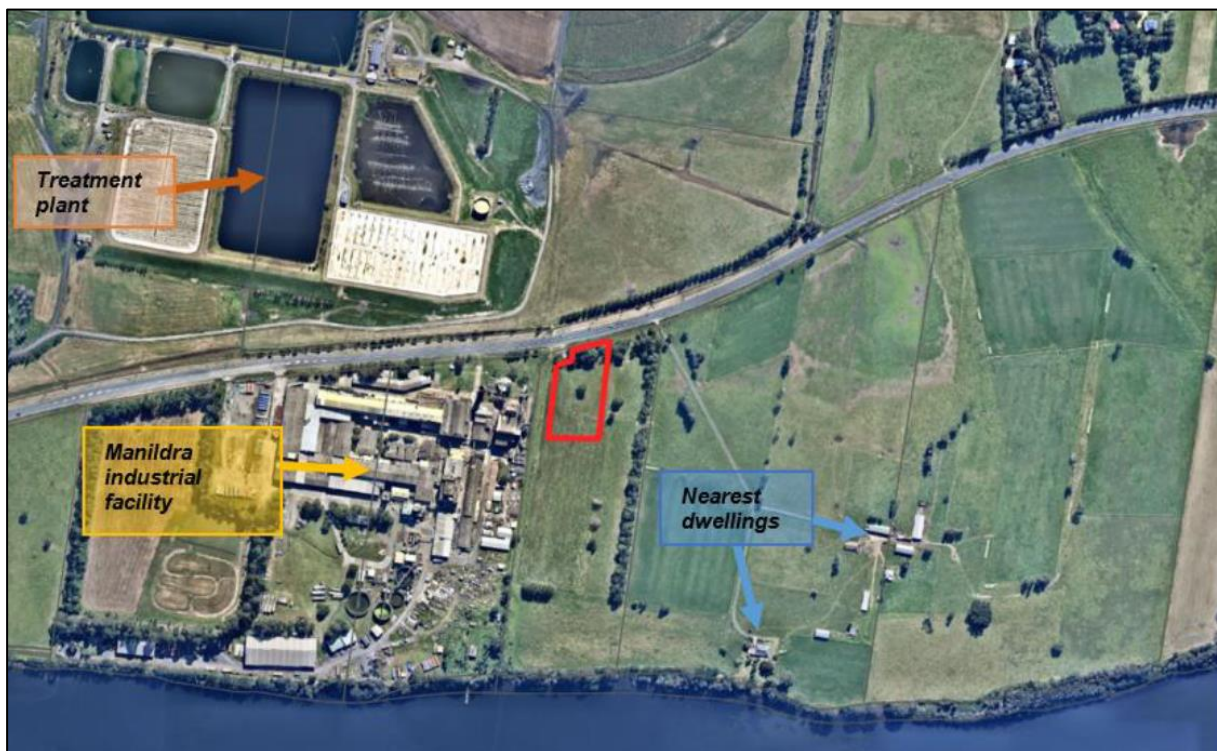


Figure 6: Site and Context Plan (Source: submitted EIS – City Plan)

CL22.129

History

With the exception of recent subdivision applications for minor boundary adjustments under SF10831 and SF10431 there are no relevant recent development approvals for the site. The original approvals for use of the land included a Water Station (BA73/2038) and Security Watch House (BA74/1815), with minor Industrial Additions in 2000 (DA00/2651).

Background Information - SF10831 Detail

Application SF10831 for consolidation and two lot subdivision of the subject site was approved on 30 November 2020. This subdivision has yet to be registered (See Figure 7).

Following lot registration, the development appears to be located wholly on Lot 101 with the exception of batters required for the fill platform. Owners consent for the entire site (Lot 1) has been provided with DA21/1612.

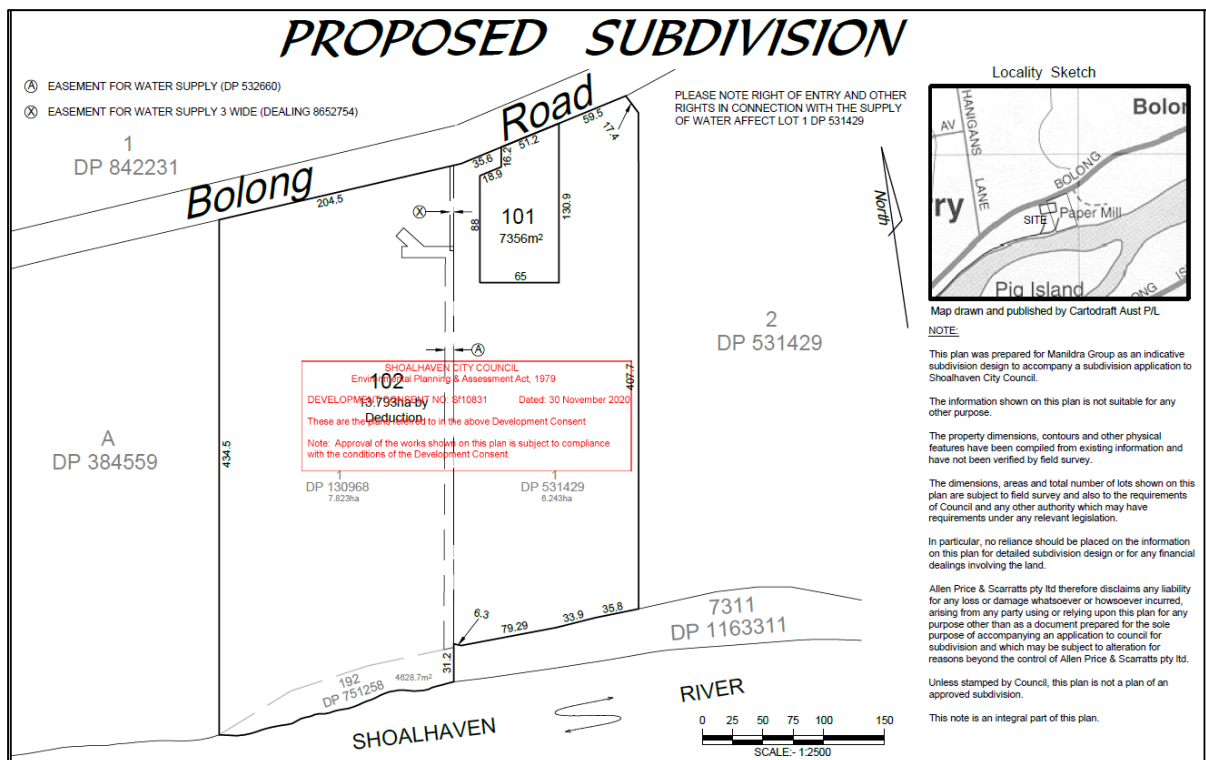


Figure 7: Approved Subdivision Plan SF10831 (Source: submitted subdivision plan prepared by AP&S)

Issues

Clause 4.3 - Height of Buildings, of the Shoalhaven LEP 2014

Clause 4.3 stipulates the objectives and development standard for the height of buildings in Shoalhaven. Clause 4.3(2) and (2A) state:

- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.
- (2A) If the Height of Buildings Map does not show a maximum height for any land, the height of a building on the land is not to exceed 11 metres.

The SLEP 2014 Height of Buildings Map does not show a maximum building height for the subject site. As such, the maximum height of any building must not exceed 11m as stipulated by subclause (2A).

The proposed development does not comply with this development standard. The new plant will include several buildings and structures, with the tallest structure being silos up to RL26,

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approximately 23.75m above existing ground levels, exceeding the control by 12.75m or 116%.

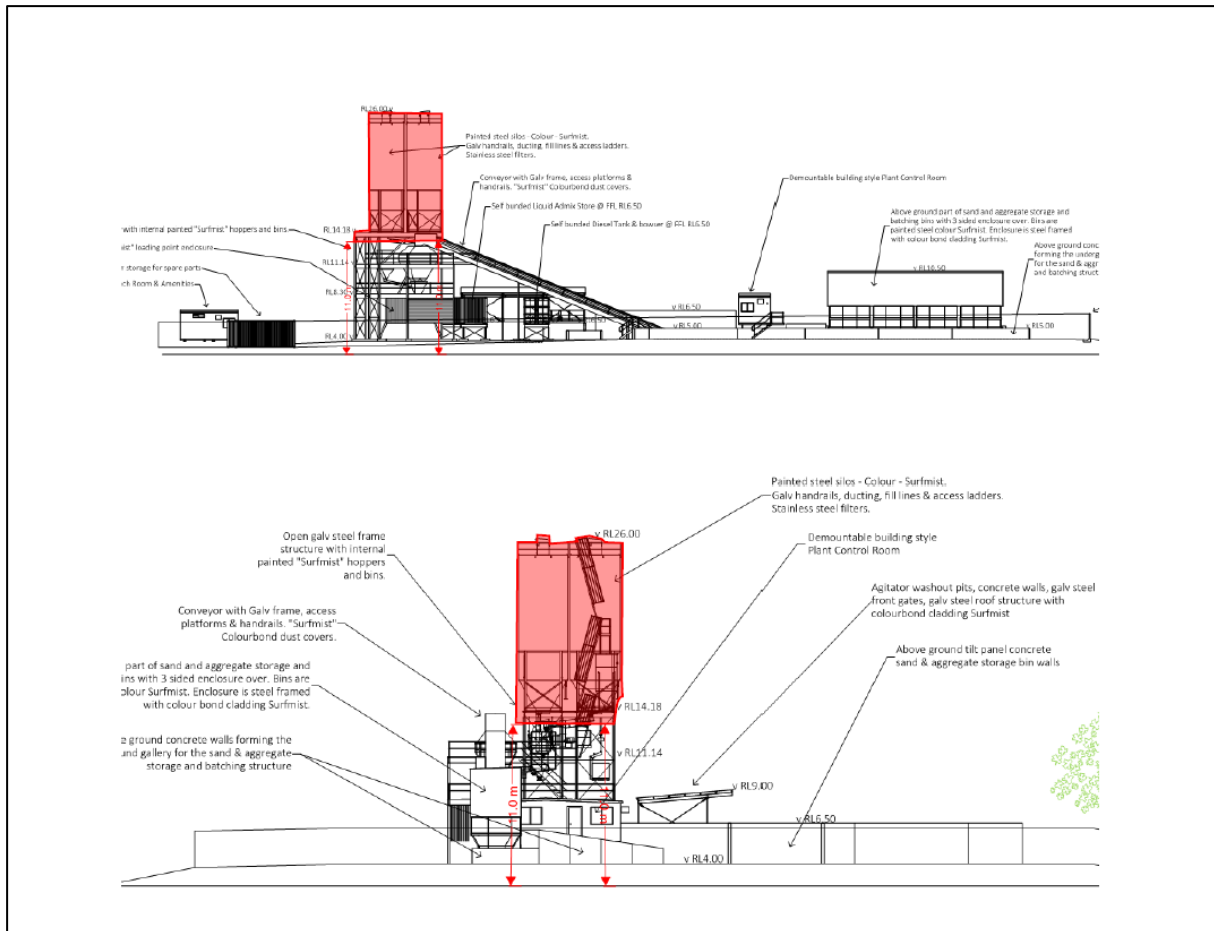


Figure 8: Extent of development non-compliance

Clause 4.6 - Exceptions to development standards of the SLEP 2014

Development is controlled by Environmental Planning Instruments, such as the Shoalhaven Local Environmental Plan 2014 (SLEP14). The SLEP14 sets out what can be built and includes some controls / development standards such as height.

Sometimes a development can achieve the objectives of the SLEP 2014 but cannot comply with a standard for various reasons. In these instances, it is necessary to request a clause 4.6 variation which allow a consent authority to 'relax' the development standard in the particular circumstance. A clause 4.6 variation request must be in writing and address particular matters. Importantly, there must be sound justification for the departure from the development standard.

Clause 4.6 is a mandatory clause contained in all Local Environmental Plans.

Council is also required to report the variations to the Department of Planning and Environment on a quarterly basis and all variations may be subject to an audit.

Clause 4.6 only applies to development standards, not prohibitions.

The applicant submitted a written request to justify contravening the development standard pursuant to the requirements of cl4.6 of SLEP 2014 – see Attachment 1.

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An assessment pursuant to cl4.6 has been provided below:

Subclause	Council Comment
<p>4.6(1) <i>The objectives of this clause are as follows—</i></p> <p>(a) <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i></p> <p>(b) <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i></p>	<p>Noted. There is merit to applying flexibility in this particular circumstance, noting:</p> <ul style="list-style-type: none"> - The variation achieves the underlying objectives of cl4.3 notwithstanding the non-compliance; - The variation is required specifically for the development type proposed, which has been demonstrated to be consistent with zone objectives. - There are sufficient environmental planning grounds to justify contravening the development standard; and - the contravention is in the public interest because it is consistent with the objectives of the zone and development standard.
<p>4.6(2) <i>Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</i></p>	<p>Development Standards' are defined under Section 4(1) of the <i>Environmental Planning & Assessment Act 1979</i> as follows:</p> <p><i>“development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:</i></p> <p>...</p> <p><i>(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work...”</i></p> <p>[Council emphasis]</p> <p>The building height of development under cl4.3 of the SLEP 2014 is therefore clearly a development standard.</p> <p>The development standard is not a prohibition.</p>
<p>4.6(3) <i>Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—</i></p> <p>(a) <i>that compliance with the development standard is unreasonable or unnecessary.</i></p> <p>(b) <i>that there are sufficient</i></p>	<p>A written request to vary the standard has been provided in which the applicant assessed the proposal against 4.6(3)(a) and (b).</p> <p>It is noted the below decisions by NSW Land Environment Court assisted in understanding parameters for contravention to a development standard:</p> <ol style="list-style-type: none"> 1. <i>Wehba v Pittwater Council</i> [2007] NSW LEC 827; 2. <i>Four2Five Pty Ltd v Ashfield Council</i> [2015] NSWLEC 1009; 3. <i>Initial Action Pty Ltd v Woollahra Municipal Council</i> [2018] NSWLEC 118 (Initial Action);

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<p><i>environmental planning grounds to justify contravening the development standard.</i></p>	<p>A detailed assessment against subclause (a) and (b) is provided below.</p>
<p>(3)(a) that compliance with the development standard is unreasonable or unnecessary</p>	
<p><u>Comment:</u> The LEC has held that there are at least five different ways, an applicant might establish that compliance with a development standard is unreasonable or unnecessary (<i>Wehbe v Pittwater Council</i> [2007]).</p> <p>For an application to be upheld it is sufficient to demonstrate that it satisfies only one of the five ways.</p> <p>The five ways are:</p> <ol style="list-style-type: none"> 1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard; 2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary. 3. The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable; 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unreasonable and unnecessary; and 5. The zoning of the land is unreasonable or inappropriate. <p>In this circumstance, the applicant requests consideration under the first test.</p> <p>The objectives of cl 4.3 and Council comments are as follows:</p> <p><i>(a) To ensure that buildings are compatible with the height, bulk, scale, or the existing and desired character of the locality</i></p> <p>The proposal is consistent with the IN1 zone objectives (see 4.6(4)(a)(ii) for details) and existing character of the industrial land in the area - this comprising of industrial buildings and structures including a number over 11m in height. The height of the silos is considered a similar height, bulk, scale, and character to industrial development in the area and not inconsistent with anticipated industrial development of the site.</p>	

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Figure 9: Street view of neighbouring industrial development to the west of the subject site (Source: Google Streetview).

(b) To minimise visual impact, disruption of views, loss of privacy and solar access to existing development

A Visual Impact Assessment was supplied in support of the application (refer Attachment 2). Due to existing and proposed landscaping (screening along the eastern boundary), proposed finish colours (Colorbond Surfmist), the existing industrial built form on neighbouring sites, the topography of the land, the distance of the development from residential dwellings and the proposed siting of the development (on only a portion of Lot 1), the development is not anticipated to cause significant unacceptable visual impact, disruption of views, loss of privacy or impact to neighbouring property solar access.

(c) To ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.

The subject site does not contain any listed items in Schedule 5 of the SLEP 2014, nor is it located within a conservation area. However, for the sake of completeness the below is noted:

- There are locally listed Items (Number 117 and 116 in schedule 5, known as 'Berry Estate' which includes vertical timber slab cottage and outbuildings and "Buena Vista" a dairy farm complex including Berry Estate vertical timber slab barn) along Bolong Road. The closest item is approximately 600m from the development. Due to the nature of the development structures, proposed mitigation measures (landscape screening along the eastern perimeter of the development) and the existing character/impact of the industrial area, the proposed development is not anticipated to detract from existing heritage significance.
- An Aboriginal object was found onsite during field investigations. General Terms of Approval have been issued by Heritage NSW, these require an AHIP be obtained prior to works onsite. This requirement is not a result of height variation but due to likely ground disturbance with any development onsite.

Due to reasons outlined above the application is considered consistent with the underlying objectives of cl4.3 (Height of buildings) notwithstanding non-compliance and is therefore considered to satisfy 4.6(3)(a) - that compliance with a development standard is unreasonable or unnecessary.

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(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment: The environmental planning grounds to justify the proposed variation are as follows:

- The exceedance of the height of the development is consistent with height and scale of development within immediate IN1 zone. The adjoining industrial complex to the west comprises large-scale built form including elevated water tanks and towers/stacks up to 33.5m in height. The proposed silos will be consistent with the height and scale of the neighbouring development and will not fundamentally change the character of the locality. The proposed vegetation screening will also work to soften the overall industrial area when viewed from the east of the development.
- The proposed building height is a direct result of the industrial purpose of the proposed silo building. The development is not only consistent with the site's IN1 zoning, but representative of existing buildings in the immediate locality and the established operations of Manildra Group's facilities.
- The additional height above the 11m maximum building height will not result in unreasonable overshadowing, or overlooking, due to location on site and nature of the area.
- The site is zoned for industrial purposes, the proposed use of the site as a batching plant is consistent with zone objectives and the height variation is required for the proposed use.
- The development provides economic and social benefits, contributing to local construction industry and local employment in concrete production - encourage additional employment and retention of employment opportunities (through construction of the plant and ongoing operations of a new facility with a longer production lifecycle than the existing).
- The proposal provides for an industrial activity that does not significantly conflict with neighbouring operations and will operate consistent with current environmental controls and management requirements.

Due to reasons outlined above the application is considered consistent with subclause 4.6(3)(b), demonstrating there are sufficient environmental planning grounds to justify contravening the development standard.

Subclause	Council Comment
(4) Development consent must not be granted for development that contravenes a development standard unless—	4.6(4)(a)(i) Written request received and addressing the matters as required in subclause (3). 4.6(4)(a)(ii)
(a) the consent authority is satisfied that—	The proposal is considered in the public interest being consistent with objectives of the standard (listed in 4.6(3)(a)) and consistent with zone objectives, as follows:
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<ul style="list-style-type: none"> •To provide a wide range of industrial and warehouse land uses.
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular	The proposal adds to industries functioning in the industrial area (and the longevity of concrete batching in the area). The development, being located on only a portion of the site, also retains usable areas for further industrial development

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<p><i>standard and the objectives for development within the zone in which the development is proposed to be carried out, and</i></p> <p><i>(b) the concurrence of the Planning Secretary has been obtained.</i></p>	<p>surrounding (should it be proposed in future).</p> <ul style="list-style-type: none"> <i>• To encourage employment opportunities.</i> <p>The proposed development will retain jobs from the existing plant and extend the company's operation longevity (and employment opportunities) with updated equipment/technology at new site location. Additional job opportunities will also be created with facility construction.</p> <ul style="list-style-type: none"> <i>• To minimise any adverse effect of industry on other land uses.</i> <p>The development is situated a significant distance from nearest residential development. Noise, dust, flooding, and traffic studies have accompanied the application in support of the proposal and considered appropriate by Council staff in demonstrating impacts can be managed with minimal impact on adjoining land uses.</p> <ul style="list-style-type: none"> <i>• To support and protect industrial land for industrial uses.</i> <p>The proposal is for industrial use on a site currently vacant but zoned for industrial use. The proposal is therefore consistent with this objective.</p> <ul style="list-style-type: none"> <i>• To allow a diversity of activities that do not significantly conflict with the operation of existing or proposed development.</i> <p>As above, the development is considered capable of satisfactorily addressing this objective.</p> <ul style="list-style-type: none"> <i>• To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.</i> <p>The proposal is not inconsistent with this objective. Additional facilities and employment associated/generated could work to encourage supporting facilities and services to meet worker's needs.</p> <p><u>4.6(4)(b)</u></p> <p>Council can assume the concurrence of the Secretary of the Department of Planning and Environment for cl 4.6 variations to vary a development standard. Further information is available in the Department's Circular PS 20-002.</p>
<p><i>(5) In deciding whether to grant concurrence, the Planning Secretary must consider—</i></p> <p><i>(a) whether contravention of the development standard raises any matter of significance for</i></p>	<p><u>4.6(5)(a)</u></p> <p>The contravention does not raise any matters of significance having regard to State or regional environmental planning. It does not have implications for any State Environmental Planning Policies in the locality or impacts which are considered of a State or</p>

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<p>State or regional environmental planning, and</p> <p>(b) the public benefit of maintaining the development standard, and</p> <p>(d) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.</p>	<p>regional scale.</p> <p><u>4.6(5)(b)</u></p> <p>There is limited public benefit in maintaining the development standard given that there are no unreasonable impacts that will result from the variation to the height of buildings standard, while there are sufficient environmental planning grounds to justify contravening the development standard. The extent of the departure from the height control, whilst numerically large is essential for the efficient operation of the concrete batching plant.</p> <p><u>4.6(5)(c)</u></p> <p>Not applicable</p>
<p>(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—</p>	<p>Not applicable – proposed variation does not relate to subdivision.</p>
<p>(7) After determining a development application made pursuant to this, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).</p>	<p>Noted</p>
<p>(8) This clause does not allow development consent to be granted for development that would contravene any of the following—</p>	<p>The variation is not to a development standard listed in subclause (8).</p>

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Planning Assessment

The DA has been assessed under s4.15 of the *Environmental Planning and Assessment Act 1979*, please refer to **Attachment 3** of this report.

The development features two non-compliances in relation to Shoalhaven Development Control Plan 2014 (SDCP 2014), Chapter G20: Industrial Development: one relating to height compliance with SLEP 2014 (addressed under the above cl 4.6 assessment), the other in relation to fill.

A portion of the site which contains a natural depression requires filling to 1.11m for flood planning levels, an 11% variation. As outlined at **Attachment 3**, the variation is considered relatively minor in nature and is required to achieve required flood planning levels and an outcome consistent with objectives and performance criteria for the control.

Consultation and Community Engagement:

The notification was made in accordance with Council's Community Consultation Policy with letters being sent within a 500m radius of the site. The proposal was also advertised in the newspaper for a period of 30 days from 30 June 2021 to 30 July 2021.

Six (6) public submissions (at the time of writing) were received in relation to Council's notification of the development, all objecting to the development.

Concerns related to:

- traffic and safety
- stormwater and flooding
- air quality and dust
- noise, and
- rural landscape/setting.

Concerns have been taken into consideration and addressed during the assessment, refer to the attached s4.15 Assessment for details. The concerns raised by the objectors are considered to be capable of being addressed via conditions or are not considered to warrant the refusal of the application.

Financial Implications:

No financial implications to Council.

Legal Implications

If the requested variation is not supported and the application subsequently refused, or if the applicant is dissatisfied with Council's determination, the applicant has the right of appeal to the Land and Environment Court (subject to deemed refusal). A review is not possible under section 8.2 for designated developments.

There are third party appeal rights for designated developments.

Summary and Conclusion

The applicant's submission has provided adequate justification to demonstrate that contravention of the development standard in the specific circumstances of this case are well founded for the following reasons:

- compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- there are sufficient environmental planning grounds to justify contravening the development standard; and
- the proposed development will be in the public interest because it is consistent with the objectives of the Height of Buildings development standard under cl 4.3 and the objectives for development within the IN1 zone; and
- the proposed development is in the public interest and there is limited public benefit in maintaining the standard, application has demonstrated suitability of the site; and
- the contravention does not raise any matter of State or Regional significance.

Accordingly, a positive conclusion has been reached with regard to the cl 4.6 variation request to the Height of Building development standard under cl 4.3 of SLEP 2014.

The application has been assessed under 4.15 of the *Environmental Planning and Assessment Act 1979* and found to be satisfactory.

It is noted that several submissions were received during the assessment period however submission concerns have been considered addressed/mitigated to an appropriate level.

It is recommended that the cl 4.6 variation be supported, and the development application be approved subject to the recommended attached conditions of consent. *Note: The applicant has been provided with a draft to review.*

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CL22.130 Acquisition of sewer easement - 15 Abernethys Lane Meroo Meadow - Lot 601 DP1223625

HPERM Ref: D21/507944

Department: Technical Services

Approver: Robert Horner, Executive Manager Shoalhaven Water

Attachments: 1. Proposed sewer easement acquisition plan [↓](#)

Reason for Report

To seek Council's concurrence for the acquisition of land for a sewer easement for sewer 4 & 5 metres wide over part of Lot 601 DP1223625, No. 15 Abernethys Lane Meroo Meadow.

The easement is marked (E1) and highlighted on the attached draft survey plan, over that part of Lot 601 DP1223625.

Recommendation

That Council:

1. Acquire an Easement for Sewer 4 & 5 metres wide over part of Lot 601 DP1223625, No. 15 Abernethys Lane Meroo Meadow, marked (E1) and highlighted on the attached draft survey plan.
2. Pay compensation of \$33,350 (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 be authorised to sign any documents necessary to give effect to this resolution.

Options

1. Resolve 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 lead to a delay in the delivery of the required infrastructure for the Moss Vale Rd Urban Release Area.

Background

The subject sewer easement is required to facilitate construction and future operation/maintenance of a sewer main that will support residential subdivisions within the Moss Vale Road Urban Release Areas.

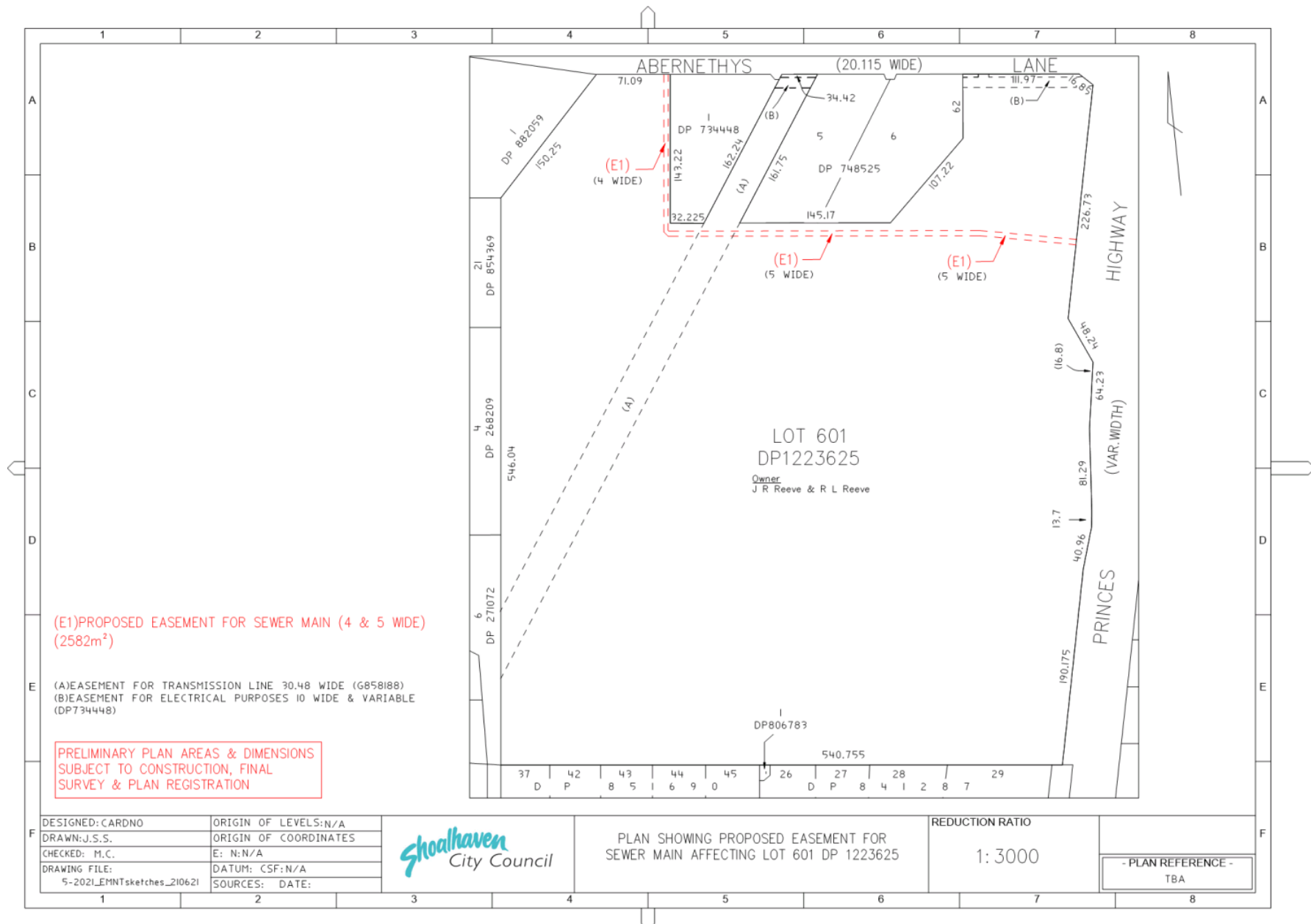
A valuation was undertaken on behalf of Council by Walsh & Monaghan Valuers Pty Ltd who assessed compensation for the easement at \$22,000 excluding GST. An offer at that amount

was made to the owner, which was rejected. The owners representative, through negotiation, provided enough evidence to Council's representative for an agreement to be reached on the compensation amount of \$33,350. The primary substantiation 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.

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CL22.131 Acquisition of sewer easement - 1095 Merroo Road Merroo Meadow - Lot 202 DP 1180659

HPERM Ref: D21/508359

Department: Technical Services

Approver: Robert Horner, Executive Manager Shoalhaven Water

Attachments: 1. Sewer Easement Sketch [↓](#)

Reason for Report

To seek Council's concurrence for the acquisition of a sewer easement for sewer 4 & 5 metres wide over part of Lot 202 DP1180659, 1095 Merroo Road Merroo Meadow.

The easement is marked (S1) and highlighted on the attached draft survey plan, over that part of Lot 202 DP1180659.

Recommendation

That Council:

1. Acquire an Easement for Sewer 4 & 5 metres wide over part of Lot 202 DP1180659, No. 1095 Merroo Road Merroo Meadow, marked (S1) and highlighted on the attached draft survey plan.
2. Pay compensation of \$12,000 (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 be authorised to sign any documents necessary to give effect to this resolution.

Options

1. Resolve as Recommended

Implications: The 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 lead to a delay in the delivery of the required infrastructure for the Moss Vale Rd Urban Release Area.

Background

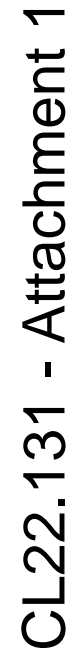
The subject sewer easement is required to facilitate construction and future operation/maintenance of a sewer main that will service residential subdivisions within the Moss Vale Road Urban Release Area.

A valuation was undertaken on behalf of Council by Walsh & Monaghan Valuers Pty Ltd who assessed compensation for the easement at \$6,000 excluding GST. An offer at that amount was made to the owner which was rejected. The owner engaged their own valuation service who assessed compensation at \$12,000, excluding GST. Due to the costs involved in having the valuation reviewed by Council's valuer and solicitors, staff have determined that the professional fees involved in that process would outweigh the offer of compensation. Acceptance of this valuation would also ensure the timeframe for delivery of the project would not be compromised. The owner has accepted that offer, subject to Council's concurrence.

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.

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CL22.132 Review of Shoalhaven Water Group Policies

HPERM Ref: D22/80779

Department: Water Business Services

Approver: Robert Horner, Executive Manager Shoalhaven Water

Attachments: 1. Draft Drinking Water Quality Policy [↓](#)
2. Draft Rainwater Tank Rebate Policy [↓](#)

Reason for Report

All Public and Local Approval Policies are to be submitted to Council within 12 months of the election of Council. This is the first group of policies proposed for reaffirmation with respect to Shoalhaven Water's responsibilities.

Recommendation

That Council reaffirm the following policies with no or minor changes

1. Drinking Water Quality
2. Rainwater Tank Rebate

Options

1. Adopt the recommendation as written.

Implications: Minor changes will assist for currency. Specific details of changes are outlined further below

2. Not adopt the recommendation.

Implications: Council can request further details, seek further community input or make other changes.

Background

Minor tracked changes have been made to the following policies and as shown on the attachments, a summary of these changes is included below.

- **Drinking Water Quality**

No Changes required

- **Rainwater Tank Rebate**

Minor changes for spelling and/or grammar, updated process with the introduction of an online form to improve the accessibility and efficiency for customers to apply for the rebate. Clarify the relevant plumbing standard that the installation will be assessed against.

Community Engagement

There is no statutory requirement to publicly exhibit any of the policies contained in this report. Council may choose to do so, should they consider any of the proposed changes to be significant.

Policy Implications

All policies included in this report are proposed for reaffirmation as the nature of the changes are considered minor and therefore have no implications or deviation from the intent of the existing approved policy.

Financial Implications

No financial implications have been identified from the proposed changes.



Drinking Water Quality Policy

For more information contact
Shoalhaven Water

City Administration Centre

Bridge Road (PO Box 42)
Nowra NSW Australia 2541
P: (02) 4429 3214
F: (02) 4429 3170
water@shoalhaven.nsw.gov.au
www.shoalwater.nsw.gov.au

Policy Number: POL16/85
Adopted: 24/01/2012
Amended: 23/04/2013
Reaffirmed: 18/04/2017
Minute Number: MIN12.18, MIN13.385, MIN17.312
File: 34306E
Review Date: 1/12/2020

1 PURPOSE

To provide a commitment to the sustainable management and supply of safe, high quality drinking water. The policy provides a basis for the operation of Shoalhaven City Council's water supply involving catchments, storages, water treatment facilities and the distribution system.

2 STATEMENT

Shoalhaven Water is committed to providing safe, high quality drinking water, which consistently meets or exceeds the 2011 Australian Drinking Water Guidelines, consumer and other regulatory requirements.

Shoalhaven Water will implement and maintain a drinking water quality management system consistent with the *Australian Water Guidelines* to manage effectively the risks to drinking water quality.

3 PROVISIONS

To achieve this commitment, and in partnership with stakeholders and relevant agencies, Shoalhaven Water will:

- Manage water quality at all points along the delivery network, from the source water to the consumer's tap by using a risk-based approach in which potential risks to water quality are to be identified and made explicit and managed to minimise any threat to drinking water quality.
- Integrate the needs and expectations of our consumers, stakeholders, regulators and employees into our planning.
- Retain regular monitoring of the quality of drinking water and effective reporting mechanisms to provide relevant and timely information, and promote confidence in the water supply and its management to consumers.
- Adhere to and comply with the Memorandum of Understanding (MoU) between Shoalhaven Water and NSW Health.
- Maintain an appropriate contingency planning and incident response capability.
- Participate in appropriate research and development activities (including employee training) to ensure continued understanding of drinking water quality issues and efficient operation of water supply schemes.
- Contribute to setting industry regulations and guidelines, and other standards relevant to public health and the water cycle.
- Align our water quality systems and processes with the framework's proactive and multi-barrier approach to best practice water quality management.
- Continually improve our management practices by assessing performance against corporate commitments and stakeholder expectations.



- Working with our employees, the Shoalhaven community, regulators and other stakeholders to ensure the water supply schemes are planned, constructed and operated consistent with industry best practices.

4 IMPLEMENTATION

Shoalhaven City Council will **support** this Policy by:

- Maintaining Council's Drinking Water Quality Management Plan.
- Implementing appropriate operations and management procedures for the water supply.
- Conducting regular Water Quality Committee and NSW Health Liaison Meetings.
- Reporting on the supply of safe drinking water.

5 REVIEW

The Drinking Water Quality Policy and associated management plans will be reviewed on a periodic basis and particularly where new guidelines and/or management information dictates.

6 APPLICATION OF ESD PRINCIPLES

This policy will play a key role in ensuring the protection of public health, environment and water resources.

CL22.132 - Attachment 1



Rainwater Tank Rebate Policy

For more information contact
Shoalhaven Water

City Administration Centre

Bridge Road (PO Box 42)
Nowra NSW Australia 2541
P: (02) 4429 3214
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water@shoalhaven.nsw.gov.au
www.shoalwater.nsw.gov.au

Policy Number: POL22/133

Adopted: 22/02/2005

Revised: 28/02/2006, 22/08/2006, 25/06/2007, 26/02/2008, 25/11/2008, 21/05/2013,
24/1/2017

Minute Number: MIN05.211, MIN06.187, MIN06.1132, MIN07.902, MIN08.179,
MIN08.1534, MIN13.499, MIN17.26

File: 26581E

Review Date: _____



CL22.132 - Attachment 2

1 PURPOSE

- To help conserve water and reduce stormwater runoff by encouraging the installation of rainwater tanks.
- To provide an incentive for households who might not otherwise install a rainwater tank, by offsetting some of the costs of purchasing and installing a tank. These costs can include the connection of a rainwater tank to a toilet and/or washing machine, offsetting some of the plumbing expenditure and Development Application charges if applicable.

2 STATEMENT

This policy is a Council initiative aimed at helping to reduce the demand on the potable water supply and encouraging the community to conserve water at home and in the garden by installing rainwater tanks. More information about the rebate is provided at Appendix 1.

3 PROVISIONS

3.1 Rebate Schedule

The Rainwater Tank Rebate applies in accordance with the amount as contained within the annual Delivery Program and Operational Plan.

Shoalhaven Water will only issue one (1) rebate per property for Rainwater tank(s) regardless of the number of tanks.

3.2 Registration Fee Waiver

If a testable backflow prevention device is required, Council will waive its initial registration fee of the backflow prevention device and inspection charge. ~~-(review Shoalhaven City see annual Council Fees, & Charges and Rentals for details.)~~

Note: If plumbing is required to supply toilet and/or washing machine or connection to the potable water supply, approval is required under s68 of the Local Government Act 1993. This application, inspection and associated costs is not waived.

3.3 Eligibility for Rebate

To be eligible for the rebate, the applicant must have installed a rainwater tank that:

- has been purchased by the applicant on or after 1 March 2005
- has a minimum total capacity of 2000 litres
- is not required to be installed in order to comply with a BASIX certificate
- is not required to be installed in order to comply with a requirement or a condition within a development consent/subdivision requirement
- is in accordance with the current NSW Code of Practice: Plumbing and Drainage
- is on land that has an approved connection to a water main owned by Shoalhaven City Council
- is a new tank
- is covered by a minimum 12 month warranty
- has all associated plumbing work completed by a licensed plumber



- x. is used for the collection and storage of rainwater for site use on the site
- xi. meets all relevant standards, building codes, and Shoalhaven City Council requirements, including periodic inspection of rainwater re-use systems by Council's staff (or its agents) to monitor the on-going compliance of the systems installed
- xii. is to operate on the grounds for a period of five (5) years after installation. Rebate recipients may be asked to participate in research during this time
- xiii. internal plumbing connection to toilet and or washing machine has been inspected by Shoalhaven City Council

4 IMPLEMENTATION

Shoalhaven Water Group has responsibility for implementation of this policy through processing of compliance checklists and applications for the rebate.

5 REVIEW

This policy will be reviewed within one year of the election of every new Council.

6 APPLICATION OF ESD PRINCIPLES

Natural Capital – Conserve water and reduce stormwater runoff.

Appendix 1 Rainwater Tank Rebate

About the rebate

As our population grows, a key challenge for the Shoalhaven is to ensure a sustainable water supply for the future. The NSW Government Best Practice Management of Water Supply and Sewerage Guidelines – August 2007, acknowledges the need for a demand management initiative. This rebate is an initiative to reduce the demand on the potable water supply and gives the community the chance to conserve water at home and in the garden by installing rainwater tanks.

A rebate is available from Council for customers connected to the town water supply system who install a rainwater tank(s) on their property. The tank must comply with Council requirements for installation.

Rainwater tank rebates may be available at the amount resolved within the annual Delivery Program and Operational Plan at the time of application.

Fees and Charges

If a testable backflow prevention device is required Council's initial registration fee of the backflow prevention device and inspection charge is waived. Ongoing costs will still result from the licensed plumbing inspection and registration with Council annually.

If plumbing is required to supply toilet and/or washing machine or connection to the potable water supply, approval is required under s68 of the Local Government Act 1993. This application, inspection and associated costs is not waived.

(Note: Rural properties are exempt development below 25,000 L)

Applying for a rebate

Stage 1: Compliance of Rainwater tank installation.

- 1 ~~Complete-Submit online Rainwater Tank compliance-Compliance checklist~~Checklist for Council review.
- 2 Wait for approval ~~for location~~ from Shoalhaven City Council before proceeding with installation.
- 3 Install tank ~~-(Engage a licensed plumber if "Toppingtopping-up"~~, cross-connecting or connecting to a toilet or washing machine).
- 4 If tank has been connected to internal plumbing such as toilet or washing machine, arrange for works to be inspected by a Council officer to ensure AS3500 Plumbing & Drainage requirements have been met.



Stage 2: ~~Application for Request~~ Rainwater tank rebate

- 1 ~~Complete-Submit online Rainwater Tank Rebate Request~~~~application-form-~~
- 2 ~~Plumber (if plumbing work required) complete relevant section-~~
Attach copies of receipt(s) for the tank purchase and installation.

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Development exclusions

a) BASIX Certificate

The Building Sustainability Index (BASIX) is a NSW Government initiative. It ensures that all new dwellings in NSW meet the target of 40% reduction in water consumption and a 25% reduction in greenhouse gas emissions. Compliance with these targets is demonstrated through the completion of a BASIX assessment and the issuing of a BASIX Certificate.

Customers who are required to install a rainwater tank(s) to comply with BASIX and have a BASIX Certificate dated after 1 July 2005 are not eligible for a rainwater tank rebate.

b) Development consent/Subdivision requirement exclusions

Customers who are required to install a rainwater tank in order to comply with a requirement or a condition within a development consent/ subdivision requirement are not eligible for a rainwater tank rebate.

Terms and Conditions

The following terms and conditions apply.

1 Compliance

Any installation of a rainwater tank under the rebate program must submit a compliance checklist as this will ensure that the tank installation will meet Council requirements.

2 Application:

Any application request for a rebate must be submitted and approved by Shoalhaven Water before a rebate can be issued. The application online form must be completed-submitted with and copies of receipt(s) for the purchase and installation of the rainwater tank(s) attached. The applicant must be an owner of the property where the tank is installed.

3 Backflow prevention:

See Backflow Prevention fact sheet and for more detail see NSW Code of Plumbing & Drainage.

Note: The requirements of backflow prevention may vary as a result of changes in the NSW code of Plumbing and Drainage.

4 Initial inspection:

Council may need to inspect the rainwater tank at least once prior to any rebate being issued.

5 Sole rebate:

Shoalhaven Water will only issue one (1) rebate cheque per property.

6 Program changes:

Shoalhaven Water reserves the right, at its sole and absolute discretion and at any time, to change any or all of the terms and conditions of the rebate program. Applications must be received by Shoalhaven Water prior to any published termination date for the rebate program.

7 Payment:

Payment of approved rebates will be made to the property owner(s) by cheque only by direct transfer to nominated back account and made payable to the property owner(s) as submitted on the Rainwater Tank Rebate Request.

CL22.113 Notice of Motion - Bay and Basin Revitalisation Workshop

HPERM Ref: D22/60630

Submitted by: Cllr Paul Ell
Cllr Greg Watson

This item was deferred from the Ordinary Meeting 21 February 2022.

Purpose / Summary

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

Recommendation

That Council:

1. Organise a "Bay and Basin Revitalisation Workshop" to be facilitated by Mrs Fran Mooney (2022 Shoalhaven Citizen of the year) within one month from the date of adoption of this resolution, The purpose of the workshop is to engage local community organisations and stakeholders to recommend proposals to Council to improve amenities in the Bay and Basin area.
2. Send invitations to participate in the workshop to the following:
 - a. The Mayor,
 - b. All Ward 2 and Ward 3 Councillors,
 - c. Director City Lifestyles (or nominee); and
 - d. Other local individuals, community organisations, CCBs, Businesses Chambers Of Commerce and sporting groups as determined by the CEO in consultation with Fran Mooney.
3. Directs that the workshop is to address the following matters:
 - a. Consultation on the update to the Community Strategic Plan.
 - b. Achieving the objectives of the Bay & Basin Community-Led Strategic Plan.
 - c. Revitalisation of Frances Ryan Reserve to compliment the delivery of the Bob Proudfoot Pavilion and new library.
 - d. Delivery of the planned revitalisation of the Sanctuary Point shops including addressing the appearance of the rear of the shops.
 - e. a pump track to be located in the Sanctuary Point area.
 - f. Improved active transport infrastructure to facilitate greater connections between Frances Ryan Reserve and Clifton Park.
 - g. Improved sporting and other community facilities for local young people.
 - h. Improving public transportation between the villages and the broader Shoalhaven.
 - i. The application for grants to achieve the community's goals.
 - j. Any other matters that relate to improving amenities and the lifestyle of local residents.

CL22.113

4. Directs that a report be prepared by the CEO about the outcomes of the workshop which includes options about future workshops on an annual, biannual or quarterly basis.

Background

There are many dedicated groups and individuals working tirelessly across the Bay and Basin community to improve local amenities and facilities. The community owes so much to organisations such as Sanctuary Point Community Pride for the delivery of projects to improve amenities for local residents. Whether it is the work of the Community Champions or all those involved in the community-led Strategic Plan, there are many projects and priorities the residents of this part of the Shoalhaven want to see progressed.

The convening of a workshop is intended to bring the community together to speak with one voice and to give the key stakeholders a seat at the table to work with Council directly. Our 2022 Shoalhaven Citizen of the Year, Fran Mooney, has kindly agreed to facilitate this Workshop if the motion is supported by Councillors. Fran brings a wealth of experience and insight having worked very hard with other local leaders to promote the interests of the community.

Council's work with this community to date should be commended. This initiative builds on the work of Jane Lewis and her team, including Monica Kincade, around building stronger capacity in the community.

CL22.113

CL22.133 Notice of Motion - Community Engagement in Delivery Program & Operational Plan (DPOP) process

HPERM Ref: D22/84258

Submitted by: Cllr Paul Ell

Purpose / Summary

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

Recommendation

That Council:

1. Create a Delivery Program & Operational Plan (DPOP) input form to provide an opportunity for the community to provide input in to the DPOP process every financial year.
2. Include the DPOP input form on Council's Get Involved web page.
3. Send a paper-based form in the rate notices for the 2022/2023 financial year to inform the 2023/2024 DPOP process. This correspondence is also to include an explanation of the DPOP process and the name and contact information of the recognised local Community Consultative Body(s) (CCB) in the area for residents to further engage in the DPOP consultation process.
4. Directs the CEO to prepare a report about possible incentives Council could provide to encourage residents to share their ideas via the DPOP input form.

Background

The purpose of this motion is to provide a direct avenue for residents to share their ideas and input into the development of the Delivery Program & Operational Plan (DPOP). Representations from local CCBs indicate that the process of community engagement could be improved, and that Council should consider measures such as this to better engage the community in this very important process.

Note by the CEO

Each year during the 28 day exhibition period of the DPOP, Budget and Capital Works program there is opportunity for community members to provide a submission through an online form on Council's Get Involved website. Stage 2 of the engagement plan will be considered by Council alongside the full suite of documents prior to exhibition. The engagement plan will detail a variety of methods to raise awareness of the plans and facilitate participation in the process.

CL22.133

CL22.134 Notice of Motion - Call in DA21/2033 - 51 Tea Tree Lane, Nowra Hill - Lot 5 DP 1259527

HPERM Ref: D22/71752

Submitted by: Cllr Tonia Gray
Cllr Matthew Norris

Purpose / Summary

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

Recommendation

That DA21/2033 51 Tea Tree Lane, Nowra Hill - Lot 5 DP 1259527 be called in for determination by Council due to public interest.

Background

Councillors have received numerous emails about a Development Application 21/2033, 51 Tea Tree Lane, Nowra Hill. This needs to be called in for determination by Council due to public interest. We commend the motion to our colleagues.

Additional Information regarding DA

Applicant: Links Nowra Pty Ltd and Precise Planning

Owner: Links Nowra Pty Ltd

Description of Development: Proposed Tourist Facility (50 Units) with ancillary recreational uses.

Note by the CEO

Cllr Paul Ell subsequently submitted a Notice of Motion to call in DA21/2033 51 Tea Tree Lane, Nowra Hill - Lot 5 DP 1259527 for determination by Council due to public interest.

CL22.134

CL22.135 Notice of Motion - Road Maintenance

HPERM Ref: D22/77366

Submitted by: Cllr Tonia Gray
Cllr Evan Christen

Purpose / Summary

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

Recommendation

That Council:

1. Develop a strategic 5-year plan with timelines and required budget to bring 95% of roads in the Shoalhaven up to class or above. Identify the budget gaps between the required budget in the 5-year strategic plan and current budgets. Identify current and future grant and other funding opportunities to fill the budget gaps.
2. That the current SCC website of roadworks to be upgraded to provide more information regarding the condition and maintenance of roads and bring information about roads into one place. This should include the current status of road repair (interactive map of the state of repair 1-5) and planned road repairs with time frames (taken from DPOP).
3. Create a "Report a dangerous pothole or road in need of repair" function at the roads website page for the public to report to council the condition of roads. Encouraging reporting in this way will help council with real time information about the state of roads.

Background

Councillors have received numerous emails about our roads. Despite the web-based repository to identify areas of critical need via **Report a Problem** a two-way communication problem still exists with our end-users, the constituents and rate payers.

- The condition of roads in the Shoalhaven is one of the priority issues to local residents. Recent high rainfall has exacerbated the problems of potholes and water damage.
- Good road infrastructure is foundational for the economy and safety and wellbeing of residents and visitors.
- There has been an underfunding of roads maintenance in recent years. Now, about 20% of roads in the Shoalhaven are below a serviceable standard and about another 30% are just above this standard.
- Council needs to be **transparent** and **communicate** with ratepayers about the current situation and what is required to bring all roads up to standard.
- The development of a clear 5-year strategic plan will enable budget decisions to be made with a full understanding of implications.

We commend the motion to our colleagues.

Note by the CEO

Any significant costs associated with the requested website upgrades will be reported to Council in due course for budgetary consideration.

CL22.135

CL22.136 Notice of Motion - Reaffirmation of the 45 Degree Rule Vegetation Management Policy

HPERM Ref: D22/92160

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 reaffirm its support for the 45 Degree Rule Vegetation Management Policy

Note by the CEO

Council at its Ordinary Meeting Monday, 21 February 2022 resolved (MIN22.118) in relation to Mayoral Minute - Amendment to Chapter G4 of Shoalhaven's Development Control Plan 2014, to Remove the 45 Degree Rule.

"That this item be deferred to a Councillor briefing for further consideration and discussion.

A date for this briefing is yet to be determined.

CL22.136

CL22.137 Notice of Motion - Preservation of Shoalhaven's Defence Assets and the Employment they Bring to Our City

HPERM Ref: D22/92739

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 write to the Leader of the Opposition Anthony Albanese MP calling on him to:

1. Distance Labor from the Federal Greens policy to cut Defence spending by 50%.
2. Seek his assurance the defence assets in the Shoalhaven area will be retained and enhanced operationally.

Background

A 50% cut in defence spending which would bring about the almost complete disarmament of Australia. In the present highly uncertain times we live in this would be considered by many an act of incomprehensible sabotage of our ability to preserve our Nation, our way of life, our independence, and our great democracy, which makes us one of the most lucky and freedom loving Country on the planet.

Note by the CEO

Cllr Watson previously raised a similar Notice of Motion which Council resolved at its Ordinary Meeting 2 November 2021 as follows:

RESOLVED

MIN21.803

That Council:

1. Write to the Prime Minister, The Honourable Scott Morrison MP, and the Leader of the Opposition, The Honourable Anthony Albanese MP, outlining the following:
 - a. Council strongly reject the recent proposal by the Australian Greens to cut funding to the Australian Defence Force by 50%.
 - b. Council outline the significant social and economic contributions made to the Shoalhaven through HMAS Albatross and HMAS Creswell.
 - c. Council advise of the devastating effects Defence Force spending cuts could have on local Defence Force members and families, Civilian contractors and employees, local subcontractors and the Shoalhaven economy.
2. Provide a copy of the letter to Member for Gilmore, Fiona Phillips and seek her urgent support.

CL22.137

In response to the above resolution, a letter to the Prime Minister, The Honourable Scott Morrison MP was sent on 30 November 2021.

The letter to The Honourable Anthony Albanese MP was sent on 30 November 2021 and a response was received on 5 January 2022. The response advised the Australian Defence Force (ADF) enjoys bipartisan support across both major parties of government and that this support should be a cause for celebration, not politicking and reiterated Labor's current Defence commitments.

A letter was sent to the Member for Gilmore, Fiona Phillips on 30 November 2021.

CL22.138 Notice of Motion - Sussex Inlet Neighbourhood Centre - Investigations

HPERM Ref: D22/94186

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. Expresses its disappointment at the State Government's decision to bulldoze the Sussex Inlet Community Centre (Neighbourhood Centre) and that the occupants, the Sussex Inlet Foundation for Community Development, would have to vacate the premises in 3 months – (May 2022).
2. Request that an urgent meeting be arranged as soon as possible with NSW Ministry of Health, Shelley Hancock MP, Executive Committee Neighbourhood Centre, the Mayor, Ward 3 Councillors, the CEO and Council Staff to discuss the investigations and outcomes in relation to the current Health site at 161 Jacobs Drive, Sussex Inlet currently occupied by the Sussex Inlet Neighbourhood Centre.
3. Work with the Neighbourhood Centre Executive Committee in any relocation that maybe required from the existing premises to ensure the community services offered by the Neighbourhood Centre continue for the residents of Sussex Inlet.

Background

This matter was subject to a Council recommendation in 2020 to investigate Council acquiring at 161 Jacobs Drive Sussex Inlet from the Dept of Health for community purposes.

Sussex Inlet Foundation for Community Development have occupied the building for over 40 years.

It was disappointing for the Neighbourhood Centre to receive news from Shoalhaven Council that Council had been advised by Illawarra Area Health that they were intending to bulldoze the Sussex Inlet Community Centre (Neighbourhood Centre) and the occupants, the Sussex Inlet Foundation for Community Development would have to vacate the premises in 3 months – (May 2022).

This building has been known as the Neighbourhood Centre for over 40 years and has been used to promote health issues for the township of Sussex Inlet, providing a health bus for residents to attend appointments in Nowra, providing a Centrelink office for the unemployed, providing meeting space for various groups including Cancer support, Diabetes Group, AAA, Seniors Craft Group etc.

The Neighbourhood Centre understood the Shoalhaven Council were having discussions with Illawarra Area Health to ensure the resource remained in community hands. The Neighbourhood Centre believe Shoalhaven Council has been caught unaware that the discussions have been called to a halt with Area Health.

CL22.138

Council advised the Neighbourhood Centre by email on Friday 4 February the Foundation would be receiving an official letter regarding this matter approx. 7-11 February from Area Health.

Disappointingly, the Sussex Inlet Community has supported Area Health during the 40-year period. A local benefactor left the Foundation a substantial amount of money in his will to be used to provide health services to the local community. The Foundation used some of these funds to build a community health Centre on the property to run in conjunction with the Neighbourhood Centre conducting health related projects i.e., Health Bus etc. The building on completion was handed over to Illawarra Area Health with the proviso they could remain in the existing building to maintain other health services albeit by a 20-year lease arrangement. This agreement ran out in November 2021.

When the Neighbourhood Executive were unable to continue serious discussions with Illawarra Area Health, although a few visits by staff of Area Health taking photos etc. did have one meeting with a senior staff member where the case was pleaded with the result, they would be talking with Shoalhaven City Council to see if some deal could be made with the handover of the facility.

The Neighbourhood Executive was aware discussions were undertaken during 2021 where council made offers etc., the last one being the block remains one block (not subdivided) and the health Centre be leased back to the Illawarra Area Health leaving the remaining building being used as a community Centre.

The Neighbourhood Centre has contact Shelley Hancock MP also requesting assistance.

There has been no explanation provided to the Executive Committee of the Neighbourhood Centre on any outcomes between Council and NSW Health – they have only been told to leave the building.

After 40 years of service to the Community I believe they need support from Council, answers to the investigations and assistance with any relocation.

The Neighbourhood Centre offer very valuable services to the residents of Sussex Inlet. If these services were not provided in Sussex Inlet, residents would need to travel to either Nowra or Ulladulla with no public transport available to them.

I seek support from all Councillors

CL22.139 Notice of Motion - Shoalhaven City Council to explore options to access funds from the Emergency Response Fund (ERF) for coastal and estuarine resilience

HPERM Ref: D22/94460

Submitted by: Cllr Serena Copley

Purpose / Summary

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

Recommendation

That Council:

1. Note the Commonwealth Government recently announced \$50million from the Emergency Response Fund (ERF) to continue to protect communities from the effects of natural disaster. The new Coastal and Estuarine Risk Mitigation Program is aimed at reducing the often devastating impacts on local communities of natural disasters and coastal hazards, such as storm surges and coastal inundation.
2. Explore the opportunity to secure funding from the Commonwealth Government from the ERF for coastal and estuarine management in the Shoalhaven by writing to the NSW Government to advocate allocation of available funds on behalf of the Shoalhaven City Council.
3. Notes that coastal management programs are underway in the North, Mid and Southern Shoalhaven to implement actions to manage coastal waterways, which would be significantly assisted by an increase of available funding.

Background

The City continues to experience severe weather conditions most recently an East Coast Low that has seen significant inundation and flooding to coastal villages. Shoalhaven Heads and Lake Tabourie have both been mechanically opened to the sea to mitigate flooding and risk to life and property. This is not an isolated incident, and more weather events of this kind are to be expected with issues associated with climate change.

The Royal Commission into National Natural Disaster Arrangements highlighted the need to mitigate risks to low lying coastal communities. The Coastal and Estuarine Risk Mitigation Program is providing \$50 million in funding to state and territory governments to target projects such as grey infrastructure, including seawalls, groynes, storm surge and tidal barrages in estuaries, as well as nature-based solutions, such as protecting coastal wetland ecosystems, to reduce risk of inundation and shoreline erosion. Applications for the program are expected to open in March.

CL22.139

CL22.140 Notice of Motion - Request for a Report on Shoalhaven Heads Coastal Management Program

HPERM Ref: D22/94468

Submitted by: Cllr Serena Copley

Purpose / Summary

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

Recommendation

That Council:

1. Prepare a report on the status of Shoalhaven Heads Coastal Management Program (CMP) which includes:
 - a. Any studies that have been conducted to date regarding a permanent partial opening of Shoalhaven Heads
 - b. Includes a timeline of completion of CMP
 - c. Outlines the total funding secured to date from the NSW Coastal Estuary Grants program to assist Council to complete the report.
 - d. Any completed investigatory studies that support the permanent partial opening of Shoalhaven Heads
2. As a matter of urgency convenes a public meeting in Shoalhaven Heads to be Chaired by Cllr Copley as Chair of Shoalhaven Heads Estuary Task Force (SHET) to include:
 - a. The Member for Kiama,
 - b. Director of City Development,
 - c. Manager Environmental Services,
 - d. Representatives of DPE,
 - e. Consultants that have contributed to the CMP to date in order to consult with the Shoalhaven Heads community about the future plan regarding the management of Shoalhaven Heads.

Background

The Coastal Management Program for Shoalhaven Heads has been in progress for some time, with a range of studies being undertaken. In light of recent events, a report on the progress of the CMP would be of benefit to all stakeholders.

CL22.140

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.