

## Extra Ordinary Meeting

**Meeting Date:** Monday, 01 August, 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.

Shoalhaven City Council live streams it's Ordinary Council Meetings and Extra Ordinary Meetings. These can be viewed at the following link

<https://www.shoalhaven.nsw.gov.au/Council/Meetings/Stream-a-Council-Meeting>.

### 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

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2. **Declarations of Interest**
3. **Reports**

### City Performance

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- CL22.323 Policies
1. Revenue - Overdue Interest Rate Policy
  2. Revenue - Stormwater Management Policy
  3. Sale of Land to Recover Unpaid Rates and Charges Policy
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## CL22.322 Policy - Property Addressing & Road Naming

**HPERM Ref:** D22/128129

**Department:** Information Services

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

**Attachments:** 1. DRAFT - Property Addressing Policy [↓](#)  
2. DRAFT - Road & Place Naming Policy [↓](#)

### Reason for Report

The *Property Addressing & Road Naming Policies* are presented for adoption. The Local Government Act requires that all Council policies should be reviewed within 12 months of an election of a new Council.

### Recommendation

That Council reaffirm the following Policies with noted changes:

1. Property Addressing Policy
2. Road & Place Naming Policy

### Options

1. Adopt the recommendation as written.

Implications: The adopted Policies will be updated to include minor amendments which reflect Council's position and process which is in line with the requirements and guidelines put forward by the NSW Geographical Names Board (GNB).

2. Not adopt the recommendation.

Implications: Council can request further details or make other changes.

### Background

The Property Addressing and Road & Place Naming Policies have been reviewed in line with the updated NSW Addressing and Place Naming Policy and Guidelines.

The State Government created these Policies to clarify roles and responsibilities related to addressing and place naming as well as to streamline processes and ensure a consistent, quality and service-driven approach across NSW.

Administrative changes have been made to both Council policies to reflect updates to the NSW GNB Policies and manuals.

### Property Addressing

Council is the authority on property addressing and under the guidelines of the NSW Address Policy and User Manual expected to pursue conformant numbering and support the practice of standardised addressing. This can be enforced through the provisions of the Local Government Act 1993.

CL22.322

This [Policy](#) was initially endorsed by Council in July 2014 and has been successful in defining the guidelines Council uses for property addressing.

The changes to this Policy were made to ensure that all NSW Addressing Policies and Guidelines and links to related documents were current.

#### Road & Place Naming

Under the Roads Act 1993 the Council of a Local Government area and the Roads and Maritime Service (RMS) are the road naming authorities. The GNB must also be notified of any new road names and has authority to assign names to places under the Geographical Names Act 1966.

This [Policy](#) was originally endorsed by Council in January 1974 and has been successful in defining the guidelines Council uses for any road naming proposals.

Changes to this Policy were made to ensure that all NSW Addressing Policies and Guidelines and links to related documents were current.

The Policy has also been updated to include Place Naming to reflect ownership of tasks and assist stakeholders to understand the application process. It is proposed to be renamed Road & Place Naming Policy.

#### **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 changes of significance.

#### **Policy Implications**

All policies included in this Report are proposed for reaffirmation as the nature of the changes are minor and therefore have no implications or deviation from the existing intent of the current approved Policies.

#### **Financial Implications**

Changes proposed to the Policies will have no financial implications to the current approved budget.

#### **Risk Implications**

There are no risk implications associated with this Report.

CL22.322

# DRAFT

## Property Addressing

<b>Adoption Date:</b>	29/07/2014
<b>Amendment Date:</b>	18/04/2017
<b>Minute Number:</b>	MIN14.490, MIN17.305
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Performance
<b>Record Number:</b>	POL22/83

## Property Addressing

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### 1. Purpose

The purpose of this policy is to detail Council's policies in relation to assigning property addresses in the Shoalhaven local government area.

### 2. Statement

This policy statement is based on and is to be used in conjunction with:

- The Australian/New Zealand Standard for Urban and Rural Addressing AS/NZ 4819:2011
- NSW Address Policy and User Manual, including NSW Retrospective Address
- Policy (as amended)
- The Surveying and Spatial Information Regulation 2012

### 3. Provisions

#### 3.1. Assigning Property Addresses in the City of Shoalhaven

Council will apply this policy for Property Addresses within the City of Shoalhaven, and it will be incorporated within Council's overall document of policies for planning and development within the City.

General requirements:

The assignment of all property addresses will comply with the guidelines and policies as per the NSW Address Policy and the general principles of addressing as outlined in the NSW Address Policy and User Manual.

Additional local criteria as follows:

- New subdivisions are to be assigned property address numbers prior to registration of the deposited plan
- All private roads within complex sites are to be named as required by Council's Road Naming Policy to allow the allocation of property numbers
- Council will notify all relevant authorities of new or amended property addresses.
- Princes Hwy property addresses with an alpha prefix will be reviewed in accordance with the NSW Retrospective Address Policy
- Council will apply the NSW Retrospective Address Policy where problematic or confusing address issues are identified
- The Geographical Names Board will be consulted if the NSW Retrospective Address Policy cannot resolve the addressing issue in the first instance
- Property owners will be directed to Australia Post if they have an issue relating to their postcode

#### 3.2. Alteration of an Existing Property Address

- All requests for altered property addresses must be made in writing on the Council's Property Address Alteration Form and a non-refundable fee may be charged
- In considering the request for alteration Council will determine whether the property number requires alteration and is in compliance with this policy

#### Property Addressing

- Requests based on religious beliefs and superstition will not be considered as over time it may have an adverse impact and provide no public benefit

### 3.3 Allocation of Urban Addresses

Address numbers shall be:

- i. Unique, clear, logical, and unambiguous
- ii. Sequential positive integers commencing from the datum point
- iii. Odd numbers on the left side of the road (from the datum point) and even on the right side. An exception to this principle is where the existing numbering pattern of an area runs opposite to this instruction - in which case numbering shall continue as per existing layout
- iv. Created without prefixes, in the form of preceding alphabetical characters
- v. Singular, i.e., no number ranging shall be used
- vi. Distinct from Lot Numbers i.e., lot numbers shall not be used in place of an assigned rural or urban address number
- vii. Numbering shall adhere to these principles, regardless of individual preferences regarding number or naming types
- viii. Assigned in a manner considering possible future development and reserving numbers as appropriate

### 3.4 Allocation of Rural Addresses

The system for determining address numbers in rural and semi-rural areas is based on the distance of the access point from the road datum point. This distance is measured in metres and then divided by 10 - after which the number is then rounded to the nearest odd number (for points on the left side of the road from the datum point), or nearest even number (for points on the right side of the road).

## 4. Application Process & Procedure

General Requirements:

- Council's Geographic Information Systems (GIS) Unit administers the assignment of property addresses
- Property addresses are to be assigned to new subdivisions prior to registration of the deposited plan in accordance with the Surveying and Spatial Information Regulation 2012
- All property addresses must comply with this policy and adhere to the NSW Addressing Policy

### Statement of Procedures

An existing property owner may apply to Council to request a street number be allocated to their property or to request a change of address to their existing property number at any time.

The property owner is required to provide a detailed reason about why they require a number or have their existing number changed.

#### Property Addressing

- i. A written application is received by Council request the allocation of a number or a change to the existing number
- ii. In the case of a change of number payment of the relevant fee must also be received
- iii. Council officers make an assessment, allocate number, and notify the property owner of the outcome
- iv. Reflective Address plates are issued to the property (rural properties only)

In the case of a new development or subdivision an application for lot numbering must be received prior to the Subdivision Certificate being issued. Requests for property numbering may be received in the following ways:

- i. A development application is received and an internal referral for addressing is generated
- ii. Council is notified that an application for complying development has been lodged via the planning portal. An assessment of the development is carried out and appropriate numbers allocated
- iii. An application is received from private consultants as a result of the creation of a new development/subdivision. Once all required road naming is finalised, numbers are allocated to the lots in order for the subdivision certificate to be prepared and lodged

#### 5. Review

This policy statement will be reviewed within one year of the election of every new Council.

#### 6. Reference

New South Wales Address Policy and User Manual

[https://www.gnb.nsw.gov.au/\\_data/assets/pdf\\_file/0004/229216/NSW\\_Address\\_Policy\\_and\\_User\\_Manual\\_2021.pdf](https://www.gnb.nsw.gov.au/_data/assets/pdf_file/0004/229216/NSW_Address_Policy_and_User_Manual_2021.pdf)

New South Wales Retrospective Address Policy

[https://www.gnb.nsw.gov.au/\\_data/assets/pdf\\_file/0004/229216/NSW\\_Address\\_Policy\\_and\\_User\\_Manual\\_2021.pdf](https://www.gnb.nsw.gov.au/_data/assets/pdf_file/0004/229216/NSW_Address_Policy_and_User_Manual_2021.pdf)

The Surveying and Spatial Information Regulation 2012

[http://www.lpi.nsw.gov.au/\\_data/assets/pdf\\_file/0009/171999/Surveying\\_and\\_Spatial\\_Information\\_Regulation\\_2012.pdf](http://www.lpi.nsw.gov.au/_data/assets/pdf_file/0009/171999/Surveying_and_Spatial_Information_Regulation_2012.pdf)

The Surveying and Spatial Information Regulation 2012

<https://legislation.nsw.gov.au/view/whole/html/inforce/2012-08-31/sl-2012-0436>

# DRAFT

## Road & Place Naming

<b>Adoption Date:</b>	29/01/1974, 10/09/1991, 17/12/1991, 17/08/1993, 16/03/1999
<b>Amendment Date:</b>	25/06/2009, 23/11/2012, 29/07/2014, 18/04/2017
<b>Minute Number:</b>	MIN74.178, MIN91.2399, MIN91.3218, MIN93.2072, MIN99.330, MIN04.1175, MIN09.792, MIN12.1271, MIN14.491, MIN17.305
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Performance
<b>Record Number:</b>	POL22/91



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**DRAFT - Road & Place Naming Policy**

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**1. Purpose**

The purpose of this policy statement is to bring together and detail Council's policies in relation to the naming of roads in the Shoalhaven local government area. Council policy reflects the guidelines established by the Geographical Names Board (GNB) of NSW.

**2. Statement**

This policy statement is based on:

- Roads Act 1993
- The Roads (General) Regulations 2008
- The Australian/New Zealand Standard for Rural and Urban Addressing (AS/NZS 4819:2011)
- NSW Address Policy and User Manual, including NSW Retrospective Address Policy (as amended)
- Geographical Names Board of NSW Policy, Place Naming
- Consolidation of Council Minutes

**3. Provisions****3.1. Road Names within the City of Shoalhaven**

Council will apply this policy for Road Naming within the City of Shoalhaven, and it will be incorporated within Council's overall document of policies for planning and development within the City.

**3.1.1. Public Roads****General Requirements**

The naming or re-naming of public roads must comply with the guidelines and policies as per the NSW Address Policy and the principles of road naming as outlined in the NSW Address Policy and User Manual. The GNB is the final determining body for the naming of roads, places, and infrastructure.

Additional local criteria as follows:

- A relationship to the locality e.g., flora & fauna, aboriginal, historical etc. is desirable but not obligatory
- For large subdivisions with multiple roads an overall theme for the naming of roads is recommended
- Due consideration be given to the use of Aboriginal names for appropriate features within the City (added through resolution of 17.12.91 – Minute No. 91.3218). – see also clause 3.2 below
- Council will apply the NSW Retrospective Address Policy where problematic or confusing road naming issues are identified
- Any request for commemorative road naming will be assessed against the GNB guidelines

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**DRAFT - Road & Place Naming Policy**

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**3.1.2. Private Roads**

## General Requirements

The naming or re-naming of Private roads should meet the following criteria:

- All names to meet the same requirements as public roads.
- Proposals should be generated by the applicant in consultation with the Council and once verified by Council will be submitted to the GNB for consideration.
- All private roads within complex sites are to be named as required by the NSW Road Naming Policy to allow the allocation of street numbers.
- All private road signs must not include the Council logo and be clearly signposted as "Private Road".
- Any request for commemorative road naming will be assessed against the guidelines

**3.1.3. Crown Roads**

## General Requirements

The naming or re-naming of Crowns roads should meet the following criteria:

- All names to meet the same requirements as public roads
- Proposals should be generated by the applicant in consultation with the Council and once verified by Council be submitted to the GNB for consideration
- All crown road signs must not include the Councils logo and be clearly signposted as "Privately Maintained Road"
- Any request for commemorative road naming will be assessed against the GNB guidelines

**3.2. Roads in the Bomaderry Area**

Future road names (from 29/1/74) in respect of the area bounded by Cambewarra Road, Princes Highway and Meroo Street are to be of aboriginal origin to achieve uniformity as far as practicable in view of the number of roads already allocated aboriginal names in the subject section of Bomaderry.

**3.3 Place Naming / Renaming**

All requests to name places in the Shoalhaven should be submitted in writing and meet the GNB policy and requirements as set out in the Geographical Names Boards Place Naming Policy.

- Place Naming is required for any natural area, place of significance, new locality or infrastructure
- The custodian of the asset within Council should carry out consultation with the community to determine sentiment and support for the new name prior to any submission to the GNB
- Requests for place naming will require endorsement from Council prior to being submitted to the GNB

**DRAFT - Road & Place Naming Policy**

## 4. Application Process & Procedure

### General Requirements

- Council's Geographic Information Systems (GIS) Unit administers road naming and place naming.
- The applicant will be required to pay the scheduled fee as per Council's current fees and charges and provide all required documentation including map of subdivision, origin of road name and extent of new road(s) prior to processing the application.
- Proposed road names in new subdivisions must be approved by Council as part of the subdivision approval process.
- Any road name, whether for a public, private or crown road within an urban, rural or community subdivision must comply with this policy.
- The subdivision developer is required to supply road name signs and maintain them until Council accepts maintenance of the roads as public roads.
- Council's Road and Place Naming Policy is based on the guidelines and policy of the GNB, who are the determining authority for naming of all roads, places and infrastructure in New South Wales.
- Commemorative naming shall only be considered if it meets all guidelines and policy of the Geographical Names Board.
- Any request for commemorative naming shall be accompanied by letters of support from the community including the relevant CCB, Progress Association or Local Aboriginal Land Council if the name is Indigenous in origin.
- Appeals regarding the outcome of a request for road or place names should be lodged with the Geographical Names Board.

### Statement of Procedures

An application is received containing a list of proposed road name(s), a detailed origin of name(s), subdivision details, supporting letters from CCB or Progress Association if request involves commemorative naming, letter of support from Local Aboriginal Land Council if the proposed name is indigenous in origin.

Application for Place Naming must include the above supporting documentation and be endorsed by Council prior to being submitted to the GNB.

- i. Council Officers check that proposed names are suitable and comply with Council Policy and the GNB guidelines. If the name does not comply the application will be rejected.
- ii. In the event of rejection, the applicant will be notified and provided with reasons for the rejection. In the event of support, action will proceed as follows:
- iii. Council will arrange exhibition of the proposal. Exhibition will involve the notification of the proposal, which will include but is not limited to:
  - Publishing a notice in a Local Newspaper and Council's website
  - Notification of the authorities prescribed under the Roads (General) Regulation 2018 will be via the NSW Place and Road Naming Proposal System

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**DRAFT - Road & Place Naming Policy**

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- iv. Council may not proceed with a proposal to name or rename a road against an objection made by Australia Post, the Registrar-General, the Surveyor-General or the Traffic for NSW (in the case of a classified road), except with the approval of the Minister
- v. The GNB will also act if it receives submissions or complaints from any source on road naming proposals.
- vi. At the close of the exhibition period:
  - Any objections will be reported to Council. The naming proposal will then proceed with the name proposal or reject the proposal and notify the proponent
  - If Council does not receive any objections, then the road naming proposal is deemed to be an acceptable road name to adopt under this policy
- vii. Should Council decide to proceed with the proposed road name it can then adopt the name, Council must:
  - Publish notice of the new name in:
  - The Government Gazette
  - A Local Newspaper – giving (in the case of a road that is being named for the first time) a brief description of the location of the road.
- viii. Once the new road name is adopted it will be entered into Council's systems for future use.

**5. Review**

This policy statement will be reviewed within one year of the election of every new Council.

**6. Reference**

New South Wales Address Policy and User Manual

[https://www.gnb.nsw.gov.au/\\_data/assets/pdf\\_file/0004/229216/NSW\\_Address\\_Policy\\_and\\_User\\_Manual\\_2021.pdf](https://www.gnb.nsw.gov.au/_data/assets/pdf_file/0004/229216/NSW_Address_Policy_and_User_Manual_2021.pdf)

New South Wales Retrospective Address Policy

[https://www.gnb.nsw.gov.au/\\_data/assets/pdf\\_file/0004/229216/NSW\\_Address\\_Policy\\_and\\_User\\_Manual\\_2021.pdf](https://www.gnb.nsw.gov.au/_data/assets/pdf_file/0004/229216/NSW_Address_Policy_and_User_Manual_2021.pdf)

Geographical Names Board of NSW Policy – Place Naming

[https://www.gnb.nsw.gov.au/\\_data/assets/pdf\\_file/0017/220148/GNB\\_Place\\_Naming\\_Policy.pdf](https://www.gnb.nsw.gov.au/_data/assets/pdf_file/0017/220148/GNB_Place_Naming_Policy.pdf)

Roads Act 1933

<https://legislation.nsw.gov.au/view/html/inforce/current/act-1993-033>

The Roads (General) Regulations 2008

<https://legislation.nsw.gov.au/view/html/inforce/current/sl-2008-0156>

**CL22.323 Policies**

- 1. Revenue - Overdue Interest Rate Policy**
- 2. Revenue - Stormwater Management Policy**
- 3. Sale of Land to Recover Unpaid Rates and Charges Policy**
- 4. Jerberra Payment Relief Policy**
- 5. Rates and Other Monies - Delegation of Authority to Write Off Policy**

**HPERM Ref:** D22/215359**Department:** Finance**Approver:** Kevin Voegt, Director - City Performance

**Attachments:**

1. DRAFT - Revenue - Overdue Interest Rate Policy - POL22/88 [↓](#)
2. DRAFT - Revenue - Stormwater Management Policy - POL20/13 [↓](#)
3. DRAFT - Sale of Land to Recover Unpaid Rates and Charges Policy - POL22/92 [↓](#)
4. DRAFT - Jerberra Payment Relief Policy - POL22/79 [↓](#)
5. DRAFT - Rates and Other Monies - Delegation of Authority to Write Off Policy - POL22/85 [↓](#)

**CL22.323****Reason for Report**

The attached Policies are presented for adoption. The Local Government Act requires that all Council policies should be reviewed within 12 months of an election of a new Council.

**Recommendation**

That Council adopt the following Policies:

1. Revenue – Overdue Interest Rate Policy
2. Revenue - Stormwater Management Policy
3. Sale of Land to Recover Unpaid Rates and Charges Policy
4. Jerberra Payment Relief Policy
5. Rates and Other Monies – Delegation of Authority to Write Off Policy

**Options**

1. Adopt the recommendation as written

Implications: Updated Policies will be adopted within the 12-month timeframe of a new elected Council

2. Not adopt the recommendation

Implications: Council can request further details, seek community input, or make other changes

## Background

1. The Revenue – Overdue Interest Rate Policy was adopted by Council on 22 December 1992 and reaffirmed on 28 September 2004 and 23 April 2013.  
This Policy is presented to Council with only minor changes to update the names of the responsible teams.
2. The Revenue – Stormwater Management Policy was adopted by Council on 19 January 2016 and reaffirmed on 30 April 2019.  
This Policy is presented to Council with only minor changes to update the names of the responsible teams.
3. The Sale of Land to Recover Unpaid Rates and Charges Policy was adopted by Council on 24 September 2013 and amended on 15 August 2017.  
This Policy is presented to Council with only minor changes to update the names of the responsible teams.
4. The Jerberra Payment Relief Policy was adopted by Council on 21 July 2015 and amended on 15 August 2017.  
This Policy is presented to Council with only minor changes to update the names of the responsible teams.
5. The Rates and Other Monies – Delegation of Authority to Write Off Policy as adopted by Council on 7 February 1995 and was reaffirmed on 23 April 2013.  
This Policy is presented to Council with minor changes:
  - i) Increase from \$4,000 to \$5,000 and above for which rates and charges may be written off only by resolution of Council.
  - ii) Increase from \$4,000 to \$5,000 and above for a debt, which may be written off only by resolution of Council.
  - iii) To update the names of the responsible teams.

## Policy Implications

All Policies included in this Report are proposed for reaffirmation as the nature of the changes are minor and therefore have no implications or deviation from the existing intent of the current approved Policies.

CL22.323

## Revenue – Overdue Interest Rate

<b>Adoption Date:</b>	22/12/1992
<b>Reaffirmed:</b>	28/9/2004, 23/04/2013
<b>Amendment Date:</b>	21/7/2015, 15/08/2017
<b>Minute Number:</b>	MIN92.3813, MIN04.1165, MIN09.128, MIN13.363, MIN17.701
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Performance
<b>Record Number:</b>	POL22/88



## ~~t0RI0709~~Revenue – Overdue Interest Rate

### 1. Purpose

To ~~the~~ specify Council's policy in relation to interest charges applicable to overdue rates accounts and ensure the Revenue ~~Team~~ Management Unit has clearly documented guidelines.

### 2. Statement

This policy statement is based on Council Minute 92.3813 of 22 December 1992. The original references made to relevant sections in the Local Government have been updated due to the introduction of the Local Government Act 1993. Council reaffirmed the policy in its revised format by Minute 04.1165 on 28 September 2004.

### 3. Provisions

As a matter of policy, the rate of interest applicable to overdue rates and charges under Section 566 of the Local Government Act 1993 will be the maximum interest rate payable on overdue rates and charges as determined by the ~~Independent Regulatory and Pricing Tribunal~~ Office of Local Government and published annually via Media Release and publicised in the NSW Government Gazette.

The only exceptions to this policy are where applications under either the Debt Recovery and Hardship Policy ~~Revenue Hardship Policy~~ or the Jerberra Payment Relief Policy have been approved, ~~or if the Revenue – Pensioner Rates and Charges – Arrears and Interest Policy applies.~~

### 4. Implementation

The City Performance Directorate ~~Finance Corporate & Community Services Group~~ will administer this policy.

### 5. Review

This policy will be reviewed within one year of the election of every new Council.

## Revenue – Stormwater Management Policy

<b>Adoption Date:</b>	19/01/2016
<b>Reaffirmed:</b>	30/04/2019
<b>Amendment Date:</b>	15/08/2017, 15/05/2018
<b>Minute Number:</b>	MIN16.19, MIN17.701, MIN18.353, MIN19.265
<b>Review Date:</b>	01/06/2020
<b>Directorate:</b>	City Performance
<b>Record Number:</b>	POL20/13

## 10RI0706Revenue – Stormwater Management

### 1. Purpose

Councils have primary responsibility for stormwater management within their local government area. This includes managing both stormwater quality and quantity in their area and ensuring that potential negative stormwater impacts are not transferred across council boundaries.

In 2006, the addition of Section 496A to the Local Government Act 1993, made by the Local Government Amendment (Stormwater) Act 2005, enabled councils to make and levy an annual charge for Stormwater Management Services for each parcel of rateable land for which a Stormwater Management Service is provided. The charge applies to parcels of land categorised for rating purposes as “Residential” or “Business” (including all sub categories), not being vacant land or land owned by the Crown, or land held under a lease for private purposes granted under the Housing Act 2001 or The Aboriginal Housing Act 1998 or as defined further in this Policy.

### 2. Statement

This policy provides the guidelines for administering the levying of the Stormwater Management Charge on eligible properties within the Shoalhaven City Council area in accordance with Section 496A of the Local Government Act 1993 and clauses 125A and 125AA of the Local Government (General) Regulation 2005.

### 3. Provisions

Increasing urbanisation has resulted in a significant increase in impervious surfaces and has significantly increased the volume of stormwater flowing into urban waterways. These flows contribute substantial loads of litter, sediment and chemicals to urban waterways, as well as causing flooding in some areas.

Therefore, appropriate asset management (through maintenance and replacement of drains and stormwater treatment measures) and the harvesting and reuse of stormwater is becoming increasingly important. Stormwater management involves the use of structural (e.g., physical infrastructure and treatment techniques) and non-structural (e.g., education programs and monitoring) measures to both improve stormwater quality and mitigate excessive flows. This contributes to pollution abatement, protection of aquatic ecosystems health and flood mitigation.

The purpose of the Stormwater Management Charge is to allow council to raise additional revenue to cover some or all of the costs of providing new/additional stormwater management services within the local government area (LGA). ~~The Stormwater Management Charge will cover costs additional to those which have been previously funded from Council's general income.~~

#### 3.1 Stormwater Management Charge restrictions:-

- The charge cannot be levied when Council has a stormwater related special rate or special variation in place for stormwater management or a drainage charge.
- The charge must not exceed the estimated cost of implementing any new/additional stormwater measures.
- The charge cannot be used for dealing with stormwater run-off from public land.

#### 3.2 Land Eligible to be charged the Stormwater Management Charge

#### ~~10RI0706~~Revenue – Stormwater Management

Shoalhaven City Council will apply the charge to parcels of rateable land categorised as Residential or Business under the Local Government Act 1993 within an urban area, that benefit from proposed new/additional stormwater management services. For this purpose “Urban” means land within a city, town or village. This may differ from the description of urban contained in Council’s LEP. Shoalhaven City Council has identified cities, towns and villages by plotting such areas within Council’s GIS mapping system. ~~This system will be updated regularly by the Property Unit ?? to accommodate newly created subdivisions and urban creep.~~

### 3.3 Land Exempt from the Stormwater Management Charge

- Public land, such as:
  - Crown land
  - Council owned land
- Land held under lease for private purposes granted under the Housing Act 2001 or the Aboriginal Housing Act 1998
- Vacant land, as in land containing no buildings, car parks or large areas of material such as concrete (i.e., no impervious surfaces)
- Rural residential or rural business land (i.e., land not located within a city, town or village)
- Land belonging to charities and public benevolent institutions
- Parcels of land already contributing to a drainage charge through a special rate or special variation where the primary purpose of the charge is stormwater management.

### 3.4 Change of Status ~~Ppart~~ ~~Wway~~ ~~Tt~~ through the ~~Yyear~~

If a parcel of land is vacant at the start of the rating period and a building is constructed on the land during the year, the charge will be applied from the commencement of the next rating quarter. Should the subject property be rated as a ‘supplementary levy’ in the current year, all rates and charges will be apportioned accordingly.

### 3.5 Charges to Apply

Limits are set as per the Local Government (General) Regulation 2005, Section 125AA:

- A flat fee for urban Residential and Business properties at \$25
- A flat fee for urban Residential and Business strata units at \$12.50

## 4. Implementation

The responsibility for the implementation and review of this policy shall be with the Director ~~City Performance. of Finance Corporate and Community Services.~~

## 5. Review

The ~~City Performance Directorate Finance Corporate & Community Services Group~~ will review this policy:

- Directly prior to the Rate Levy for each new rating year; or
- As a result of a change in legislation that affects this policy

## 6. APPENDIX

- Section 496A Making and levying of annual charges for stormwater management services (*extracted from the Local Government Act, 1993*)

| ~~t0RI0706~~Revenue – Stormwater Management

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- Section 125A Annual charges for stormwater management services (*extracted from the Local Government (General) Regulation, 2005*)
- Section 125AA Maximum annual charge for stormwater management services (*extracted from the Local Government (General) Regulation, 2005*)

**10RI0706Revenue – Stormwater Management**

**496A Making and levying of annual charges for stormwater management services**

- (1) A council may, in accordance with the regulations, make and levy an annual charge for the provision of stormwater management services for each parcel of rateable land for which the service is available.
- (2) Subsection (1) does not authorise or permit a council to make or levy an annual charge for the provision of stormwater management services for rateable land that is:
  - (a) owned by the Crown, and
  - (b) held under a lease for private purposes granted under the Housing Act 2001 or the Aboriginal Housing Act 1998.

**Note.** Section 555 (1) (a) provides that land owned by the Crown is not rateable land unless it is held under a lease for a private purpose.

**125A Annual charges for stormwater management services**

- (1) For the purposes of section 496A of the Act, a council may make or levy an annual charge for stormwater management services only in respect of urban land that is categorised for rating purposes as residential or business.

**Note.** Part 3 of Chapter 15 of the Act allows a council to categorise each parcel of land within its area.

- (2) A council may not make or levy an annual charge for the provision of stormwater management services in respect of a parcel of land if:
  - (a) the parcel of land is vacant land, or
  - (b) the parcel of land is subject to a special rate or charge that has been made for or towards meeting the cost of any works, services, facilities or activities the primary purpose of which is the provision of stormwater management services.
- (3) A council may not make or levy an annual charge for the provision of stormwater management services if the council has received an instrument from the Minister under section 508 or 508A of the Act which specifies the percentage by which the council may vary its income and the instrument imposes a condition with respect to that variation to the effect that the primary purpose of the variation is to fund stormwater management services.
- (4) A council may not make or levy an annual charge for the provision of stormwater management services for a parcel of land that exceeds:
  - (a) if the anticipated cost of providing stormwater management services to the parcel of rateable land is less than the maximum annual charge in respect of the parcel of rateable land—the anticipated cost, or
  - (b) if the anticipated cost referred to in paragraph (a) is equal to or greater than the maximum annual charge in respect of the parcel of rateable land—the maximum annual charge for the parcel of rateable land.
- (5) In this clause:

***maximum annual charge***, in respect of a parcel of land, means the maximum annual charge that may be made or levied by a council in respect of the parcel of rateable land in accordance with clause 125AA.

***urban land*** means land within a city, town or village.

---

**10RI0706Revenue – Stormwater Management****125AA Maximum annual charge for stormwater management services (section 510A)**

- (1) The maximum annual charge for stormwater management services that may be levied in respect of a parcel of rateable land is:
  - (a) for land categorised as residential (other than land referred to in paragraph (b))—\$25, and
  - (b) for a lot in a strata scheme that is categorised as residential—\$12.50, and
  - (c) for land categorised as business (other than land referred to in paragraph (d))—\$25, plus an additional \$25 for each 350 square metres or part of 350 square metres by which the area of the parcel of land exceeds 350 square metres, and
  - (d) for a lot in a strata scheme that is categorised as business—the greater of the following:
    - (i) \$5,
    - (ii) the relevant proportion of the maximum annual charge that would apply to the land subject to the strata scheme if it were a parcel of land subject to paragraph (c).
- (2) In this clause, the relevant proportion, in relation to a lot in a strata scheme, is the proportion that the unit entitlement of that lot in the scheme bears to the aggregate unit entitlement of the scheme.
- (3) Words and expressions used in this clause have the same meanings as they have in the *Strata Schemes Management Act 1996*.



## Sale of Land to Recover Unpaid Rates and Charges

<b>Adoption Date:</b>	24/09/2013
<b>Amendment Date:</b>	15/08/2017
<b>Minute Number:</b>	MIN13.961, MIN17.701
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Performance
<b>Record Number:</b>	POL22/92

**10RI0703 Sale of Land to Recover Unpaid Rates and Charges**

**1. Purpose**

Under Section 713 of the Local Government Act 1993, Council has the power to sell land to recover unpaid rates and charges. Council must strictly comply with the legislative requirements and the purpose of this Policy is to provide the clear objective to be achieved from the sale of land in that regard.

**2. Statement**

**2.1. Background**

This Policy consolidates a number of relevant matters into a single and accessible document for use by Council and the public. The Policy includes the conditions to be met before this policy is enacted and the procedure that shall be applied to the sale of land to recover unpaid rates and charges.

Related Policies include:

[Rates - Small Lot Rural Subdivisions - Dealing with Unpaid Rates and Charges](#) and [Charges](#)

Development and/or Disposal of Council Lands.

**2.2. Introduction**

The sale of any land to recover unpaid rates and charges that have been outstanding for the legislated periods of time is regarded as a last resort enforcement measure to be undertaken only after other Council debt management processes have failed.

The benefit of selling land for unpaid rates and charges is that Council shall, in most instances, be able to recover all monies owed. Furthermore, the land becomes a revenue producing property again. That is, the new owner is a new ratepayer. The objectives of actions to sell land for unpaid rates and charges are:

- To sell the land for an amount equal to, or more, than, the estimated value of the land, and
- To recover the following amounts from the proceeds of the sale;
  - All expenses incurred with the sale,
  - The amount due to Council including rates, charges, interest and collection costs,
  - Any enforcement expenses, and
  - Any other amount due to Council in respect of the land.

For the purpose of the sale of land for unpaid rates and charges, in accordance with Section 713 of the Local Government Act 1993, a Council may sell:

- Any land (including vacant land) on which any rate or charge has remained unpaid for more than five (5) years from the date on which it became payable,
- Any vacant land on which any rate or charge has remained unpaid for more than one (1) year from the date on which it became payable if:
  - Council obtains a valuation of the land from the Valuer-General; and
  - The total amount of unpaid rates or charges on the land exceeds the valuation, and
  - The land is sold within six (6) months of the date of the valuation.

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~~10RI0703 Sale of Land to Recover Unpaid Rates and Charges~~

The above are the minimum requirements for sale of land for unpaid rates and charges.

### 3. Provisions

To provide greater transparency and public scrutiny of Council's decisions to sell land for unpaid rates and charges a checklist (Appendix A) and detailed procedure is to be followed. The checklist will accompany any report to Council recommending the sale of land under the terms of this Policy.

### 4. Implementation

This Policy will be implemented by the [City Performance Directorate](#)~~Finance Corporate & Community Services Group~~. Inputs into the procedures and reporting will be required by the [City Development and City Services Directorates](#)~~Planning & Development Services and Assets and Works Groups~~.

### 5. Review

This Policy will be reviewed within one year of the election of every new Council, or earlier if required.

10RI0703 Sale of Land to Recover Unpaid Rates and Charges

**Appendix A – Checklist**

**CHECKLIST - SALE OF LAND FOR UNPAID RATES & CHARGES**  
**\* Required under Section 713 LGA**

*Property address (include Lot & DP & area):	Trim File No.:
*Owner Details:	Property ID:
*Date last payment received:	Period of ownership:
*Date rates/charges where last up to date:	Current postal address or last known address for service of notices:
*Current amount outstanding: Dated to:	Current Property Valuation & Base Date:
Property description (ie vacant / dwelling):	

CL22.323 - Attachment 3

**10RI0703 Sale of Land to Recover Unpaid Rates and Charges**

**Approval Process**

Item	Action	Responsibility	Signed Completed	Trim Reference
*1	Outstanding debt identified and evidence summarised and approval given for initial actions to proceed with recovery of unpaid rates & charges through sale of land for Unpaid Rates. (sec 713 (1) & (2) of the LG Act)	Director <a href="#">City Performance Finance Corporate &amp; Community</a>		
2	Summarise notices of sale/transfers and ownership details. (LPI)	Chief Financial Officer		
3	Summarise Geographic Information System including: mapping, zones, development and certificates. (GIS)	Chief Financial Officer		
4	Notify applicable CCBs of identified land for instigation of sale procedure and seek comments. Provide details to CCB of information at item 3. (no personal information to be provided)	Chief Financial Officer		
5	Conduct searches including: - Title Search (caveats, mortgage & covenants) - Zoning & DA Entitlements - Community or Operational classification - Summarise other planning instruments eg SEPP's, DCP, policy, contamination, easements, other restrictions, and tenancy issues. - Outstanding orders - Probate Search - Current market valuation assessment (if necessary)	Chief Financial Officer		
6	Confirm property information assessed and comments tendered regarding intention to proceed to sale.	Director <a href="#">City Development Planning Environment &amp; Development</a>		
7	Confirm property information assessed and comments tendered regarding intention to proceed to sale.	Director <a href="#">City Services Assets &amp; Works</a>		
8	Assess all details & comments tendered and Approve/Reject further actions to proceed with sale.	Director <a href="#">City Performance Finance Corporate &amp; Community</a>		
9	Notify applicable CCBs of intention/rejection to proceed with sale. (no personal information to be provided)	Chief Financial Officer		
10	Report to Property Review Committee. Receipt of minutes to proceed.	Chief Financial Officer		
11	Report to Property Steering Committee. Report to General Council Meeting.	Chief Financial Officer		
*12	Clerks Certificate signed off by the General Manager or Public Officer in accordance with Sec. 713 (3) of the LG Act.	<a href="#">Chief Executive Officer General Manager</a>		

**10RI0703 Sale of Land to Recover Unpaid Rates and Charges**

Item	Action	Responsibility	Signed Completed	Trim Reference
13	Inform all owners, CCB and interested parties advising of proposed sale, including estimate of timeframe.	Chief Financial Officer		
*14	Advertisements in local media, websites, Government Gazette (not less than 3 months prior to the auction date & auction must not take place more than 6 months after the set date). In accordance with Gen. Reg. – 133 & Sec 715 (1) of LG Act.	Chief Financial Officer		
15	Obtain 149 Certificate and Planning Instruments / Sewer Diagrams as noted at item 5.	Chief Financial Officer		
16	Sale to Proceed / Sale to be Withdrawn If withdrawn please state reason:	Chief Financial Officer		

*All proceedings to halt if, at any time, an objection or investigation warrants further discussion or signature of the Responsible Officer is not obtained.*

# Jerberra Payment Relief Policy

<b>Adoption Date:</b>	21/07/2015
<b>Amendment Date:</b>	15/08/2017
<b>Minute Number:</b>	MIN17.701
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Performance
<b>Record Number:</b>	POL22/79



## Jerberra Payment Relief Policy

### 1. Purpose

Shoalhaven City Council recognises the fact that the introduction in July 2015 of a Special Rate for Roads and Electricity Infrastructure works within Jerberra Estate based on a 10 year loan may place financial hardship on landowners in the Estate. This policy provides a mechanism for Jerberra Estate landowners in hardship circumstances to receive some financial relief, while minimising any financial impacts on Council.

### 2. Statement

This policy only applies to Jerberra Estate landowners as at 1 July 2015. The criteria set out below are a guideline for determining when to consider requests made under this policy.

### 3. Provisions

Rates and charges are issued by 31 July each year and are payable in four instalments on 31 August, 30 November, 28 February and 31 May. A rate notice is issued no less than 30 days before each instalment is due.

~~Within seven (7) days after the due date, any ratepayer who has outstanding rates and charges to the value of \$100 or more will be sent a reminder letter on Council letterhead from Council's Debt Recovery Agency. If payment is not received or a satisfactory arrangement is not made, then all accounts with an outstanding balance exceeding the greater of \$600 or one (1) instalment overdue will be referred to Council's Debt Recovery Agency for further action.~~

This policy will be implemented under the following conditions:

- The provisions within this policy are only available for the special rates for roads and/or electricity infrastructure which commenced on 1 July 2015.
- If a landowner is unable to pay rates and charges by the due date and unable to make arrangements to pay in full by the end of the financial year, they should contact the Rates ~~Department Team~~ for consideration of their circumstances for this policy to be implemented.
- The landowner will be asked to submit a confidential statement as evidence that payment in full would cause hardship.
- This confidential statement must be on Council's prescribed form attached, ~~(contained in the Hardship Policy)~~ and must be signed as a Statutory Declaration of the person's circumstances.
- Evidence of hardship must also be supplied in the form of Social Security Information, tax returns or Workers Compensation Details, etc.

Payment relief will only be considered if ALL of the above criteria are met.

Council's Hardship Committee will review all new applications and make an assessment on a case by case basis. Those eligible ratepayers who met the requirements of the previous year's hardship approval and have agreed to the revised amount for the current rating year may have their application approved by the Debt Recovery Officer, in consultation with the ~~Revenue Manager - Revenue Management Supervisor~~.

Subject to the above, a ratepayer may enter into an arrangement to repay rates and charges with Council or with Council's Debt Recovery Agency, provided the arrangement will repay

#### Jerberra Payment Relief Policy

rates at the repayment amounts set by the equivalent of a 20 year loan within twelve (12) months.

Interest charges will be applied to any balance ~~outstanding-overdue~~ once the due date for instalments has passed. Landowners need to be aware that the repayment plan will be based on a 20 year loan. If payments are maintained at this level, interest will only be applied at 50% of the statutory rate set by ~~IPART~~ the Office of Local Government each year for overdue rates and charges. If interest is raised throughout the year but the annual rates are paid in full within the 12 month period, then the interest raised will be abandoned at the end of the financial year.

#### **4. Implementation**

The responsibility for the implementation and review of this policy shall be with the Director City Performance ~~of Finance Corporate & Community Services~~.

#### **5. Review**

The City Performance Directorate ~~Finance Corporate & Community Services Group~~ will review this policy:

- Within 12 months of the date of the election of every new Council
- Every four years; or
- As directed by Council; or
- As a result of a review in legislation that affects this policy; or

#### **6. Related Policies**

- ~~Revenue Pensioner Rates and Charges Arrears and Interest~~
- Revenue – Overdue Interest Rate
- Rates and Other Monies – Delegation of Authority to Write Off
- Debt Recovery and Revenue Hardship Policy
- Small Lot Rural Subdivisions – Dealing with Unpaid Rates and Charges

**Shoalhaven City Council  
HARDSHIP RATE RELIEF APPLICATION FORM**

**JERBERRA SPECIAL RATES**

Section 567 (c) Local Government Act 1993.

**All sections/questions must be answered/completed**

Shoalhaven City Council recognises the fact that the introduction in July 2015 of a Special Rate for Roads & Electricity Infrastructure works within Jerberra Estate based on a 10 year loan may place financial hardship on landowners in the Estate. The Jerberra Payment Relief Policy provides a mechanism for Jerberra Estate landowners in hardship circumstances to receive some financial relief. Council will extend the payment period from ten (10) years to twenty (20) years. The ratepayer may enter into an arrangement to repay the rates and charges with Council, provided the arrangement will repay the total rates by 30 June each year. Provided the payments are strictly maintained for the period specified one half of the interest raised during that rating period will be waived.

The following are factors, grounds and reasons for this to occur:

1. Payment of such accounts in full is made difficult because of reasons beyond the ratepayers control
2. Payment of such accounts in full would cause the person hardship
3. The completion in full of this application form
4. Provision of proof of income/expenses
5. Payments to be calculated by Council and strictly maintained for the period as specified
6. Interest will be waived at the expiration of the specified period to ensure the payments are maintained
7. Application covers the current rating period from 1 July to 30 June only. A new application is required to be lodged for each rating period. Applications will not be accepted for part of a rating year.

**Privacy Notification**

Shoalhaven City Council, for Hardship Relief purposes, is collecting the information requested on this form. The information will be used solely by Council officials for the purpose mentioned or a directly related purpose and will not be disclosed to any other parties. The applicant understands that this information is provided on a voluntary basis and they may apply to Council for access or amendment of the information at any time.

**I/We wish to apply for Jerberra Payment Relief and will pay the amount as specified by Council by weekly / fortnightly / monthly / quarterly payments (Please circle required frequency)**

**You should ensure you contact Council promptly if your circumstances change. This will ensure that Council does not take action to recover the amount outstanding if you do not adhere to the arrangement. Additionally, you may not be entitled to relief under the new circumstances. If any information supplied is found to be false or misleading this agreement becomes null and void.**

**When answering the following questions please use block letters and tick the appropriate box.**

Assessment

Number Property ID

Name:

Address:

Postal Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: Home: \_\_\_\_\_  
Work: \_\_\_\_\_  
Mobile: \_\_\_\_\_

Email: \_\_\_\_\_

Property Address: \_\_\_\_\_

(if different to above)

Do you own the property?

- ☐ By Yourself
- ☐ With another person/s (spouse etc)  
List any other people who reside with  
you.
- ☐ Other - Please indicate details

Is the property:

- ☐ Residential Home
- ☐ Vacant Land
- ☐ Rural Land
- ☐ Your Sole or Principal Place of Living Since:
- ☐ Other - Please indicate details

Value of House\Land \$ \_\_\_\_\_

Mortgage \$ \_\_\_\_\_

Do you have interest in any other properties?

Details including any rental collected \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Are you currently employed?

- ☐ No. Go to next question
- ☐ Full time

- ☐ Part time/casual \_\_\_\_\_ hours per week
- ☐ Name of employer \_\_\_\_\_

Do you receive a pension or benefit?

- ☐ No. Go to next question
- ☐ Yes Amount Received Per Week \$  
Pension Number \_\_\_\_\_  
Pension Type \_\_\_\_\_

Do you have a health benefits card?

- ☐ No. Go to next question
- ☐ Yes  
Card Number \_\_\_\_\_

Do you have any dependants?

- ☐ Yes. How many and what ages? \_\_\_\_\_

**Income Details**

Wages/Salary after Tax	\$ _____	per week
Pension/Benefit	\$ _____	per week
Income (Spouse)	\$ _____	per week
Pension/Benefit (Spouse)	\$ _____	per week
Maintenance received	\$ _____	per week
Family Allowance	\$ _____	per week
Other (Give details)	\$ _____	per week
	\$ _____	per week
	\$ _____	per week

**Total:** \$ \_\_\_\_\_ per week

**Bank/Building Society Accounts**

Name of Bank/Branch	Balance
	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____

**Total** \$ \_\_\_\_\_

**Regular Expenses**

Mortgage repayments	\$ _____	per week
Rent/Board	\$ _____	per week
Food	\$ _____	per week
Electricity	\$ _____	per week
Rates (Council & Water)	\$ _____	per week
Repayments - <b>Total (A)</b>	\$ _____	per week
Vehicle expenses inc petrol	\$ _____	per week
Private Medical Insurance	\$ _____	per week
Telephone	\$ _____	per week
Maintenance payments	\$ _____	per week
School expenses	\$ _____	per week

**Debts/Liabilities**

(Personal loans, credit cards)

Owing To:		Balance:
	\$ _____ p/w	\$ _____
	\$ _____ p/w	\$ _____
	\$ _____ p/w	\$ _____
	\$ _____ p/w	\$ _____
	\$ _____ p/w	\$ _____
<b>Total (A)</b>	\$ _____ p/w	\$ _____

Insurance/Superannuation	\$ _____	per week
Other	\$ _____	per week
	\$ _____	per week
	\$ _____	per week

**Total:** \$ \_\_\_\_\_ per week

**Surplus/Deficit** \$ \_\_\_\_\_ per week

Please give details of reasons or circumstances that have led you to make this application:

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The information provided by completing this form will enable Council to determine eligibility for relief and the level of relief the ratepayer is entitled to. This information is strictly confidential and will not be disclosed to any other organisation.

**Statutory Declaration**  
OATHS ACT 1900, NSW, EIGHTH SCHEDULE

I, ....., do solemnly and sincerely declare that  
[name of declarant]

**that the information contained in this application is true and correct**

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at: ..... on .....  
[place] [date]

.....  
[signature of declarant]

in the presence of an authorised witness, who states:

I, ....., a .....,  
[name of authorised witness] [qualification of authorised witness  
– JP number if applicable]

certify the following matters concerning the making of this statutory declaration by the person who made it: [\* please cross out any text that does not apply]

1. \*I saw the face of the person OR \*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. \*I have known the person for at least 12 months OR \*I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was .....  
[describe identification document relied on]

.....  
[signature of authorised witness]

.....  
[date]

## Rates and Other Monies – Delegation of Authority to Write Off

<b>Adoption Date:</b>	07/02/1995
<b>Reaffirmed:</b>	28/09/2004, 10/02/2009, 23/04/2013 •
<b>Amendment Date:</b>	15/08/2017
<b>Minute Number:</b>	MIN95.183, MIN04.1165, MIN09.128, MIN13.363, MIN17.701
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Performance
<b>Record Number:</b>	POL22/85



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~~10RI0700~~**Rates and Other Monies – Delegation of Authority to Write Off**

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**1. Purpose**

To establish a threshold for writing off outstanding rates, charges and other Council accounts by staff under delegated authority.

**2. Statement**

This policy statement is based on Council Minute 95.183 of 7 February 1995. Council reaffirmed the policy in its revised format by Minute 04.1165 on 28 September 2004.

**3. Provisions**

- a. In accordance with Regulation 131, of the Local Government (General) Regulation 2005, Council set an amount of ~~\$5,000~~~~\$4,000~~ and above for which rates and charges may be written off only by resolution of Council.
- b. In accordance with Regulation 213, of the Local Government (General) Regulation 2005, Council set an amount of ~~\$5,000~~~~\$4,000~~ and above for a debt, which may be written off only by resolution of Council.

**4. Implementation**

The ~~City Performance Directorate Finance Corporate & Community Services Group~~ has responsibility for implementation of this policy under delegation from the ~~Chief Executive Officer, General Manager~~.

**5. Review**

This policy statement will be reviewed within one year of the election of every new Council.

## CL22.324 Policy - Complaint Handling - Public Exhibition

**HPERM Ref:** D22/248999

**Department:** Business Assurance & Risk  
**Group:** City Performance

**Attachments:** 1. Draft Complaints Handling Policy [↓](#)

### Recommendation

That Council

1. Endorse the Draft Complaint Handling Policy for public exhibition to obtain community feedback.
2. A report be provided at the completion of the exhibition period outlining the submissions received and provide a final Draft Complaint Handling Policy for adoption.

### Background

The [Complaints Policy & Procedures](#) Policy is presented for adoption. The Local Government Act requires that all Council policies should be reviewed within 12 months of an election of a new Council.

A thorough review of the Policy & Procedures has been undertaken and the attachment to this report is a Draft Complaint Handling Policy document to replace the current policy.

The Draft Policy includes significant changes from the current policy document as it has been amended to reflect best practice Complaint Handling Practice outlined by the NSW Ombudsman. The draft policy has incorporated suggestions from staff and the Council's Audit Risk and Improvement Committee.

The approach of separating the policy and procedure has been taken as the Council is required to have a robust and public policy document in this space and there needs to be sufficient detail in the procedures to assist staff with the practicalities of managing complaints, including information for internal reference only. Council's Executive Management Team have separately considered and endorsed an Internal Complaints Handling Procedure.

The key components of the Complaints Handling Policy in addition to those outlined above are:

- clearer definition about what we consider a complaint under this policy as opposed to a request for service or action
- expanded organisational commitment detail
- clear policy direction on how we will handle complaints
- emphasis on frontline resolution of complaints reflecting our Customer Service Charter
- expanded definitions
- removal of internal references and direction to staff
- removal of detailed references to the National Competition Policy directives on Competitive Neutrality which were removed in the late 1990's and for which the OLG has removed guidance documentation. Any investigation about pricing or

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competition will reference our fees and charges and procurement frameworks, related council policy and legislation depending on the topic.

- details of how we will monitor review and report complaints for continuous improvement.
- Attached 'Individual Rights and Responsibilities for Parties to a Complaint' setting out clear expectations.
- The content of the short outdated related Complaints Referral to the Community Justice Centre - Administrative Policy and Procedure POL12/247 has also been incorporated into the draft policy document and it is recommended that this policy now be rescinded.

The Complaint Handling Policy is a public document and relates to our service provision to the community, hence public exhibition is proposed to gauge community input prior to adoption by the elected Council. There is no legislative requirement for the draft policy to be publicly exhibited.

### **Policy Implications**

Council's Complaints Policy outlines the approach of the Council in responding to complaints. It relates to the Code of Conduct and Procedures and procedural documents.

A separate policy is currently being developed to outline how Council will deal with customers who are unreasonable towards Council staff or have make unreasonable demands on the Council, assisting the Council to follow guidance from the NSW Ombudsman in this regard.

### **Financial Implications**

The amended Policy does not implement changes which impact on financing or resourcing of complaints management.

### **Risk Implications**

The Council should hold a current complaints policy outlining clearly how we deal with complaints of wrongdoing by the Council and its officials. This policy provides a clear reference point for those who have identified wrongdoing and wish to bring it to the attention of Council to be addressed.

CL22.324

# DRAFT

## Complaint Handling Policy

<b>Adoption Date:</b>	28/06/2005
<b>Amendment Date:</b>	10/03/2009
<b>Minute Number:</b>	MIN05.730, MIN09.290
<b>Review Date:</b>	December 2023
<b>Directorate:</b>	City Performance
<b>Record Number:</b>	POL20/10 (4734E)

Complaint Handling Policy

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## 1. Introduction

### 1.1. Purpose

Shoalhaven City Council is committed to delivering quality customer service and communicating effectively with our customers and the local community. Council values customer feedback as it helps with the continuous evaluation and improvement of our services.

We realise that sometimes, despite our best efforts, people may not be happy with the way we have performed or not performed a service.

Shoalhaven City Council's organisational values support our customer service commitments and complaint handling processes.

Our values are:

- Integrity
- Respect
- Collaboration
- Adaptability

We are committed to developing a culture of customer commitment in support of our values, where every employee instinctively acts with the understanding of the impact that their daily work and actions have on their immediate customers.

Our complaint management system is intended to:

- handle complaints fairly, efficiently and effectively
- enable us to respond to issues raised by people making a complaint in a timely and cost-effective way
- boost public confidence in our administrative process, and
- provide information that can be used by us to deliver quality improvements to our services, practices, products, procedures, staff, and complaint handling,
- outline the relevant external agencies for referral of serious breaches/complaints, and
- outline the Council's Management of unreasonable complainant conduct.

This policy provides guidance on the key principles and concepts of our complaint management system for Council customers.

### 1.2. Scope

This policy applies to all staff receiving or managing complaints from the public which are made to or about Council, in relation to our services, practices, products, procedures, staff and complaint handling.

Staff grievances, formal complaints alleging that an elected representative has breached the council's adopted code of conduct (code of conduct complaints) and public interest disclosures are dealt with under separate mechanisms.

### 1.3. Organisational commitment

Council's commitment to complaint management is outlined as follows:

WHO	COMMITMENT	HOW
Chief Executive Officer	Promote a culture that values complaints and their effective resolution	<ul style="list-style-type: none"> <li>• Provide adequate support and direction to key staff responsible for handling complaints</li> <li>• Regularly review reports about complaint trends and issues arising from complaints</li> <li>• Encourage all staff to be alert to complaints and assist those responsible for handling complaints resolve them promptly</li> <li>• Encourage staff to make recommendations for system improvements</li> <li>• Recognise and reward good complaint handling by staff</li> <li>• Support recommendations for product service, staff and complaint handling improvements arising from the analysis of complaint data</li> </ul>
Director City Performance	Foster an effective Complaint Management System	<ul style="list-style-type: none"> <li>• Contribute to the development of an efficient, fair consistent and transparent complaints handling framework</li> <li>• Educate and empower staff to resolve complaints promptly and in accordance with Council's policies and procedures</li> <li>• Encourage staff managing complaints to provide suggestions on ways to improve the organisation's complaint management system</li> <li>• Encourage all staff to be alert to complaints and assist those responsible for handling complaints to resolve them promptly</li> <li>• Recognise and commend good complaint handling by staff</li> </ul>
Public Officer / Manager Business Assurance & Risk – supported by Complaints Officer	Establish and Manage Council's Complaint Management System	<ul style="list-style-type: none"> <li>• Provide regular reports to the Chief Executive Officer on issues arising from complaint handling work</li> <li>• Ensure recommendations arising out of complaint data analysis are canvassed with the Chief Executive Officer and relevant director and implemented where appropriate</li> <li>• Train and empower staff to resolve complaints promptly and in accordance with Council's complaints framework</li> <li>• Ensure all staff are aware of Council's complaint handling framework</li> </ul>

		<ul style="list-style-type: none"> <li>Encourage staff managing complaints to provide suggestions on ways to improve Council's complaint management system</li> </ul>
All staff	Understand and comply with Council's complaint handling practices	<ul style="list-style-type: none"> <li>Treat all people with respect, including people who make complaints</li> <li>Assist people to make a complaint, if needed</li> <li>Comply with this policy and its associated procedures</li> <li>Implement Council's complaint management system as relevant to role and responsibilities</li> <li>Provide feedback to management on issues arising from complaints</li> <li>Provide suggestions on ways to improve the organisation's complaints management system</li> <li>Implement changes arising from individual complaints and from the analysis of complaint data as directed by management</li> <li>Keep all appropriate records in relation to a complaint as required by this policy, but not limited to correspondence with complainant, interview notes, the evidence relied upon in an investigation, investigation/complaint findings and reasons for decisions</li> </ul>

## 2. Terms and Definitions

### Complaint

A complaint is an expression of dissatisfaction with the level or quality of the service provided by Shoalhaven City Council. This includes:

- Policies and Procedures - Complaints with respect to the implementation of, or failure to implement, policies or procedures. These complaints are usually related to dissatisfaction with service charges, policy decisions or a practice covered by a policy or procedure
- Employees– Complaints about employees are generally about dissatisfaction with the behaviour or conduct of a Council employee
- Contractors – Complaints about the behavior or conduct of contractors engaged by Council to undertake works or provide services
- Quality of Service – Complaints about quality of service are generally related to the quality of the finished job (e.g., not up to an expected standard, poor workmanship) or the length of time taken to complete the job/provide the service (e.g., outside of service standards)

### 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 must involve or affect an NSW public official or public sector organisation.



Corrupt conduct involves:

- An 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
- An 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 his or her official functions
- A member of the public influencing, or trying to influence, an 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 \(ICAC\) website](#)

#### **Complaint management system**

All policies, procedures, practices, staff, hardware, and software used by Council in the management of complaints.

#### **Customer request**

The following are Customer requests and not complaints under this policy:

The definition of a customer request includes:

- A customer request for Council to undertake works or services or take regulatory action, such as reports about neighbours, noise, dogs, unauthorised building work or similar issues that fall into the regulatory aspect of council service – unless (1) it is a second request where there has been no response to the first request or (2) in the view of the customer the response to their request was unsatisfactory
- Reports of damaged or faulty infrastructure
- Requests for approval or authority
- An objection to the Council's issue of a penalty notice or taking other regulatory action for an offence under an Act or Regulation.
- Responses to requests for feedback about the standard of our service provision [see the definition of feedback]
- Routine inquiries about the Council's business or operations
- A request for an explanation of the content of or application of policies or procedures
- Workplace grievances (see our grievance policy)
- Public interest disclosures made by our Council Officials. The Council has adopted an Internal Reporting Policy (under the Protected Disclosures Act 1994)
- Applications and requests to access council information (see our Access to Information Policy)]
- Formal allegations that an elected council official or the CEO has breached the code of conduct [refer to our Code of Conduct and related Code of Conduct procedures].
- A complaint about an individual, event, service or business for which Council is not responsible

- Requests for review of determinations made by Council in relation to development applications, planning decisions, or the decision to issue a penalties or infringements

Many of the issues above are often called 'complaints' when a customer contacts Council because a customer is unhappy about the situation and wants something done. To Council, however, such matter will be considered a Customer Request. This terminology does not reduce the importance of the issue, nor remove the requirement for Council to respond. However, it does help Council differentiate between a complaint and a request so that the issue can be registered and monitored appropriately in Council's systems.

The policies listed above can be accessed on Council's website [www.shoalhaven.nsw.gov.au](http://www.shoalhaven.nsw.gov.au).

### **Dispute**

An unresolved complaint escalated either within or outside of our organisation.

### **Feedback**

Opinions, comments and expressions of interest or concern, made directly or indirectly, explicitly, or implicitly, to or about our services or complaint handling, where a response is not explicitly or implicitly expected or legally required.

This includes submissions made to public consultation processes such as:

- Submissions or objections to Development or Planning Applications
- The lodging of an appeal or objection in accordance with a standard procedure or policy, for example about an approved development or draft policy or plan.
- Submissions made via the Council's "Get Involved" Webpage or other community engagement mechanisms

### **Workplace Grievance**

A clear, formal written statement by an individual staff member about another staff member or a work-related problem or incident involving other staff. These matters are dealt with under Council's Grievance Policy

### **Maladministration**

Is a failure to comply with proper procedures or the law and may involve action or inaction and inefficient, bad, or improper administration. Examples would include council failing to act on reports of unauthorised work or illegal activities, failing to comply with tendering processes or misusing secrecy provisions.

### **Public interest disclosure**

A report about wrongdoing made by a public official in New South Wales that meets the requirements of the Public Interest Disclosures Act 1994.

### 3. Guiding Principles for Handling Complaints



#### 3.1. Facilitate Complaints

<p>1. <i>People Focus</i></p>	<ul style="list-style-type: none"> <li>• Council is committed to seeking and receiving feedback and complaints about our services, systems, practices, procedures, products, and complaint handling</li> <li>• Any concerns raised in feedback or complaints will be dealt with within a reasonable time frame</li> <li>• People making complaints will be:               <ul style="list-style-type: none"> <li>○ provided with information about our complaint handling process</li> <li>○ provided with multiple and accessible ways to make complaints</li> <li>○ listened to, treated with respect by staff and actively involved in the complaint process where possible and appropriate, and</li> <li>○ provided with reasons for our decision/s and any options for redress or review</li> </ul> </li> <li>• A complaint may be lodged in the following ways:               <ol style="list-style-type: none"> <li>1. Online at: Council's website by following the link on the Homepage <a href="https://www.shoalhaven.nsw.gov.au">https://www.shoalhaven.nsw.gov.au</a></li> <li>2. By telephone on 1300 293 111</li> <li>3. Email to: <a href="mailto:council@shoalhaven.nsw.gov.au">council@shoalhaven.nsw.gov.au</a></li> <li>4. By post to: The Chief Executive Officer Shoalhaven City Council PO Box 42 NOWRA NSW 2541</li> <li>5. In person at one of the following locations between 9am and 5pm, Monday to Friday:                   <table border="0"> <tr> <td>NOWRA</td> <td>ULLADULLA</td> </tr> <tr> <td>City Administrative Centre</td> <td>Southern District Office</td> </tr> <tr> <td>Bridge Road, Nowra</td> <td>Deering Street, Ulladulla</td> </tr> </table> </li> </ol> </li> <li>• Where a customer outlines a complaint via Council's Official Facebook, Twitter and other Social Media Accounts, Council will not respond via social media. Only in cases where the complaint includes an email or postal address will a written response be provided.</li> </ul>	NOWRA	ULLADULLA	City Administrative Centre	Southern District Office	Bridge Road, Nowra	Deering Street, Ulladulla
NOWRA	ULLADULLA						
City Administrative Centre	Southern District Office						
Bridge Road, Nowra	Deering Street, Ulladulla						
<p>2. <i>No Detriment to people making complaints</i></p>	<ul style="list-style-type: none"> <li>• Council will take all reasonable steps to ensure that people making complaints are not adversely affected because a complaint has been made by them or on their behalf.</li> </ul>						

3. <i>Anonymous Complaints</i>	<ul style="list-style-type: none"> <li>We accept anonymous complaints and will carry out an investigation of the issues raised where there is sufficient information provided to allow us to do so.</li> <li>Where a complaint is lodged via telephone and anonymity is requested the complainant will be advised that Council will be unable to contact the complainant further if additional information is needed and they will not be advised of the outcome of the complaint.</li> </ul>
4. <i>Accessibility</i>	<ul style="list-style-type: none"> <li>We will ensure that information about how and where complaints may be made to or about us is well publicised. We will ensure that our systems to manage complaints are easily understood and accessible to everyone, particularly people who may require assistance.</li> <li>If a person prefers or needs another person or organisation to assist or represent them in the making and/or resolution of their complaint, we will communicate with them through their representative if this is their wish and we have been advised of this wish by the complainant.</li> </ul>
5. <i>No charge</i>	Complaining to us is free.

### 3.2. Respond to Complaints

1. <i>Early Resolution</i>	<ul style="list-style-type: none"> <li>Where possible, complaints will be resolved at first contact with Council.</li> </ul>
2. <i>Responsiveness</i>	<ul style="list-style-type: none"> <li>Where complaints cannot be resolved at initial interaction with the Complainant, we will promptly acknowledge receipt of a complaint within 7 business days.</li> <li>Council will aim to resolve complaints in the following timeframes: <ul style="list-style-type: none"> <li><u>For urgent matters</u> –within 24 hours. These matters would include a complaint about a safety issue that has been reported previously but has not been responded to within the service stand.</li> <li><u>For simple matters</u> – within ten working days of receipt. These matters would include requests for readily available information such as returning calls providing requested information and responding to correspondence where Council has not met the relevant service standard.</li> <li><u>Complex matters</u> will require longer periods of time to investigate and address, however they should be resolved within 28 days from receipt.</li> </ul> </li> <li>Where timeframes cannot be met, the complainant will be advised before the time limit expires and given the reasons for the delay and a revised timeframe for resolution of the complaint/completion of the investigation.</li> <li>We will assess and prioritise complaints in accordance with the urgency and/or seriousness of the issues raised. If a matter concerns an immediate risk to safety or security the response will be immediate and will be escalated appropriately.</li> <li>We are committed to managing people's expectations, and will inform them as soon as possible, of the following:</li> </ul>

	<ul style="list-style-type: none"> <li>○ the complaints process</li> <li>○ the expected time frames for our actions</li> <li>○ their likely involvement in the process, and</li> <li>○ where known, any limitation to the outcome they have requested</li> </ul> <ul style="list-style-type: none"> <li>• We will advise people as soon as possible when we are unable to deal with any part of their complaint and provide advice about where such issues and/or complaints may be directed (if known and appropriate).</li> <li>• We will also advise people as soon as possible if we are unable to meet our time frames for responding to their complaint and the reason for our delay.</li> </ul>
3. <i>Objectivity &amp; Fairness</i>	<ul style="list-style-type: none"> <li>• We will address each complaint with integrity and in an equitable, objective, and unbiased manner.</li> <li>• We will ensure that the person handling a complaint is not the staff member whose conduct is being complained about and does not have a conflict of interest.</li> <li>• Internal reviews of how a complaint was managed will be conducted by a person other than the original decision maker.</li> </ul>
4. <i>Responding Flexibly</i>	<ul style="list-style-type: none"> <li>• Our staff are empowered to resolve complaints promptly. We will adopt flexible approaches to service delivery and problem solving to enhance accessibility for people making complaints and/or their representatives.</li> <li>• We will assess each complaint on its merits and involve people making complaints and/or their representative in the process as far as possible.</li> </ul>
5. <i>Confidentiality</i>	<ul style="list-style-type: none"> <li>• We will protect the identity of people making complaints where this is practical and appropriate.</li> <li>• Personal information that identifies individuals will only be disclosed or used by the Council as permitted under the relevant privacy laws and our confidentiality obligations.</li> </ul>

### 3.3. Manage Parties to a Complaint

1. <i>Complaint involving multiple organisations or parts of Council</i>	<ul style="list-style-type: none"> <li>• Where a complaint involves multiple organisations, we will work with the other organisation/s where possible, to ensure that communication with the person making a complaint and/or their representative is clear and coordinated.</li> <li>• Subject to privacy and confidentiality considerations, communication and information sharing between the parties will also be organised to facilitate a timely response to the complaint.</li> <li>• Where a complaint involves multiple areas within our organisation, responsibility for communicating with the person making the complaint and/or their representative will also be coordinated.</li> <li>• Where our services are contracted out, we expect contracted service providers to have an accessible and comprehensive complaint management system. We take complaints not only about the actions of our staff but also the actions of our service providers.</li> </ul>
2. <i>Complaints involving multiple or related parties</i>	<ul style="list-style-type: none"> <li>• When similar complaints are made by related parties we will try to arrange to communicate with a single representative of the group.</li> </ul>
3. <i>Empowerment of staff</i>	<ul style="list-style-type: none"> <li>• All staff managing complaints are empowered to implement our complaint management system as relevant to their role and responsibilities.</li> <li>• Staff are encouraged to provide feedback on the effectiveness and efficiency of all aspects of our complaint management system</li> </ul>

4. <i>Managing unreasonable conduct by people making complaints</i>	<ul style="list-style-type: none"> <li>• We are committed to being accessible and responsive to all people who approach us with feedback or complaints. At the same time our success depends on: <ul style="list-style-type: none"> <li>○ our ability to do our work and perform our functions in the most effective and efficient way possible</li> <li>○ the health, safety, and security of our staff, and</li> <li>○ our ability to allocate our resources fairly across all the complaints we receive.</li> </ul> </li> <li>• Our expectations of complainant conduct are reflected in our '<i>Individual Rights and Responsibilities of the Parties to a Complaint</i>' document attached to this Policy.</li> <li>• When people behave unreasonably in their dealings with us, their conduct can significantly affect the progress and efficiency of our work. As a result, we will take proactive and decisive action to manage any conduct that negatively and unreasonably affects us and will support our staff to do the same in accordance with our complaints handling framework</li> <li>• We will manage unreasonable conduct by people making complaints in line with the NSW Ombudsman's Guidelines on managing unreasonable complainant conduct.</li> </ul>
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#### 4. Our Complaint Management System

When responding to complaints, staff will act in accordance with our complaint handling procedures as well as any other internal documents providing guidance on the management of complaints.

Staff will also consider any relevant legislation and/or regulations when responding to complaints and feedback.

The six key stages in our complaint management system are set out below.



1. <i>Receive Complaint</i>	<ul style="list-style-type: none"> <li>• Unless the complaint has been resolved at an initial interaction with the customer, we will record the complaint and its supporting information. We will also assign a unique identifier to the complaint which will be provided to the customer.</li> <li>• The record of the complaint will document: <ul style="list-style-type: none"> <li>○ date of receipt</li> <li>○ the contact information of the person making a complaint</li> <li>○ issues raised by the person making a complaint and the outcome/s they seek</li> <li>○ any other relevant information or supporting documents that have been provided</li> <li>○ any additional support the person making a complaint requires</li> </ul> </li> </ul>
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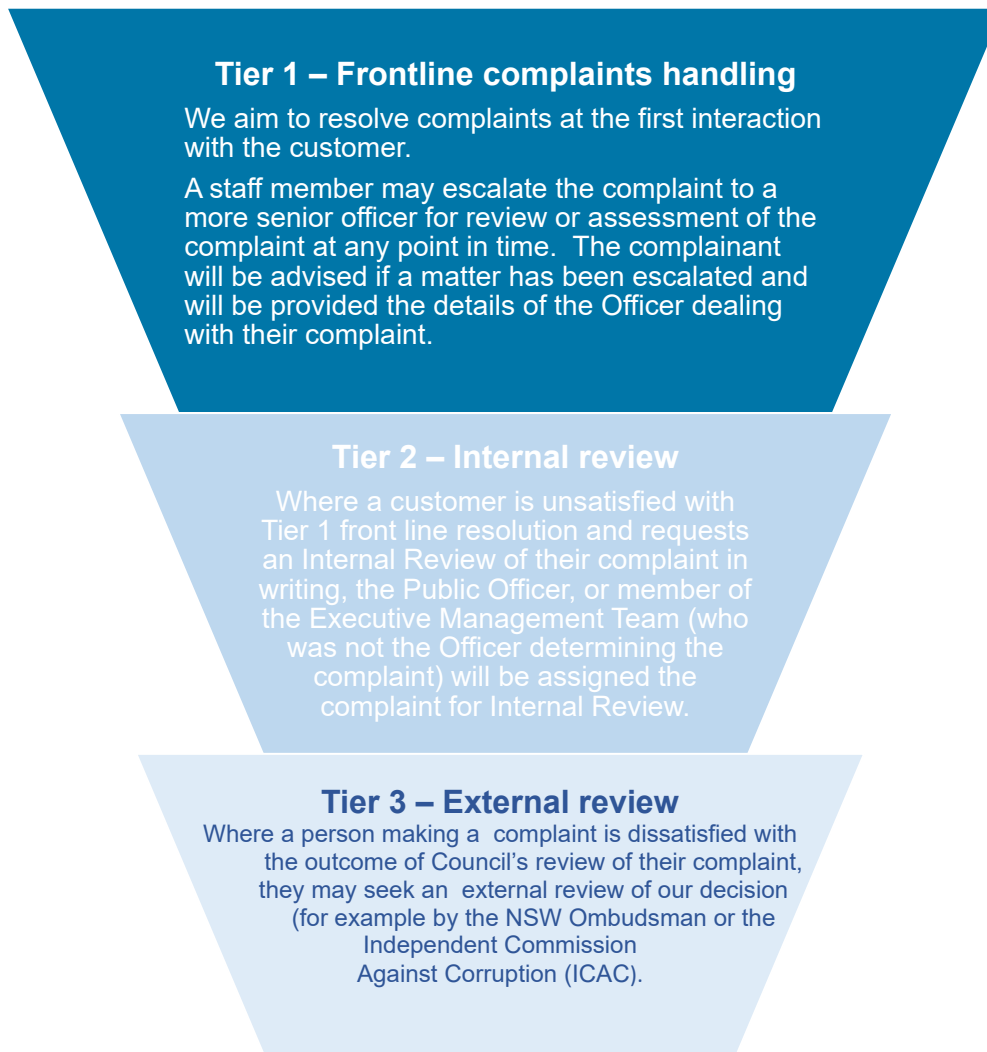
2. <i>Acknowledge Complaint</i>	<ul style="list-style-type: none"> <li>We will acknowledge receipt of each complaint immediately on receipt and provide detailed acknowledgement within ten (10) business days of receipt at which time the customer will be advised of the Officer who will be dealing with their complaint and details of this Complaints Handling Policy</li> <li>Consideration will be given to the most appropriate medium (e.g., email, telephone, letter) for communicating with the person making a complaint.</li> </ul>
3. <i>Assess &amp; Address Complaint</i>	<p><u>Complaint Assessment</u></p> <ul style="list-style-type: none"> <li>After acknowledging receipt of the complaint, we will confirm whether the issue/s raised in the complaint is/are within our control and if an alternate process applies to the matter.</li> <li>We will consider the outcome/s sought by the person making a complaint</li> <li>Where there is more than one issue raised, we will determine whether each issue needs to be separately addressed.</li> <li>If any aspect of the complaint is unclear, we will seek clarification from the complainant.</li> <li>When determining how a complaint will be managed, we will consider: <ul style="list-style-type: none"> <li>How serious, complicated, or urgent the complaint is</li> <li>Whether the complaint raises concerns about health and safety</li> <li>How the person making the complaint is being affected</li> <li>The risks involved if resolution of the complaint is delayed, and</li> <li>Whether a resolution requires the involvement of other organisations</li> <li>If the complaint is required to be notified or referred to other authorities.</li> </ul> </li> </ul> <p><u>Addressing complaints</u></p> <ul style="list-style-type: none"> <li>After assessing the complaint, we will consider how to manage it.</li> <li>To manage a complaint, we may: <ul style="list-style-type: none"> <li>give the person making a complaint information or an explanation</li> <li>undertake research about the service, person or area that the complaint is about, and/or</li> <li>investigate the claims made in the complaint.</li> </ul> </li> <li>We will keep the complainant up to date on our progress, particularly if there are any delays.</li> </ul>
4. <i>Providing reasons for decisions</i>	<ul style="list-style-type: none"> <li>Following consideration of the complaint and any investigation into the issues raised, the responsible officer will contact the person making the complaint and advise them: <ul style="list-style-type: none"> <li>the outcome of the complaint and any action we have taken in response</li> <li>the reason/s for our decision/s</li> <li>the remedy or resolution/s that we have proposed or put in place.</li> </ul> </li> <li>If an investigation makes any adverse findings about an individual, we will consider any applicable privacy obligations under the Privacy and Personal Information Protection Act 1998 and any applicable exemptions in or made pursuant to that Act, before sharing our findings with the person making the complaint.</li> </ul>
5. <i>Providing complainant with review options and alternative avenues for resolution</i>	<ul style="list-style-type: none"> <li>We will inform people who make complaints to or about us about any internal or external review options available to them (including any relevant Ombudsman or oversight bodies that may deal with the complaint).</li> </ul> <p><u>Referral to the Community Justice Centre</u></p> <p>Council will promote and encourage the use of the free and confidential Community Justice Centre (CJC) services to assist community members and groups to seek mediated solutions for disputes between parties which cannot be resolved by the Council.</p>

	<p>Council may refer parties who agree to mediation to the CJC, or they can be accessed directly by parties to the dispute. The CJC can be contacted at 1800 990 777 or <a href="http://www.cjc.justice.nsw.gov.au">www.cjc.justice.nsw.gov.au</a>.</p>
6. <i>Closing the complaint</i>	<ul style="list-style-type: none"> <li>• We will keep comprehensive records about each complaint, including: <ul style="list-style-type: none"> <li>○ Our communication with the complainant</li> <li>○ How we managed the complaint</li> <li>○ The outcome/s of the complaint (including whether any aspect of it was substantiated)</li> <li>○ Recommendations made to address problems identified</li> <li>○ Decisions made on those recommendations, and</li> <li>○ Any outstanding actions that need to be followed up.</li> </ul> </li> <li>• We will ensure that outcomes are properly implemented, monitored, and reported to our Executive Management Team.</li> </ul>



## 5. Our Three Tiers of Complaint Handling for Complaint Escalation

Our three-tiered approach to complaints handling aims to have complaints responded to and resolved fairly, efficiently and effectively subject to their seriousness and stage in the process.



CL22.324 - Attachment 1

## 6. Accountability and Learning

### 6.1. Analysis and evaluation of complaints

We will ensure that complaints are recorded in a systematic way so that information can be easily retrieved for reporting and analysis.

Regular analysis of these reports will be undertaken to monitor trends, measure the quality of our customer service and make recommended improvements to our systems, policy and procedures.

### 6.2. Monitoring of the complaint management system

We will continually monitor our complaint management system to:

- Ensure its effectiveness in responding to and resolving complaints, and
- Identify and correct deficiencies in the operation of the system.

Monitoring may include the use of audits, complaint satisfaction surveys and other tools.

### 6.3. Continuous improvement

We are committed to improving the effectiveness and efficiency of our complaint management system. To this end, we will:

- Support the making and appropriate resolution of complaints
- Implement best practices in complaint handling
- Recognise and reward exemplary complaint handling by staff
- Regularly review the complaints management system and complaint data, and
- Implement appropriate system changes arising out of our analysis of complaints data and continual monitoring of the system.

## 7. Implementation

This Policy relates to the following policy documents of the Council:

- Internal Reporting Policy
- Code of Conduct and Code of Conduct Procedures

Council's website will provide a clear outline of how to make a complaint and this policy.

A communication and education program will be undertaken for staff on the adoption of this policy and at regular intervals.

## 8. Review

This policy is subject to regular review at a maximum interval of two (2) years. Any recognised change to relevant legislation, directives or guidelines issued by agencies including the NSW Ombudsman and the Office of Local Government will instigate an immediate review of this policy to reflect any changes. Public consultation will be undertaken prior to substantive amendments being made to the policy.

## 9. Attachments

### 9.1. Attachment 1 - Individual Rights and Responsibilities of the Parties to a Complaint

For Shoalhaven City Council to ensure that all complaints are dealt with fairly, efficiently and effectively and that work health and safety standards and duty of care obligations are adhered to, the following rights and responsibilities must be observed and respected by all the parties to the complaint process.

#### ***Complainants have the right:***

- To be treated with courtesy and respect
- To make a complaint and to express their opinions in ways that are reasonable, lawful, and appropriate
- To a reasonable explanation of the organisation's complaints procedure, including details of the confidentiality and/or privacy rights or obligations that may apply
- To a fair and impartial assessment and, where appropriate, investigation of their complaint based on the merits of the case
- To a timely response
- To be informed in at least general terms about the actions taken and outcome of their complaint
- To be given reasons that explain decisions affecting them
- To be informed of their rights of review on the decision of a complaint
- To communicate valid concerns and views without fear of reprisal or other unreasonable response
- Privacy

#### ***Council Staff have the right:***

- To be treated with courtesy and respect
- To expect honesty, cooperation, and reasonable assistance from complainants
- To expect honesty, cooperation and reasonable assistance from organisations and people within jurisdiction who are the subject of a complaint
- To a safe and healthy working environment
- To determine how a complaint will be dealt with under the Complaints Handling Policy
- To finalise complaints based on outcomes they consider to be satisfactory in the circumstances
- To modify, curtail or decline service (if appropriate) in response to unacceptable behaviour by a complainant

#### ***Subjects of a complaint have the right:***

- To be treated with courtesy and respect by Council staff
- To a fair and impartial assessment and, where appropriate, investigation of the allegations made against them
- To be informed (at an appropriate time) about the substance of the allegations made against them that are being investigated
- To be informed about the substance of any proposed adverse comment or decision
- To be given a reasonable opportunity to put their case during any investigation and before any final decision is made

- To be told the outcome of any investigation into allegations about their conduct, including the reasons for any decision or recommendation that may be detrimental to them
- To be protected from harassment by disgruntled complainants acting unreasonably.

CL22.324 - Attachment 1

## CL22.325 Policy - Asset Accounting Policy

**HPERM Ref:** D22/283100

**Department:** Finance

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

**Attachments:** 1. Asset Accounting Policy [↓](#)

### Reason for Report

The *Asset Accounting Policy* is presented for adoption as an internal corporate policy rather than retaining it as a public policy. The Local Government Act requires that all Council policies should be reviewed within 12 months of an election of a new Council.

### Recommendation

That Council reclassifies Asset Accounting Policy from public to corporate policy type.

### Options

1. Adopt the recommendations as written

Implications: The Policy will be classified as an internal corporate policy.

2. Not adopt the recommendations

Implications: Council can request further details, seek further community input, or make other changes.

### Background

The Asset Accounting Policy was adopted by Council on 13 August 2019 as a result of a report to the Strategy and Assets Committee SA19.120 – Public adoption of Asset Accounting Policy.

As a result of the election of a new Council, this policy has now been reviewed and this review has highlighted that the Assets Accounting Policy covers operational matters governed by the relevant Australian Accounting Standards.

As the Assets Accounting Policy is strictly based on Australian Accounting Standards and the outcome of any public consultation or recommendations from Council do not have the ability to have any impact on the Accounting Standards and therefore the Asset Accounting Policy is not required to be a Public Policy.

CL22.325

# Asset Accounting Policy

<b>Adoption Date:</b>	13/08/2019
<b>Amendment Date:</b>	
<b>Minute Number:</b>	MIN19.550
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Asset Accounting Policy

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## Asset Accounting Policy

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### 1. Purpose

To provide a framework for the consistent and prompt identification, measurement, recording and reporting of Council's asset base, in accordance with relevant Accounting Standards and NSW Government legislation, policy and guidelines.

This policy should be read together with the following current policies and procedures: Asset Accounting Procedure; Asset Management Policy; Asset Management Strategy; Procurement Policy; and Procurement Procedure.

### 2. Scope

The *Asset Accounting Policy* applies to infrastructure, property, plant & equipment (IPPE), intangible assets, investment property, real estate assets and assets held for sale, as disclosed in Council's Statement of Financial Position.

The policy applies to all Council staff, particularly those who have asset procurement, capital projects delivery, asset management and asset accounting responsibilities, when performing the following functions:

- Acquisition, construction or development
- Maintenance
- Renewal, replacement or enhancement
- Disposal or sale of assets
- Revaluation
- Reporting and disclosure

### 3. Related Documents

This document is based on:

- Gold Coast City Council (GCCC), '*Non-Current Asset Accounting Policy*'
- Greater Bendigo City Council, '*Asset Capitalisation Policy*'
- City of Salisbury, '*Asset Capitalisation Policy Framework*'

#### 3.1. Legislation

*NSW Government legislation, policy and guidelines*

- Local Government Act 1993
- Local Government (General) Regulation 2005
- Office of Local Government Circulars
- Office of Local Government Code of Accounting Practice and Financial Reporting
- TPP 14-01 Accounting Policy: Valuation of Physical Non-Current Assets at Fair Value issued by NSW Treasury

*Australian Accounting Standards Board (AASB)*

- AASB 5 *Non-current Assets held for Sale and Discontinued Operations*
- AASB 13 *Fair Value Measurement*
- AASB 16 *Leases*
- AASB 102 *Inventories*
- AASB 108 *Accounting Policies, Changes in Accounting Estimates and Errors*
- AASB 116 *Property, Plant and Equipment*
- AASB 123 *Borrowing Costs*



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- AASB 136 *Impairment of Assets*
- AASB 138 *Intangible Assets*
- AASB 140 *Investment Property*
- AASB 1051 *Land under Roads*
- AASB 1058 *Income of Not-for-Profit Entities*
- AASB 2016-4 *Recoverable Amount of Non-Cash-Generating Specialised Assets for Non-for-Profit Entities*

#### **3.2. Other Documents**

- POL16/79 Asset Management Policy
- POL 17/67 Asset Management Strategy (AMS)
- Asset Management Plans (AMPs)
- POL18/74 Procurement Policy
- PRD17/8 Procurement Procedure

### **4. Provisions**

#### **4.1. Asset classes**

An asset class is a grouping of non-current assets of a similar nature or function and which, for purposes of disclosure, is shown as a single item without supplementary disclosure.

The following asset classes and categories are reported by Council:

#### **INVENTORIES**

- Real Estate Assets

#### **INFRASTRUCTURE, PROPERTY, PLANT AND EQUIPMENT**

##### **Land:**

- Operational Land
- Community Land
- Land under Roads (post 30/06/2008)
- Land Improvements – Non-depreciable
- Land Improvements – Depreciable

##### **Plant & Equipment:**

- Plant & Equipment
- Office Equipment
- Furniture and Fittings

##### **Infrastructure:**

- Buildings – Non-specialised
- Buildings - Specialised
- Other Structures
- Roads
- Bridges
- Footpaths
- Bulk Earthworks (Non-depreciable)
- Stormwater Drainage
- Water Supply Network
- Sewerage Network

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- Swimming Pools
- Other Open Space/Recreational Assets
- Other Infrastructure

#### **Other Assets:**

- Library Books

#### **Reinstatement, Rehabilitation and Restoration Assets:**

- Tip Assets

#### **INVESTMENT PROPERTY**

#### **INTANGIBLE ASSETS**

More information about the asset hierarchy can be found at Attachment 1.

#### **4.2. Asset recognition**

For an asset to be included in Council's financial asset register, it must meet all of the following criteria:

- It is probable that future economic benefits associated with the asset will flow to Council
- The cost can be measured reliably
- The cost exceeds Council's asset recognition threshold

#### ***Probability that future economic benefits will flow to Council***

The term 'future economic benefits' refers not only to the potential of an asset to contribute, directly or indirectly, to the flow of cash or cash equivalents, but to the potential of the asset to contribute, directly or indirectly, to the ability to provide goods or services in accordance with Council's objectives. Benefits can arise from:

- Use of the asset
- Cash inflow
- Revenue from future sale
- Provision of goods and services
- Efficiency improvements and savings in operating costs

In accordance with the relevant accounting standard (AASB 116), a benefit is deemed to be probable if it is more, rather than less, likely to eventuate.

#### ***Reliable measurement***

For a measurement to be reliable, it has three characteristics:

1. Faithful representation of underlying transactions and events that affect Council's economic transactions and obligations
2. Neutrality
3. Verifiability

To meet this requirement, all Council assets that qualify for recognition are, initially, measured at cost. However, where an asset is acquired at no cost, such as contributed/donated assets or for nominal consideration, the cost is deemed to be its fair value at the date of acquisition. Fair value is estimated by:

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- Market Approach, if there is a readily available market;
- Cost Approach – current replacement cost estimated using depreciated modern engineering equivalent replacement cost, if there is no readily available market, or reproduction cost
- Income Approach - discounting future amounts (e.g., cash flows or income and expenses) to a single current amount using present value techniques, option pricing models and/or multi-period excess earnings methods

Where an asset was acquired in prior financial years and has yet to be recorded in Council's financial asset register, the asset is brought to account at fair value as at the date of recognition.

Where reliable measurement of an asset cannot be obtained, the asset is not to be recognised within the financial asset register.

#### Recognition thresholds

To avoid insignificant non-current assets being recognised in the financial asset register Council will apply the following recognition thresholds within its asset classes from 1 July 2019:

Asset Class	Threshold (minimum)
Land	\$0
Plant & Equipment	\$5,000 <sup>1</sup>
Office Equipment	\$5,000 <sup>2</sup>
Buildings & Structures	\$10,000 <sup>3</sup>
Other Structures	\$10,000 <sup>3</sup>
Water & Sewerage	\$10,000 <sup>3</sup>
Drainage	\$10,000 <sup>3</sup>
Roads & Bridges	\$10,000 <sup>3</sup>
Other Assets	\$5,000

<sup>1</sup> previously \$2,000

<sup>2</sup> previously \$1,000

<sup>3</sup> previously \$5,000

For infrastructure assets comprised of major components the above asset recognition thresholds apply to the aggregate asset value (i.e., the financial asset as a whole) and not to individual asset components.

Asset acquisition/construction costs that fall below the threshold should be expensed and, as such, the asset is not recognised in the financial asset register. Similarly, any contributed or donated asset valued on acquisition below the recognition threshold should not be financially recognised.

#### Portable and attractive items

Portable and attractive items are non-consumable items that:

- Have a value of \$2,000 or more (GST exclusive), but less than Council's capitalisation threshold for the asset class, and
- Are susceptible to theft or loss due to their portable nature and attractiveness for personal use or resale.

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An item is considered portable if it can be easily carried or moved. For example, an item would be considered portable if it could easily fit in a backpack; it would not be considered portable if it required more than one person to carry it.

An item is considered attractive if it has a likelihood of being advantageous or profitable. For example, an item would be considered attractive if there was an active market for the sale of the item; it would not be considered attractive if it could not be used by a body/individual external to Council.

This treatment applies to individual items of equipment, except where several related items, when considered collectively, constitute an item of equipment. For example, a laptop, docking station, monitor, keyboard and mouse are to be regarded as one item.

By definition, portable and attractive items do not meet the asset capitalisation threshold and, consequently, are expensed in the financial year in which they are acquired. However, because of their susceptibility to loss or theft, such items are recorded in the appropriate asset register for physical control purposes.

#### **Timing of Asset Recognition**

Financial recognition of newly developed, improved or purchased assets should occur as soon as possible. In general, assets are recognised when commissioned. However, a reasonable amount of time between date of commission and date of recognition may be needed to allow for completion of information collection, accounting and other financial transaction requirements.

#### **4.3. Accounting for costs after acquisition**

Expenditure on an asset incurred after it comes into service falls into one of two categories:

1. Capital expenditure – these costs are added to the carrying amount of an existing asset and, as such, are capitalised into the financial asset register
2. Operational expenditure – these costs are expensed when incurred and are not capitalised

Details on the type of costs that are considered either capital or operational in nature are presented below.

##### **4.3.1. Capital expenditure**

Certain costs, incurred over the life of an asset, can renew, extend or upgrade the asset's underlying service potential. Such costs are capitalised into the financial asset register as an addition to the carrying value of existing assets and are attributable to at least one of the following:

- Extension of an existing asset – as a result of the expenditure being incurred, the service potential of an asset is provided to a wider geographical area or to greater number of potential users; e.g., extending a stormwater pipeline, widening of a road to include additional lanes or adding additional rooms to a building
- Renewal of an existing asset – existing assets or facilities are replaced with assets or facilities of equivalent capacity or performance capability; e.g., reseal of a road or re-roof of a building

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- Upgrade of an existing asset – enhances an existing asset to provide a higher level of service or increases the useful life beyond that originally expected; e.g., relining a stormwater pipeline
- Major repainting of a building's external walls, which effectively reseals and waterproofs the external structure (renewal type capital works)
- Replacing a major asset component, such as an engine in a motor vehicle (renewal type capital works)
- Costs associated with implementing a new module to Council's information system (extension to an existing asset)

#### 4.3.2. Operational expenditure

Operational expenditure encompasses all costs associated with general maintenance and operations of an asset. These costs are expensed when incurred.

The useful life of an asset used for depreciation purposes is determined assuming appropriate levels of general maintenance at appropriate intervals. Cleaning carpets, pothole maintenance in roads and clearing drains are all examples of general maintenance. A similar principle applies to minor repairs, such as treating cracking in road seals, replacing an oil filter in a motor vehicle or repairing a water leak in a building.

As such, general maintenance and repair work is comparatively minor in nature and does not significantly renew service potential, expand service potential or extend life expectancy beyond that originally intended.

Similarly, the cost of operating an asset is not capitalised but expensed when incurred. The cost of staff to run a facility, fuel and power, corporate overheads and any asset inspection costs are additional examples of operational expenditure.

#### 4.3.3. Depreciation or amortisation method

Depreciation of an asset begins when it is available for use, i.e., when it is in the location and condition necessary for it to be capable of operating in the manner intended by management. (AASB 116.55).

The straight-line depreciation or amortisation method is adopted by Council for all non-current assets, other than road earthworks and parcels of land, which are not subject to depreciation.

Asset depreciation and amortisation parameters, useful lives, asset condition (used to assess remaining useful lives) and residual values are reviewed with sufficient regularity to ensure that they are representative of current conditions and expectations at the end of each financial year.

The remaining useful life of an asset is reassessed whenever a major addition or any significant partial disposal occurs.

#### 4.3.4. Asset revaluations

With the exception of assets that remain valued at cost, a full revaluation is undertaken every three to five years; earlier, if the carrying amount differs materially from the fair value at the end of the reporting period. Full revaluations for other applicable asset classes are completed simultaneously for all underlying assets within the asset class. Such revaluations are usually completed within one financial year.

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An interim revaluation using indices developed via a desktop approach is undertaken annually for an asset class, subject to regular revaluations whenever there has been a material movement in current replacement cost (or market value, where applicable) since the last full revaluation.

Materiality, in accordance with AASB 1031, is applied when assessing whether an asset or asset type within an asset class is to be revalued.

#### **4.3.5. Annual reviews**

Annual reviews of changes in fair value, based on unit valuation rates, useful life, residual value and impairment are conducted at the end of each reporting period, in accordance with Australian Accounting Standards AASB 116 Property, Plant and Equipment and AASB 136 Impairment of Assets.

#### ***Changes to fair value***

An estimate of the fair value of each asset class will be prepared, having regard to valuation criteria specified in AASB 13 Fair Value Measurement. Where it is appropriate to base valuation rates on replacement cost, this estimate would be based on Council's current valuation unit rates and compared with the carrying amount of the asset class. The difference between the estimated fair value and the carrying amount will be assessed as to whether there is a material effect on financial reporting.

#### ***Useful lives***

Useful lives of infrastructure and other assets are reviewed annually to identify any changes to useful life of assets resulting from changes in asset performance, functional suitability, capacity and utilisation, cost and efficiency, safety and risk, compliance, location and/or obsolescence, as identified in asset management plans and forward renewal/replacement and disposal programs for individual assets or an asset (sub) category.

If there is a material difference between the currently recorded useful life and estimated useful life for assets, adjustment will be made to the remaining useful life for applicable assets in the asset register.

A complete review of useful life will be undertaken with revaluation of an asset class.

#### ***Residual value***

Residual values, where applied to infrastructure and other assets, are reviewed annually to identify any estimated variations to residual value due to changes to market conditions for sale or disposal of assets or other reasons.

#### ***Impairment***

Impairment indicators are reviewed to determine whether the carrying amount of an asset may exceed its recoverable amount; these indicators include abnormal decline in the market value of assets, adverse changes in the operating environment, obsolescence or physical damage, unfavourable changes to the way an asset is used and adverse internal reporting of and asset's service performance. When assessing impairment, the requirements of AASB 136 and AASB 2016-4 shall be considered.

#### **4.4. Assets held for sale**

Items are classified as 'Held for Sale' in the Current Assets section of the Statement of Financial Position in situations where their carrying amount will be recovered principally

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through a sale, rather than continuing use. The item must be immediately available for sale in its present condition and sale must be highly probable. Indicators that sale is highly probable include:

- A recommendation to sell has been adopted by Council
- Council has actively undertaken marketing of the asset at a price commensurate with its fair value
- A sale is expected to occur within 12 months of the asset being classified as Held for Sale. The classification period can be extended where Council demonstrates that it remains committed to the sale and the sale has not occurred due to circumstances beyond Council's control
- It is unlikely that Council's commitment to sell the asset will change significantly or will be withdrawn

In circumstances where an item has been acquired for the purpose of continuing operations but, subsequently, meets the above criteria, then it should be reclassified as Held for Sale.

#### **Land held for resale**

Land held for resale is stated at the lower of cost and net realisable value. Cost is assigned by specific identification and includes the cost of acquisition and development.

#### **4.5. Intangible assets**

Intangible assets are classified under non-current assets and, mainly, include IT development and software. The costs that are capitalised to software and systems need to contribute to future period financial benefits through revenue generation and/or cost reduction; they include:

- Costs incurred in developing products or systems
- Costs incurred in acquiring software

Capitalised costs include external direct costs of materials and service, direct payroll, and payroll-related costs of employees' time spent on the project. IT development costs only include those costs directly attributable to the development phase and are recognised following completion of technical feasibility, where Council has an intention and ability to use the asset.

Amortisation is calculated on a straight-line basis over the expected useful life of the asset.

#### **4.6. Investment property**

Investment property is property held to earn rentals or for capital appreciation or both. Investment property is classified under non-current assets.

The basis of valuation of investment properties is fair value, being the price that would be received to sell an asset, or paid to transfer a liability, in an orderly transaction between market participants at the measurement date. The fair value is estimated using the income approach and should reflect, among other things, the rental income from current leases and other assumptions that market participants would use when pricing investment property under current market conditions. Investment property is not depreciated

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### 4.7. Disposal of assets

#### 4.7.1. Decision to dispose

A decision to dispose of an asset may be prompted by one or more of the following:

- Reached the end of its useful life
- Surplus to requirements
- Under-utilised
- Not fit for purpose
- Unserviceable
- Does not meet legislative requirements
- Part of an asset replacement program

Asset disposal decisions, and the reasons for taking them, should be documented. A community engagement plan may be needed in some of these circumstances.

The disposal of an item of property, plant and equipment may occur in a variety of ways (e.g., sale, entering into a finance lease or donation). On disposal, the carrying amount of an item of property, plant and equipment is derecognised: Any gain or loss arising from the derecognition of an item of property, plant and equipment is determined as the difference between the net disposal proceeds, if any, and the carrying amount of the item.

Whenever an asset has been destroyed or subsequently removed from service following an irregular event or catastrophe, it should be accounted for as a disposal.

Partial derecognition of an infrastructure asset occurs when:

- A significant component or section of an infrastructure asset is destroyed, abandoned or decommissioned with no future economic benefit expected to be generated from its use; or
- Major renewal works have been undertaken resulting in a significant component or section of an infrastructure asset being replaced

### 5. Definitions

Sources: SCC Asset Management Strategy; Australian Accounting Standards; IPWEA (2015), International Infrastructure Management Manual Glossary; IPWEA (2006), International Infrastructure Management Manual

<b>Asset</b>	<p>An item, thing or entity that has potential or actual value to an organisation.</p> <p>A resource controlled by an entity as a result of past events and from which future economic benefits are expected to flow to the entity. Infrastructure assets are a sub-class of property, plant and equipment, which are non-current assets with a life greater than 12 months and enable services to be provided.</p>
<b>Asset category</b>	Sub- group of assets within an asset class for financial reporting and management purposes.
<b>Asset class</b>	A group of assets having a similar nature or function in the operations of an entity.
<b>Asset component</b>	An asset component is a part of an asset that, for any reason, needs to be identified separately from its parent asset, such as, specific parts of an asset having independent physical or functional identity and having specific attributes such as different



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	life expectancy, maintenance regimes. risk or criticality.
<b>Asset recognition</b>	The process of incorporating an item that meets the definition of an asset into the financial statements.
<b>Asset register (technical)</b>	A record of asset information including condition, construction, financial, historical, inventory and technical details.
<b>Asset register (financial)</b>	A financial asset register is a high-level register designed, primarily, to cater for the financial aspects of asset management, rather than the engineering and operational aspects. It is a register of all assets and groups of assets with value greater than the capitalisation threshold.
<b>Borrowing costs</b>	Borrowing costs are interest and other costs that an entity incurs in connection with the borrowing of funds.
<b>Capital expenditure</b>	Relatively large (material) expenditure, which has benefits, expected to last for more than 12 months. Capital expenditure includes renewal, expansion and upgrade. Where capital projects involve a combination of renewal, expansion and/or upgrade expenditures, the total project cost needs to be allocated accordingly.
<b>Capital expenditure – expansion</b>	Expenditure that extends the capacity of an existing asset to provide benefits, at the same standard as currently enjoyed by existing beneficiaries, to a new group of users.
<b>Capital expenditure – new</b>	Expenditure which creates a new asset providing a new service/output that did not exist beforehand.
<b>Capital expenditure – renewal</b>	Expenditure on an existing asset, or on replacing an existing asset, which returns the service capacity of the asset up to that which it had originally or to a lower service capacity.
<b>Capital expenditure – upgrade</b>	Expenditure which replaces a previously existing asset with enhanced capacity or function, where an option existed for replacement without the enhanced capability or functionality.
<b>Capitalisation / asset recognition threshold</b>	The value of expenditure on non-current assets above which the expenditure is included in the financial statements as capital expenditure and below which the expenditure is charged as an expense in the year of acquisition.
<b>Contributed asset</b>	An asset that is acquired by Council at nominal or no cost, usually by way of an agreement with property developers, through State Government arrangements or bequeathed to Council.
<b>Fair value</b>	The price that would be received to sell an asset, or paid to transfer a liability, in an orderly transaction between market participants at the measurement date.
<b>Infrastructure asset</b>	Physical assets of an entity that contribute to meeting the public's need for access to major economic and social facilities and services, e.g., roads, drainage, footpaths and cycle ways. These are typically large, interconnected networks or portfolios of

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	<p>composite assets. The components of these assets may be separately maintained or replaced individually so that the required level and standard of service from the network of assets is continuously sustained. Generally, the components and hence the assets have long lives. They are fixed in place and often have no market value.</p>
<b>Materiality</b>	<p>An item is material if its omission or misstatement could influence the economic decisions of users on the basis of disclosures in the financial report. Materiality depends on the size and nature of the omission or misstatement judged in the surrounding circumstances.</p>
<b>Non-current asset</b>	<p>All assets other than current assets (e.g. cash), including assets held but not traded by a business in order to carry out its activities. Such assets are intended for use, not exchange, and normally include physical resources, such as land, buildings, drains, parks, water supply and sewerage systems, furniture and fittings.</p>
<b>Operating expenses</b>	<p>Recurrent expenses continuously required to provide a service, including all costs associated with operating an asset (i.e., electricity, fuel, staff, plant and equipment on costs and corporate overheads).</p>
<b>Qualifying asset</b>	<p>A qualifying asset is an asset that necessarily takes a substantial period of time to get ready for its intended use or sale.</p>
<b>Service potential</b>	<p>The total future capacity to provide goods and services in accordance with Council's objectives.</p>
<b>Spare parts</b>	<p>Minor items of spare parts and servicing equipment are carried as inventory and expensed when utilised.</p> <p>Major spare parts and stand-by equipment are recognised as non-current assets when the following criteria are met:</p> <ul style="list-style-type: none"> <li>• Exceeds the recognition threshold for the applicable asset class; and</li> <li>• Benefits from the item will be obtained for more than one financial year; or</li> <li>• The spare part can only be used in connection with an asset that is already recorded within the financial asset register.</li> </ul>
<b>Useful life</b>	<p>Useful life must be based on the physical asset or component in service and not the useful life of any modern equivalent. The following factors are considered when establishing the useful life of an asset: design life; technical life; economic life; legal life.</p> <p>For major infrastructure assets, such as road networks and stormwater drainage, where the financial asset is comprised of multiple components, the useful life of the aggregated financial asset is deemed to be the weighted average useful life of all underlying components.</p>

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### 6. Implementation

This policy shall be administered through the Finance, Corporate and Community Services Group.

### 7. Review

This policy shall be reviewed

- Within 12 months of the date of the election of a new Council or
- Every four (4) years or
- As directed by Council or
- A change occurs to legislation that affects the policy

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### 1. Attachment 1: Summary of asset hierarchy with capitalisation thresholds

Asset Category	Asset Class	Asset Component	Capitalised	Depreciated	Capitalisation Threshold (ex GST)		Valuation Technique	Useful life
					Measure \$	Measure other		
Land	Land	Land - Council land / controlled	Y	N	\$0	All		unlimited
		Land - open space / freehold	Y	N	\$0	All		unlimited
		Land under roads (purchased before/on 30/06/2008)	N	N	N/A	N/A		N/A
		Land under roads (purchased after 30/06/2008)	Y	N	\$0	All		unlimited
		Land - improvements	Y	Y	\$5,000	N/A		various
Plant & Equipment	Plant & Equipment	Plant	Y	Y	\$5,000	N/A		various
		Light Vehicles	Y	Y	\$5,000	N/A		various
		Other Equipment	Y	Y	\$5,000	N/A		various
	Furniture & Office Equipment	Office Equipment	Y	Y	\$5,000	N/A		various
		Office Furniture	Y	Y	\$5,000	N/A		various
		Computer Equipment	Y	Y	\$5,000	N/A		various
		Software (licensed)	Y	Y	\$5,000	N/A		various

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Asset Category	Asset Class	Asset Component	Capitalised	Depreciated	Capitalisation Threshold (ex GST)		Useful life
					Measure \$	Measure other	
<b>Buildings &amp; Structures</b>	Buildings	Structure / Sub-structure	Y	Y	\$10,000	N/A	20-130 years
		Roof	Y	Y	\$10,000	N/A	20-130 years
		Building Services (Mechanical / Fire / Electrical / Hydrolic / Security / Transport)	Y	Y	\$10,000	N/A	5-130 years
		Fit Out	Y	Y	\$10,000	N/A	15-130 years
		Floor coverings	Y	Y	\$10,000	N/A	6-50 years
		Heritage Buildings	Y	Y	\$10,000	N/A	various
<b>Other Infrastructure assets</b>	Other Structures	All	Y	Y	\$10,000	N/A	various
	Swimming pools	All	Y	Y	\$10,000	N/A	50 years
	– Other open space / recreational assets	All	Y	Y	\$10,000		10-20 years
	Other infrastructure	All	Y	Y	\$10,000	N/A	10-50 years
<b>Water &amp; Sewer</b>	Water	Treatment Plants	Y	Y	\$10,000	N/A	25-70 years
		Pipes	Y	Y	\$10,000	N/A	80 years
		Reservoirs	Y	Y	\$10,000	N/A	100 years
		Dams	Y	Y	\$10,000	N/A	100
		Other water assets	Y	Y	\$10,000	N/A	20-80 years
	Sewer	Pumping stations	Y	Y	\$10,000	N/A	20-100 years
		Pipes	Y	Y	\$10,000	N/A	40-117 years
		Treatment works	Y	Y	\$10,000	N/A	10-50 years
		Other sewer assets	Y	Y	\$10,000	N/A	20-100 years

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Asset Category	Asset Class	Asset Component	Capitalised	Depreciated	Capitalisation Threshold (ex GST)		Useful life
					Measure \$	Measure other	
Drainage	Stormwater	Pipes	Y	Y	\$10,000	N/A	70 -80 years
		Pits & End walls	Y	Y	\$10,000	N/A	70 -80 years
		Minor Culverts	Y	Y	\$10,000	N/A	70 -80 years
		Open Channel Drains (lined only)	Y	Y	\$10,000	N/A	70 -80 years
		Gross Pollutant Traps	Y	Y	\$10,000	N/A	70 -80 years
		Drainage Pumps & Housing	Y	Y	\$10,000	N/A	various
	Environmental	All	Y	Y	\$10,000	N/A	various
	Flood Control	All	Y	Y	\$10,000	N/A	various
	Waterways	All	Y	Y	\$10,000	N/A	various
Roads & Bridges	Roads (sealed &unsealed)	(1) Surface - Asphalt	Y	Y	\$10,000	100 sqm	15-25 years
		(2) Surface - Spray/flush/chip seal	Y	Y	\$10,000	100 sqm	7-15 years
		(3) Surface - Concrete	Y	Y	\$10,000	100 sqm	40-60 years
		(4) Surface - Brick/ Paved	Y	Y	\$10,000	100 sqm	20-40 years
		(5) Road pavement	Y	Y	\$10,000	100 sqm	15-40 years
		(6) Road formation/ Earthwork	Y	N	\$10,000	100 sqm	unlimited
	Kerb & Gutter	All	Y	Y	\$10,000	20 lineal metres	70 years
	Pathways - rigid	Concrete/Brick/Pavers	Y	Y	\$10,000	40 sqm	40 years
	Pathways - non-rigid	Bitumen/ Asphalt Pathways	Y	Y	\$10,000	80 sqm	20-30 years
		Unsealed Pathways (>50mm depth)	Y	Y	\$10,000	80 sqm	various
		Miscellaneous Paved Areas	Y	Y	\$10,000	40 sqm	various
	Bridges & Major Culverts	Super-Structure	Y	Y	\$10,000	N/A	various
		Sub-Structure	Y	Y	\$10,000	N/A	various
		Abutments	Y	Y	\$10,000	N/A	various

#### Asset Accounting Policy

Asset Category	Asset Class	Asset Component	Capitalised	Depreciated	Capitalisation Threshold (ex GST)		Useful life
					Measure \$	Measure other	
Other Assets	Heritage Assets (not in use)	Identified in Building/ Structures	Y	N	\$0	N/A	N/A
	Library Books / Toy Library	All	Y	Y	\$0	N/A	5 years
	Other Assets (not in use)	All	Y	Y	\$5,000	N/A	various

Asset Accounting Policy

## 2. ATTACHMENT 2: Cost, market value and depreciated replacement cost

### Elements of cost

The value of assets initially recognised at cost include:

- Purchase price, including duties and taxes (excluding GST), after deducting discounts and rebates
- Any other cost directly attributable to bringing the asset to its location and condition

Costs capitalised into the financial asset register typically include:

- Contract costs for construction or development of an asset
- Employee benefits directly involved in the construction, development or acquisition of an asset, including directly attributable labour on-costs
- Project management costs
- Site preparation
- Design
- Initial delivery and handling
- Installation and assembly
- Interest on a loan directly funding a specific project incurred during construction or development of the asset (until commissioning), where the interest is deemed material to the overall cost of the project
- Commissioning
- Directly attributable real estate fees, legal costs and associated professional fees
- Tender costs
- Major inspections on system assets (where it is probable that future economic benefits will flow to Council and the cost can be measured reliably)
- Initial estimate of the obligation incurred for dismantling and removing the item and restoring the site on which it is located

Costs not directly attributable to the cost of an asset and, therefore, not capitalised into the financial asset register include:

- Costs associated with feasibility studies, research studies, master plans, concept plans and investigations up to the point when Council formally decides that a capital project will be undertaken
- Costs of opening a new facility and any associated relocation and reorganisation costs
- Costs associated with operating and/or decommissioning an existing asset that is in the process of being replaced by a new asset
- Periodic software maintenance and licence agreement charges
- General administration and overhead costs
- Inspection costs where no physical upgrade, refurbishment or replacement of an asset is undertaken. This includes any outlay associated with the assessment of asset condition
- Cost to relocate services (water, sewer, power, communication services)



### Asset Accounting Policy

In some instances, the capitalised cost of an asset should include an initial estimate of the cost of dismantling and removing the asset and restoring the site on which it is located. Such costs should only be capitalised when:

- They can be reliably estimated
- Are material in amount or nature
- Where a clear obligation exists (predominantly through a legislative or environmental obligation) at the time an asset is first put into use

Where an asset is used to produce inventories (for example, a quarry), any restoration or removal cost capitalised on acquisition should not include restoration or removal costs that arise through actual operation of the asset. These costs are systematically recognised as an expense over the period of asset operation.

### Market Value

Assets acquired at no cost, or for nominal consideration, are recognised in the financial asset register at the market value at acquisition date, whenever a readily available market for the asset exists.

Preference is to be given to assessing market value in an active market for identical assets that Council can access at acquisition date (i.e., a Level 1 fair value as prescribed within AASB 13 Fair Value Measurement). Identical markets would only apply to 'as new' items of plant or equipment contributed or donated to Council.

Other asset types with a market value commonly contributed or donated to Council include land, buildings and second-hand plant or equipment. Such assets are valued with reference to other observable inputs, such as second-hand markets for similar/identical assets or real estate markets. These valuations are considered to be Level 2 fair values, as prescribed within AASB 13, and take into account:

- The condition and location of the asset acquired; and
- The asset's highest and best use

As such, a market value should be obtained for assets in similar condition to the asset acquired by Council and, depending on its physical location, an adjustment may be required for transportation costs. Any other type of transaction cost, such as real estate or legal fees, are specifically excluded as being part of market value by AASB 13.

With regard to highest and best use, the following factors need to be considered:

- A use that is physically possible, taking into account the asset's physical characteristics, such as size and capacity, as well as any physical impediments due to location
- A use that is legally permissible, including zoning regulations applicable to a property and any other legally enforceable restriction
- A use that is financially feasible, taking into account the economic realities of upgrading or converting an asset to achieve a better usage

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#### Asset Accounting Policy

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The important point to note is that highest and best use (and hence market value of the asset) is from the perspective of market participants, which can differ from how Council is using or intends to use the asset.

#### **Depreciated replacement cost**

Where assets are acquired by Council at no cost, or for nominal consideration, and a market value cannot be reliably obtained, the assets are recognised within the financial asset register at depreciated replacement cost, that is, the current replacement or reproduction cost less any accumulated depreciation.

Current replacement or reproduction cost of an asset is the minimum that it would cost Council, in the normal course of business, to replace an existing asset with a technologically modern equivalent (as opposed to a second-hand asset) that provides commensurate economic benefits.

Reliable sources of information for determining current replacement cost are:

- Appropriately qualified and knowledgeable valuers
- Reference to industry standards, such as Rawlinsons Construction Cost Guide, Cordell's Cost Guides, or NSW Reference Rates Manual
- Costs incurred by Council in the acquisition/construction of similar assets
- Expected costs of materials, services and labour sourced from appropriate suppliers and applied by appropriately qualified and knowledgeable Asset Managers within Council

## CL22.326 Policy - Related Party Disclosures

**HPERM Ref:** D22/283170

**Department:** Finance

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

**Attachments:** 1. DRAFT - Policy on Related Party Disclosures [↓](#)

### Reason for Report

The *Related Party Disclosures Policy* is presented for adoption. The Local Government Act requires that all Council policies should be reviewed within 12 months of an election of a new Council.

### Recommendation

That Council adopt the Related Party Disclosures Policy.

### Options

1. Adopt the recommendations as written.

Implications: Updated Policies will be adopted within the 12-month timeframe of a new elected Council.

2. Not adopt the recommendations.

Implications: Council can request further details, seek further community input, or make other changes.

### Background

The Related Party Disclosure Policy was adopted by Council on 28 November 2017 and has been reviewed in line with the Australian Accounting Standard AASB124 – Related Party Disclosures. The original Policy was prepared soon after the new accounting standard was released and at that time, no detailed guidelines were available.

In accordance with AASB124, we recommend the following adjustments to the member of Key Management Personnel (KMP).

Previously, Key Management Personnel included:

- The Mayor
- Councillors
- The General Manager
- Directors
- Section Managers
- Any person who fills an above role in an 'acting' capacity

Key Management Personnel have been amended to:

- The Mayor
- Councillors
- Chief Executive Officer
- Directors

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- Any person who fills an above role in an 'acting' capacity

In accordance with AASB 124 Guidelines, Section Managers are not considered as Key Management Personnel.

The General Manager position is retitled to Chief Executive Officer.

### **Why Has It Changed?**

The role of Section Managers (now referred to as Managers) does not extend to having the authority and responsibility for planning, directing, and controlling the activities of the Council itself. Managers carry out the day-to-day operations of the Council under the direction of its elected Councillors, Directors, and the Chief Executive Officer. It is the Councillors, Directors and the Chief Executive Officer who have the authority and responsibility for the decision-making.

After research of the best practice across NSW councils, including Wollongong, Woollahra, Shellharbour, Ryde, Parramatta, and North Sydney, we noted that other councils do not include Managers as KMP.

In order to simplify the Related Party Disclosure process, minimise administrative burden and maintain the accuracy of information, the above change is recommended to the Council for adoption.

### **Policy Implications**

The Policy included in this Report is proposed for reaffirmation as the nature of the changes have been made in line with the AASB124 guidelines. The removal of Managers as Key Management Personnel has no implications or deviation from the existing intent of the current approved Policy.

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## Related Party Disclosure

<b>Adoption Date:</b>	28/11/2017
<b>Amendment Date:</b>	
<b>Minute Number:</b>	MIN17.1030
<b>Review Date:</b>	
<b>Directorate:</b>	City Performance
<b>Record Number:</b>	POL18/50

## Related Party Disclosures

### 1. Purpose

The purpose of this policy is to define the parameters for Related Party Transactions and the level of disclosure and reporting required for Council to achieve compliance with the Australian Accounting Standard AASB124 – Related Party Disclosures.

### 2. Statement

Council is committed to responsible corporate governance including compliance with laws and regulations governing related party transactions.

Related party relationships are a normal feature of commerce and business. For example, entities frequently carry on parts of their activities through subsidiaries, joint ventures and associates. In those circumstances, there is the possibility of the entity having the ability to affect the financial and operating policies of the Council through the presence of control, joint control or significant influence.

A Related party relationship could influence the normal business operations of Council even if related party transactions do not occur. The mere existence of the relationship may be sufficient to affect the transactions of the Council with other parties. Alternatively, one party may refrain from trading with Council because of the significant influence of another – for example, a local supplier may be instructed by its parent not to engage in supplying goods to Council.

For these reasons, knowledge of Council's transactions and outstanding balances (including commitments and relationships with related parties) may affect assessment of Council's operations.

### 3. Definitions

<b>AASB124</b>	Australian Accounting Standards Board, Related Party Disclosure Standard
<b>Act</b>	Local Government Act 1993
<b>Entity</b>	Can include companies, trusts, joint ventures, partnerships, incorporated association or unincorporated group or body and non-profit associations
<b>Close members of the family of a person</b>	Those family members who may be expected to influence, or be influenced by, that person in their dealings with the Council and include: <ul style="list-style-type: none"> <li>• that person's children and spouse or domestic partner</li> <li>• children of that person's spouse or domestic partner, and</li> <li>• dependants of that person or that person's spouse or domestic partner</li> </ul>
<b>Related Party</b>	A person or entity that is related to the entity that is preparing its financial statements
<b>Key Management Personnel (KMP)</b>	As defined in section 6 of this policy
<b>KMP Compensation</b>	All forms of consideration paid, payable or provided in exchange for services provided and may include: <ul style="list-style-type: none"> <li>• Short-term employee benefits such as wages and salaries, social security contributions, paid annual leave and paid sick leave, profit sharing and bonuses (if payable within twelve months of the end of the period)</li> </ul>

**Related Party Disclosures**

	<p>and non-monetary benefits (such as medical care, housing, cars and free and subsidised goods or services) for current employees;</p> <ul style="list-style-type: none"> <li>• Post-employment benefits such as pensions, other retirement benefits, post-employment life insurance and post-employment medical care</li> <li>• Other long-term employee benefits, including long-service leave or sabbatical leave, jubilee or other long-service benefits, long-term disability benefits and, if they are not payable wholly within twelve months after the end of the period, profit sharing, bonuses and deferred compensation; and</li> <li>• Termination benefits</li> </ul>
<b>Material (Materiality)</b>	Assessment of whether a transaction, either individually or in aggregate with other transactions, by omitting it or misstating it could influence decisions that users make on the basis an entity's financials statements. For the purpose of this policy, it is not considered appropriate to set either a dollar value or a percentage value to determine materiality.
<b>Ordinary Citizen Transaction</b>	A transaction that an ordinary citizen of the community would undertake in the ordinary course of business with Council.
<b>Possible (Possibly) close members of a family of a person</b>	<p>Those family members who could be expected to influence, or be influenced by, that person in their dealings with the Council and include:</p> <ul style="list-style-type: none"> <li>a) that person's brothers and sisters</li> <li>b) aunts, uncles and cousins of that person's spouse or domestic partner</li> <li>c) dependants of those person's or that person's spouse or domestic partner as stated in (b)</li> <li>d) that person's or that person's spouse or domestic partners, parents and grandparents</li> </ul>
<b>Related Party Transaction</b>	A transfer of resources, services or obligations between a Council and a related party regardless of whether a price is charged.
<b>Regulation</b>	Local Government (General) Regulation 2005
<b>Significant (significance)</b>	Likely to influence the decision that users of the Council's financial statements make having regard to both the extent (value and frequency) of the transactions and that the transactions and that the transactions have occurred between the Council and the related party outside a public service provider / taxpayer relationship.
<b>Remuneration</b>	Remuneration package, including any money, consideration or benefit received or receivable by the person but excludes reimbursement of out-of-pocket expenses, including any amount received or receivable from a related party transaction.

**4. Related Legislation and Documents**

- Local Government Act 1993
- Local Government (General) Regulation 2005
- Local Government Code of Accounting Practice and Financial Reporting
- AASB124 – Related Party Disclosures

#### Related Party Disclosures

- AASB10 – Consolidated Financial Statements

### 5. Materiality

AASB124 provides that Council must disclose all material and significant Related Party Transactions and outstanding balances, including commitments, in its annual financial statements. Generally, disclosure will only be made where a transaction has occurred between Council and a related party of Council. In addition, the transaction must be material in nature or size when considered individually or collectively.

When assessing whether such transactions are significant the following factors will be taken into consideration:

- Significance in terms of size
- Was it carried out on non-market terms
- Is it outside normal day-to-day council operations
- Was it subject to council approval
- Did it provide a financial benefit not available to the general public
- Was the transaction likely to influence decisions of users of the annual financial statements

To enable Council to comply with AASB124, Councils KMP are required to declare full details of any related parties and related party transactions. Such information will be retained and reported, where necessary, in Councils Annual Financial Statements.

Accordingly, Council would apply judgement in determining the extent of information it needs to collect to meet the objective of AASB124, as it has been determined that there is little value in incurring significant costs to obtain data that is immaterial for disclosure.

The following are relevant when assessing materiality for disclosing KMP related party transactions:

- the potential effect of the relationship on the financial statements (ie not materiality to the related party) when assessing the quantitative aspects; and
- transactions which occur on terms no different to that of a transaction with the general public and in a public service provider / taxpayer relationship, are not likely to be qualitatively material for disclosure

These types of transactions are not presumed to be material by nature of the transaction alone.

### 6. Key Management Personnel

AASB124 defines KMP's as "those persons having authority and responsibility, whether directly or indirectly, for planning, directing and controlling the activities of the entity.

For Council purposes, KMP's include:

- The Mayor
- Councillors
- ~~Chief Executive Officer~~ ~~The General Manager~~
- Directors
- ~~Section Managers~~
- Any person who fills an above role in an 'acting' capacity



## Related Party Disclosures

### 7. Related Parties

For the purpose of this policy, related parties of Councils are:

- Entities related to Council
- KMP of Council
- Close family members of KMP
- Possible close family members of KMP's; and
- Entities or persons that are controlled or jointly controlled by KMP, or their close family members or their possible close family members

A person or an entity is a related party of Council if any of the following apply:

- They are members of the same group (each parent, subsidiary and fellow subsidiary is related to the others)
- They are an associate of belong to a joint venture of which Council is part of
- They and Council are joint ventures of the same third party
- They are part of a joint venture of a third party and Council is an associate of the third party
- They are a post-employment benefit plan for the benefit of employees of either Council of an entity related to Council
- They are controlled or jointly controlled by close members of the family of a person
- They are identified as a close or possibly close member of the family of a person with significant influence over Council or a close or possibly close member of the family of a person who is a KMP of Council; or
- They or any member of a group of which they are a part, provide KMP's services to Council

### 8. Related Party Transactions

A related party transaction is a transfer of resources, services or obligations between a reporting entity and a related party regardless of whether a price is charged. Such transactions required to be disclosed include:

- The purchase or sale of goods (finished or unfinished)
- Purchase or sale of property and other assets
- Rendering or receiving services
- Leases
- Quotations and / or tenders
- Commitments; and
- Settlements of liabilities on behalf of Council or by Council on behalf of the related party

### 9. Disclosure

Council must disclose all material and significant Related Party Transactions in its Annual Financial Statements and include the following details:

- The nature of the related party relationship; and
- Relevant information about the transactions including
  - The amount of the transaction
  - The amount of outstanding balances, including commitments
  - Their terms and conditions, including whether they are secured and the nature of the consideration to be provided in the settlement
  - Details of any guarantee given or received

#### Related Party Disclosures

- Provision for doubtful debts related to the amount of outstanding balances; and
- The expense recognised during the period in respect of bad or doubtful debts due from related parties

All transactions involving related parties will be captured and reviewed to determine materiality or otherwise of such transactions, if the transactions are Ordinary Citizen Transactions, and to determine the significance of each of the transactions.

Related party transactions excluded from disclosure requirements on the basis of Ordinary Citizen Transactions are:

- Any valid discounts and fee waivers that are available to the party as an ordinary citizen and is available to any ordinary citizen in the same circumstances; and
- Any service or benefit occurring within normal employee, customer or supplier relationships and at arm's length; and
- Are not material or significant

Generally, transactions with amounts receivable from and payable to KMP or their related parties which:

- occur within normal employee, customer or supplier relationships and at arm's length; and
- are not material or significant;

Shall be excluded from details disclosures, they will be disclosed in the financial statements by general description. Disclosures that related party transactions were made on terms equivalent to an arm's length transaction can only be made if such terms can be substantiated.

#### 10. Procedures

The method of identifying the close family members and associated entities of KMP will be by KMP self-assessment. KMP have an ongoing responsibility to advise Council immediately of any related party transactions.

The preferred method of reporting is for KMP to provide details of related parties and related party transactions via the Key Management Personnel Disclosure Form (Attachment 1), which is to be submitted to the Governance Unit of Council.

Information provided will be reviewed in accordance with the Council's operational requirements and held on a centralised register within the Finance department.

Should a KMP have any uncertainty as to whether a transaction may constitute a related party transaction they should contact the Chief Financial Officer for further clarification.

#### 11. Privacy

Information provided by KMP and other related parties shall be held for the purposes of compliance with Council's legal obligation and shall be disclosed where required for compliance for legal reasons only.

#### 12. Review

This policy shall be reviewed annually and as required in the event of legislative change. Any proposed amendments to the Related Party Disclosures Policy must be approved by a resolution of Council.

Attachment 1

## Key Management Personnel Disclosure Form

Completion of this form is to assist Finance in preparing the disclosures required by AASB124 in regards to transactions between Council and Key Management Personnel.

1. Details of Key Management Personnel Making the Disclosure:	
Your Name:	
Position	Councillor <input type="checkbox"/> General Manager <input checked="" type="checkbox"/> Group Director <input type="checkbox"/> Other <input type="checkbox"/> <u>Chief Executive Officer</u>
<b>Names of Close Family Members</b> <ul style="list-style-type: none"> <li>Your children, spouse or domestic partner</li> <li>Children of your person's spouse or domestic partner</li> <li>Your other dependents or those of your spouse</li> </ul> (OLG has noted that close family members can be other than those described in the definition)	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____
Residential Address:	Post Code: _____ Do you have an ownership interest in this property YES <input type="checkbox"/> NO <input type="checkbox"/> Is this property owned by a close family member YES <input type="checkbox"/> NO <input type="checkbox"/>
Other properties in the Shoalhaven LG area that you have an ownership interest in:	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____

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<p>Organisations/companies controlled by you: (e.g. significant shareholder, director or other key position)</p>	<p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>4. _____</p> <p>5. _____</p> <p>6. _____</p> <p>7. _____</p> <p>8. _____</p>
<p>Other properties in the Shoalhaven LG area that are owned by your close family members listed above or your controlled organisations/companies</p>	<p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>4. _____</p> <p>5. _____</p> <p>6. _____</p> <p>7. _____</p> <p>8. _____</p>
<p>Organisations/companies controlled by your close family members</p>	<p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>4. _____</p> <p>5. _____</p> <p>6. _____</p> <p>7. _____</p> <p>8. _____</p>
<p><b>2. Other Disclosures:</b></p>	
<p>Please disclose any transactions you, your close family members or your controlled organisations/companies have with Council? (e.g. contracts or provision of goods or services flowing either direction)</p> <p>Please remember those transactions that are part of a general Council/resident nature are not required for disclosure (e.g. rate</p>	<p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>4. _____</p> <p>5. _____</p> <p>6. _____</p> <p>7. _____</p> <p>8. _____</p> <p>9. _____</p> <p>10. _____</p> <p>11. _____</p>

payments made on time, entry to local pools, a one-off parking fine)	12. _____
Do you have any additional information or documentation related to the disclosure:	If YES, please attach a copy to this form. YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>Signature/Date</b>	

## CL22.327 Policy - Investment Policy

**HPERM Ref:** D22/283208

**Department:** Finance

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

**Attachments:** 1. Draft - Investment Policy [↓](#)

### Reason for Report

The *Investment Policy* is presented for adoption. The Local Government Act requires that all Council policies should be reviewed within 12 months of an election of a new Council.

### Recommendation

That Council adopt the Investment Policy.

### Options

1. Adopt the recommendation as written.

Implications: Updated Policies will be adopted within the 12-month timeframe of a new elected Council.

2. Not adopt the recommendation.

Implications: Council can request further details, see further community input, or make other changes.

### Background

The Investment Policy was first adopted by Council on 19 June 2001 and has been reviewed to comply with relevant legislation and regulations.

The Policy was amended in May 2021 to meet the covenants of the \$45M loan funding obtained from TCorp. TCorp recently issued an amendment to the original loan agreement thus obligating Council to amend its Investment Policy.

### Policy Implications

The TCorp Loan agreement amendment will necessitate minor changes to credit quality and counterparty limits. The total investment in the BBB+ to BBB category has been increased from 30% to 35%. The credit quality categories are based on the Standard & Poor's (S&P)/Moody's long-term rating. However, the BBB category now carries a sub limit of 15%. Additionally, BBB- and below have been reduced from 5% to 0%.

Some other minor editorial changes were made to the Policy.

### Financial Implications

Potentially higher returns will be foregone by being unable to invest in the lower rated institutions which offer a rate premium in comparison to BBB and higher. Under the current Policy and with total investments approximately \$200M, Council would forego investment

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returns of between \$5,000 and \$20,000 per annum depending on the rate premiums available on a \$10M security (which is 5% of our current portfolio).

**Risk Implications**

The amended Policy will reduce risk as investments in the BBB- and below categories will no longer be undertaken.

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# Investment Policy

<b>Adoption Date:</b>	19/06/2001
<b>Reaffirmed:</b>	28/09/2004, 18/12/2018
<b>Amendment Date:</b>	26/09/2006, 7/10/2008, 1/02/2011, 23/04/2013, 14/10/2014, 24/05/2016, 15/08/2017, 23/02/2018, 26/11/2019, 10/12/2019, 1/12/2020, 25/05/2021
<b>Minute Number:</b>	MIN01.788, MIN04.1165, MIN06.1217, MIN08.1339, MIN11.55, MIN13.368, D14/268858, MIN16.380, MIN17.221, MIN17.701, MIN18.20, MIN18.1023, MIN19.877, MIN19.933, MIN21.332
<b>Review Date:</b>	18/05/2022
<b>Directorate:</b>	City Performance
<b>Record Number:</b>	POL22/78



## Investment Policy

### 1. Objectives

The purpose of this policy is to provide a framework for making decisions concerning the appropriate investment of Council's funds, at the most favourable rate of interest available to it at the time to maximise returns, whilst having due consideration of risk, liquidity and security for its investments.

Council may pursue other objectives that maximise community benefits, including more restrictive rules to qualify for concessional debt funding.

The policy establishes a series of limits within which Council officers must operate in the planning and process of investing Council monies. In setting these limits Council is determining the general level of risk that is acceptable for monies managed on trust for the community of Shoalhaven.

While exercising the power to invest, consideration is to be given to the preservation of capital, liquidity and the return of investment. Council, therefore, has several key objectives for its investment portfolio:

- Compliance with legislation, regulations, the prudent person tests of the Trustee Act and best practice guidelines;
- Preservation of the amount invested [for defensive fixed interest investments. Some NSW Tcorp Funds are highly volatile and Council understands it should take a long-term view when placing surplus assets into any of their managed funds;](#)
- To ensure there is sufficient liquid funds to meet all reasonably anticipated cash flow requirements.
- Adherence to debt covenants.
- To generate income from the investment that exceeds the performance benchmarks mentioned later in this document.

### 2. Legislative Requirements

All investments are to comply with the following:

- *Local Government Act 1993*;
- *Local Government (General) Regulation 2005*;
- Ministerial Investment Order;
- The *Trustee Amendment (Discretionary Investments) Act 1997* – Section 14;
- *Local Government Code of Accounting Practice and Financial Reporting*;
- Australian Accounting Standards;
- Office of Local Government *Investment Policy Guidelines*; and
- Office of Local Government Circulars.

### 3. Authority

Authority for implementation of the Investment Policy is delegated by Council to the General Manager in accordance with the *Local Government Act 1993*.

The CEO may in turn delegate the day-to-day management of Council's investment portfolio to the Responsible Accounting Officer and/or other Finance staff who must ensure adequate skill, support and oversight is exercised in the investment of Council funds.

#### Investment Policy

Officers' delegated authority to manage Council's investments shall be recorded and they will be required to acknowledge they have received a copy of this policy and understand their obligations in this role.

#### 4. Risk Management

Investments obtained are to be considered in light of the following key criteria:

- *Preservation of capital* – the requirement for preventing losses in an investment portfolio's total value (considering the time value of money);
- *Diversification* – the requirement to place investments in a broad range of products so as not to be overexposed to a particular sector of the investment market;
- *Credit risk* – the risk that a party or guarantor to a transaction will fail to fulfil its obligations. In the context of this document it relates to the risk of loss due to the failure of an institution/entity with which an investment is held to pay the interest and/or repay the principal of an investment;
- *Fidelity, legal and documentary risk* – the risks of suffering loss from staff or counterparty fraud, theft, failure to document transactions and title with enforceable documents or compensation to third parties for these failures;
- *Market risk* – the risk that the fair value or future cash flows of an investment will fluctuate due to changes in market prices or benchmark returns will unexpectedly overtake the investment's return.
- *Covenant risks* – the risk of breaching debt covenants and bearing additional costs.
- *Liquidity Risk* – the risk an institution runs out of cash, is unable to redeem investments at a fair price within a timely period, and thereby Council incurs additional costs (or in the worst case is unable to execute its spending plans).
- *Maturity Risk* – the risk relating to the length of term to maturity of the investment. The larger the term, the greater the length of exposure and risk to market volatilities; and
- *Rollover Risk* - the risk that income will not meet expectations or budgeted requirement because interest rates are lower than expected in future

The following indicates the limitations to be applied so as to avoid these risks:

##### a) Authorised Investments

All investments must be denominated in Australian Dollars. Authorised Investments are limited to those allowed by the Ministerial Investment Order and include:

- Commonwealth / State / Territory Government securities, e.g. bonds;
- Interest bearing deposits / senior securities issued by an eligible authorised deposit-taking institution (ADI);
- Bills of Exchange (< 200 days duration) guaranteed by an ADI;
- Debentures issued by a NSW Council under *Local Government Act 1993*;
- Deposits with TCorp &/or Investments in TCorpIM Funds; and
- Existing investments grandfathered under the Ministerial Investment Order, or under the terms of any debt covenants.

## Investment Policy

### b) Prohibited Investments

This Investment Policy prohibits the following types of new investment:

- Derivative based instruments<sup>1</sup>;
- Principal only investments or securities that provide potentially nil or negative cash flow;
- Stand-alone securities issued that have underlying futures, options, forwards contracts and swaps of any kind;
- Mortgage of land;
- Investment trusts, even where the trusts adhere to the Minister's Order fully with the exception of T-CorpIM Funds; and
- Any other investment written out of the Minister's Order.

This policy also prohibits the use of leveraging (borrowing to invest) an investment. However, nothing in the policy shall prohibit the short-term investment of loan proceeds where the loan is raised for non-investment purposes and there is a delay prior to the expenditure of loan funds.

### c) Liquidity and Maturity

Investments should be allocated to ensure there is sufficient liquidity to meet all reasonably anticipated cash flow requirements, as and when they fall due, without incurring the risk of significant costs due to the unanticipated sale of an investment. Therefore, the maturity dates of each investment must be carefully chosen and reviewed to ensure that cash levels are sufficient to fulfil these estimated requirements.

### d) Credit Quality Limits

The portfolio credit guidelines to be adopted will reference the Standard & Poor's (S&P) ratings system format, with Moody's also used – the lower of these ratings (stated in this format) is to be used.

However, the primary control of credit quality is the prudential supervision and government support and implicit and explicit guarantees of the ADI sector, not ratings.

The maximum holding limit in each rating category for Council's portfolio shall be:

Long-Term Rating Range	Maximum % of Portfolio
AAA category	100%
AA+ to AA- AA category or Major Banks	100%
A+ to A	100%
A-	40%
BBB+ to BBB*	3530%
BBB- and below category	05%

<sup>1</sup> Prohibited investments are not limited to the list above and extend to any investment carried out for speculative purposes.

**Investment Policy**

TCorp Investments **	10015%
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\* ~~Of which no more than 10% in investments with a Long-Term Debt Rating of BBB~~ Of this 35%, the Borrower is permitted to invest a maximum of 15% in investments with a Long Term credit rating of BBB such investments constituting a 15% sub limit of the permitted 35% portfolio limit.

\*\* Council should refer to the TCorpIM Funds Offer Document dated 1 February 2020 and, section 4 (Risks of Investing) and, if appropriate, seek independent financial advice prior to making any investment in TCorp Investments. Investments are not guaranteed.

**e) Counterparty Limits**

Exposure to individual counterparties/financial institutions will be restricted by their rating so that single entity exposure is limited, as detailed in the table below. No further investment will be made with Unrated institutions beyond their government guaranteed level, except for local ADIs concentrating in the Illawarra or South Coast regions.

Individual Institution or Counterparty Limits		
Long-Term Rating Range	Not exceed the smaller of:	
	Maximum % of Portfolio	% of Institution or Counterparty's Net Assets
AAA	100%	n/a
AA + to AA-	100%	n/a
A+ to A	100%	n/a
A-	20%	n/a
BBB+	10%	2%
BBB	5%	2%
BBB- and below: Local ADIs (Authorised Deposit Taking Institutions)	5% <del>-</del>	2%
<del>BBB- and below: Other</del>	<del>\$250,000-</del>	<del>2%</del>
TCorp Investments	10015%	n/a

**f) Term to Maturity Limits**

Council's investment portfolio shall be structured around the horizon of investment to ensure that liquidity and income requirements are met, as well as restricting the tenure of individual investments.

Once the primary aim of liquidity is met, Council will ordinarily diversify its maturity profile as this will ordinarily be a low-risk method of obtaining additional return as well as reducing the risks to Council's income. However, Council always retains the flexibility to invest as short as required by internal requirements or the economic outlook. Judgment of the state of domestic and global economic circumstances should also be carefully taken into account when making decisions on the terms of an investment.

The factors and/or information used by Council to determine minimum allocations to the shorter durations include:

#### Investment Policy

- Council's liquidity requirements to cover both regular payments as well as sufficient buffer to cover reasonably foreseeable contingencies;
- Medium term financial plans and major capital expenditure forecasts;
- Known grants, asset sales or similar one-off inflows; and
- Seasonal patterns to Council's investment balances.

Investment Horizon Description	Horizon	Maximum % of Portfolio
Working Capital Funds	0-3 months	100%
Short-Term Funds	3-12 months	100%
Short-Medium Term Funds	1-2 years	70%
Medium-Term Funds	2-5 years	50%
Long-Term Funds	5-10 years	25%
<u>Working Capital Funds</u>	<u>0-3 months</u>	<u>100%</u>

Within these broad ranges, Council relies upon assumptions of expected investment returns and market conditions that have been examined with its investment advisor.

On advice, Council shall designate an appropriate horizon to investment in managed funds, which have no maturity date. In addition, Council may allocate a horizon to eligible tradeable or callable securities which have an anticipated holding period shorter than the legal maturity.

The following tenure limitation applies:

Long-Term Ratings	Maximum Tenure
AAA	Not applicable
AA range or A+	5 years
A or A-	3 years
BBB+	3 years
BBB and below	12 months
<u>Unrated category BBB and below</u>	<u>12 months</u>
TCorp Investments	Not applicable

Note: Council has requested an exception from TCorp regarding the tenure limits for Investments in A+ rated companies which includes the major banks.

Management noted that other Councils have received waivers to continue long-standing investment programmes that include liquid assets, hence, Council requested for amendment of the A+ category from 3-year tenure limit to 5 years.

TCorp will provide a response to address this query during the next credit committee meeting and respond to Council's request.

#### 5. Third Party Suppliers and Dealers

### Investment Policy

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Council will structure its affairs in order to be economical in its investment management costs, favouring dealing direct in its fixed interest, where possible (or, where intermediated, arrangements that result in a rebate of brokerage).

At times, it will be advantageous to deal with third parties that are remunerated on a transaction, rather than retainer basis. Council will use such suppliers where it is to its advantage, and apply a “best execution” test. Specifically, Council will have regard to:

- Administrative cost savings;
- Ability to access higher (retail) rates where exceeding the direct transaction costs;
- Access to ADIs that would not normally have an institutional direct channel;
- Limited access or initial offering deals, or other secondary market opportunities that are only available from specific sources; and
- The costs of other distribution channels that do not involve transaction remuneration.

Council will take steps to ensure that:

- Any suppliers used are appropriately licensed, reputable and capable;
- Funds and identification data are sufficiently secured;
- Third party arrangements do not materially worsen Council’s credit risks by creating exposure to the dealer as counterparty;
- Council maintains ownership of investments facilitated by a third party at all times; and
- Remuneration arrangements are reasonable and transparent, whether paid by Council or by the issuer directly.

### 6. Investment Advisor

Council’s investment advisor is appointed by the Council and must be licensed by the Australian Securities and Investment Commission (ASIC). The advisor must be independent and must confirm in writing that they have no actual or potential conflict of interest in relation to investment products being recommended and are free to choose the most appropriate product within the terms and conditions of the Investment Policy. This includes receiving no commissions or other benefits in relation to the investments being recommended or reviewed, unless such remuneration is rebated 100% to Council.

### 7. Accounting

Council will comply with appropriate accounting standards in valuing its investments and quantifying its investment returns.

In addition to recording investment income according to accounting standards, published reports may show a break-down of its duly calculated investment returns into realised and unrealised capital gains and losses, and interest.

Other relevant issues will be considered in line with relevant Australian Accounting Standards, such as discount or premium, designation as held-to-maturity or on a fair value basis and impairment.

### 8. Safe Custody Arrangements

#### Investment Policy

Where necessary, investments may be held in safe custody on Council's behalf, as long as the following criteria are met:

- Council must retain beneficial ownership of all investments;
- Adequate documentation is provided, verifying the existence of the investments at inception, in regular statements and for audit;
- The Custodian conducts regular reconciliation of records with relevant registries and/or clearing systems; and
- The Institution or Custodian recording and holding the assets will be:
  - The Custodian nominated by TCorpIM for its Funds;
  - Austraclear;
  - An investment-grade institution by Standard and Poor's, Moody's, or Fitch rating; or
  - An institution with adequate insurance, including professional indemnity insurance and other insurances considered prudent and appropriate to cover its liabilities under any agreement.

#### 9. Performance Benchmark

The performance of each investment will be assessed against the benchmarks listed in the table below. It is Council's expectation that the performance of each investment will be greater than or equal to the applicable benchmark by sufficient margin to justify the investment considering its risks, liquidity, and other benefits of the investment, and executed at the best pricing reasonably possible.

Investment	Performance Benchmark	Time Horizon
11am accounts, short dated bills, ADI deposits of appropriate term, TCorpIM Cash.	AusBond Bank Bill Index (Net of Fees and Expenses)	3 months or less
Term Deposits or FRNs of appropriate remaining term.		3 months to 12 months
Term Deposits with a maturity date between 1 and 2 Years, FRNs, TCorpIM Short Term Income.		1 to 2 yrs.
FRNs, Bonds, Term deposits with a maturity date between 2 and 5 Years.		2 to 5 yrs.
TCorpIM Managed Funds (outside fixed interest sectors)	Fund's Internal Benchmark (Net of Fees and Expenses)	3 yrs. (M/T Growth) 5+ yrs. (L/T Growth)

The decision on when to exit such investments are based on a range of criteria specific to the investments – including but not limited to factors such as:

- Returns expected over the remaining term
- Fair values
- Competing investment opportunities
- Costs of holding
- Liquidity and transaction costs
- Outlook for future investment values

## Investment Policy

In general, it is expected that professional advice will be sought before transacting in “grandfathered” investments. This policy does not presume disposal; however, the removal of an asset from the Minister’s Order would warrant a review of its suitability for retention.

### **10. Reporting and Reviewing of Investments**

Documentary evidence must be held for each investment and details thereof maintained in an investment register.

The documentary evidence must provide Council legal title to the investment.

For audit purposes, certificates must be obtained from the banks/fund managers/custodian confirming the amounts of investment held on Council’s behalf at 30 June each year and reconciled to the investment register.

All investments are to be appropriately recorded in Council’s financial records and reconciled at least on a monthly basis. The report will detail the investment portfolio in terms of holdings and impact of changes in market value since the previous report and the investment performance against the applicable benchmark. Council may also nominate additional content for reporting.

A monthly report will be provided to Council detailing the money invested as required by clause 212 of the *Local Government (General) Regulations 2005*.

### **11. Duties and Responsibilities of Council Officers**

The *Trustee Act 1925* requires trustees to “*exercise the care, diligence and skill that a prudent person of business would exercise*” in investing beneficiary funds, and this test is adopted by the Guidelines, which also state “*A prudent person is expected to act with considerable duty of care, not as an average person would act, but as a wise, cautious and judicious person would.*”

As trustees of public monies, officers are to manage Council’s investment portfolios to safeguard the portfolio in accordance with the spirit of this Investment Policy and not for speculative purposes.

When exercising the power of investment, the council officer should consider the following issues:

- The risk of capital or income loss as well as other risks referenced in this Policy.
- The likely income return and the timing of income return;
- The length of term of the proposed investment;
- The liquidity and marketability of the proposed investment;
- The likelihood of inflation affecting the value of the proposed investment; and
- The costs (such as commissions, fees, charges and duties) of making the proposed investment.

### **12. Ethics and Conflict of Interest**

Officers shall refrain from personal activities that would conflict with the proper execution and management of Council’s investment portfolio. This policy requires officers to disclose any conflict of interest to the General Manager.

Independent advisors are also to declare that they have no actual or perceived conflicts of interest and receive no inducements in relation to Council’s investments, as outlined more fully in the Investment Advisor section.



#### Investment Policy

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### 13. Implementation

The Finance Section within the City Performance Directorate has responsibility for implementation of this policy.

### 14. Review

This policy shall be reviewed annually and as required in the event of legislative change or as a result of significantly changed economic/market conditions. Any proposed amendments to the Investment Policy must be approved by a resolution of Council.

## CL22.328 Policy - Acceptance of Tenders - Reports to Council Policy

HPERM Ref: D22/290279

Department: Finance

Approver: Olena Tulubinska, Chief Financial Officer

### Reason for Report

The *Acceptance of Tenders Policy* is presented to Council for consideration. The Local Government Act requires that all Council Policies should be reviewed within 12 months of an election of a new Council.

### Recommendation

That Council rescind the Acceptance of Tenders – Reports to Council Policy

### Options

1. Adopt the recommendation as written.

Implications: Nil

2. Not adopt the recommendation.

Implications: Council can request further details, seek community input, or make other changes.

### Background

The [Acceptance of Tenders – Reports to Council Policy](#) was originally adopted by Council on 19 December 1995 for the provision for tenders to be reported to the Strategy & Assets Committee to avoid undue delay in the review of tenders by Council at Ordinary Meetings.

As the Strategy & Assets Committee was disestablished by Council (MIN22.4), this Policy is no longer relevant and needs to be rescinded.

In addition, on 26 April 2017 Council resolved to delegate authority to the CEO to determine and accept any tenders with a value less than \$1M except those required by law to be determined by full Council (MIN17.334). This was in response to legislative changes in 2016 which in essence recognised that tenders were operational matters for the CEO. This is also a reason to rescind the policy.

CL22.328

## CL22.329 Policies - Small Lot Rural Subdivisions, Unpaid Rates/Charges (POL16/247) and Jerberra & Nebraska Estates Voluntary Acquisition (POL21/44)

**HPERM Ref:** D22/251604

**Department:** Strategic Planning

**Approver:** Carey McIntyre, Director - City Futures

**Attachments:**

1. Proposed Rates - Small Lot Rural Subdivisions - Dealing with Unpaid Rates & Charges Policy [↓](#)
2. Proposed Voluntary Acquisition - Residual C2 Environmental Conservation ~ Jerberra & Nebraska Estates Policy [↓](#)

### Reason for Report

The reason for this report is to enable reconsideration of the following Policies:

- Rates (Small Lot Rural Subdivisions) Dealing with Unpaid Rates & Charges Policy - POL16/247.
- Voluntary Acquisition (Residual C2 Environmental Conservation Land) Jerberra & Nebraska Estates Policy - POL21/44.

It is noted all Public Policies are to be submitted to Council within 12 months of the election of Council for consideration.

### Recommendation

That Council:

1. Reaffirm the Rates (Small Lot Rural Subdivisions) Dealing with Unpaid Rates & Charges Policy POL16/247 and Voluntary Acquisition (Residual C2 Environmental Conservation Land) Jerberra & Nebraska Estates Policy POL21/44, with the changes outlined in **Attachment 1 and 2**.
2. Update the hyperlinks to the related policies referred to within the Voluntary Acquisition (Residual C2 Environmental Conservation Land) Jerberra & Nebraska Estates Policy if required, following the related reaffirmation process of those policies.

### Options

1. As recommended.

Implications: This option will see the reaffirmation of POL16/247 and POL21/44 which is the preferred option as the content of the policies remains contemporary. This process will also allow for the relevant Council Directorate names to be updated in POL16/247. The process also allows for the streamlining of references to related policies mentioned in POL21/44.

2. An alternative recommendation.

Implications: Will depend on the extent of any changes/approaches.

CL22.329

## Background

The following background is provided in relation to the policies that both relate to ‘small lot rural submissions’

### Rates (Small Lot Rural Subdivisions) Dealing with Unpaid Rates & Charges Policy POL16/247

The [Rates \(Small Lot Rural Subdivisions\) Dealing with Unpaid Rates & Charges Policy](#) was adopted by Council on 27 February 2007 and reaffirmed in 2017. It sets a policy position for the transfer of land in lieu of unpaid rates relating to small lot rural subdivisions (i.e., paper subdivisions) across the City, including the Jerberra and Verons Estates.

The content of the Policy is considered contemporary, functions as needed and as such, further policy adjustment is not considered necessary at this stage. Only minor changes are recommended to the Policy to reflect the current Council structure, as outlined in **Attachment 1**.

### Voluntary Acquisition (Residual C2 Environmental Conservation Land) Jerberra & Nebraska Estates Policy POL21/44

The [Voluntary Acquisition \(Residual C2 Environmental Conservation Land\) Jerberra & Nebraska Estates Policy](#) was adopted on 5 October 2021 following detailed engagement with Council and consultation with landowners. The Policy outlines eligibility and the process for the voluntary acquisition of certain land that is or is likely to be zoned C2 Environmental Conservation in the Jerberra Estate, Tomerong and the Nebraska Estate, St Georges Basin.

The content of the Policy is considered contemporary as it was adopted in late 2021, and as such, further policy adjustment is not considered necessary at this stage. Only minor changes are recommended to remove policy numbers to avoid the need to amend the policy in the future, in this regard. These minor changes are outlined in **Attachment 2**. The hyperlinks to the related policies may also need to be updated following the related reaffirmation process of those policies.

## Community Engagement

No community engagement is required as part of the reaffirmation process.

## Rates – Small Lot Rural Subdivisions – Dealing with Unpaid Rates & Charges

<b>Adoption Date:</b>	27/02/2007
<b>Reaffirmed:</b>	09/05/2017
<b>Amendment Date:</b>	29/10/2009, 8/09/2015
<b>Minute Number:</b>	MIN07.283, MIN09.1488, D15/266998, MIN17.378
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Futures
<b>Record Number:</b>	POL22/41

**Rates – Small Lot Rural Subdivisions – Dealing with Unpaid Rates & Charges**

**1. Purpose**

This policy relates to **small lot rural subdivisions (i.e. paper subdivisions)** and the transfer of land in lieu of unpaid rates. The purpose of the policy is to consolidate a number of relevant Council decisions into a single accessible document for use by Council and the public.

**2. Statement**

**Statutory Requirements**

The requirements of Sections 31(2), 34, 570 and 713 of the Local Government Act 1993, (LGA) and the general provisions of the Conveyancing Act, 1919 apply.

A council may accept a transfer of the land in respect of which rates or charges are or accrued interest is due and payable in full satisfaction of the rates, charges or accrued interest (Section 570, LGA).

A council may sell any land (including vacant land) on which any rate or charge has remained unpaid for more than five (5) years from the date on which it became payable (Section 713, LGA).

Council may also sell any *vacant land* on which any rate or charge has remained unpaid for more than one (1) year from the date on which it became payable if:

- Council obtains a valuation of the land from the Valuer-General; and
- the total amount of unpaid rates or charges on the land exceeds the valuation, and
- the land is sold within 6 months of the date of the valuation.

**Council Resolutions**

This policy statement is based on the following Council resolutions:

- |              |             |
|--------------|-------------|
| • MIN97.1909 | • MIN06.407 |
| • MIN04.879  | • MIN06.714 |
| • MIN05.432  | • MIN07.283 |
| • MIN09.323  | • MIN09.870 |

**Related policies**

- Sale of Land to Recover Unpaid Rates and Charges
- Development and/or Disposal of Council Lands
- Jerrerra Payment Relief Policy

**Land to which this Policy applies**

This policy applies to land in small lot rural subdivisions which is or was categorised as “Residential, Non-Urban” for rating purposes. This includes land within Jerrerra and Verons Estates which is now rated as ‘Residential’ as a result of it being rezoned to enable development.

**3. Provisions**

**Recovery action**

Council will take all necessary steps to recover unpaid rates and charges on all properties to which this policy applies.

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**Rates – Small Lot Rural Subdivisions – Dealing with Unpaid Rates & Charges**

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**Transfer of land**

Council will, if requested by the landowner or the landowner's representative, accept the transfer of land under this policy in full satisfaction of unpaid rates and charges. Council will meet all legal costs associated with the transfer of the land in accordance with this policy and Section 570, LGA.

**Sale of land**

Property owners subject to debt recovery action will have thirty (30) days to respond to a request to settle the debt either by full payment, an agreed repayment schedule or by a request to transfer the land to Council ownership in accordance with Section 570, LGA. If no response is received, Council may move to enact the provisions of Section 713, LGA to sell by Public auction, properties where rates and charges have been unpaid for more than five (5) years or one (1) year if the land is vacant.

**Classification of Land**

Land transferred to Council in accordance with this policy shall be classified as follows in accordance with Section 31(2) of the LGA:

- Land identified through rezoning investigations as potentially suitable to accommodate development will be classified as "operational".
- Where the rezoning investigations have not progressed sufficiently (e.g. the Woollamia Farmlets) to ascertain whether or not the land has development potential, the land will be classified as "operational". The classification of this land will be reviewed when the rezoning potential has been determined.
- Other land would generally be classified as "community – natural area" unless an operational need is evident or likely.

The General Manager is authorised to publish a public notice of the proposed classification (Section 34, LGA).

**4. Implementation**

The policy will be implemented by the **City Performance Directorate** ~~Finance, Corporate and Community Services Group~~ by the identification of properties within small lot rural subdivisions where there are unpaid rates and charges.

The Property Unit, **City Services Directorate** ~~Assets and Works Group~~ is responsible for ensuring that property transfers are completed in accordance with the provisions of the *Conveyancing Act, 1919*.

**5. Review**

This policy will be reviewed within one year of the election of every new Council, or earlier if required.

# Voluntary Acquisition – Residual C2 Environmental Conservation Land – Jerberra & Nebraska Estates

<b>Adoption Date:</b>	05/10/2021
<b>Amendment Date:</b>	
<b>Minute Number:</b>	MIN21.699
<b>Review Date:</b>	02/10/2022
<b>Directorate:</b>	City Futures
<b>Record Number:</b>	POL22/43



Voluntary Acquisition – Residual C2 Environmental Conservation Land – Jerberra & Nebraska Estates

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**Voluntary Acquisition – Residual C2 Environmental Conservation Land – Jerberra & Nebraska Estates**

## 1. Purpose

This document describes Shoalhaven City Council's policy for the voluntary acquisition of certain land in the Jerberra Estate, Tomerong and the Nebraska Estate, St Georges Basin. Voluntary acquisition is the transfer of land between a willing seller and willing buyer.

## 2. Land to Which This Policy Applies

- 2.1. This policy applies to land shown in Figure 1, being land in the **Jerberra Estate, Tomerong** that is within the Zone C2 Environmental Conservation under a Local Environmental Plan applying to the land made in accordance with the *Environmental Planning & Assessment Act 1979*; and that is identified as 'Residual C2 Land' in Figure 2;
- 2.2. This policy will also apply to land shown in Figure 1 being land in the **Nebraska Estate, St Georges Basin** that is identified as 'Residual C2 Land' in Figure 3 but only if/when the land has been rezoned for the purposes of residential development and environmental conservation under a Local Environmental Plan applying to the land made in accordance with the *Environmental Planning & Assessment Act 1979*.

**Note:** The Nebraska Estate Planning Proposal (LP145.1) is yet to be finalised. If/when the land is rezoned, Figure 3 will be updated.

- 2.3. 'Residual C2 Land' is land that due to one or more environmental constraints:
  - does not/will not have a dwelling entitlement; and
  - is not proposed for consolidation into a larger development parcel.
- 2.4. The policy does not apply to 'Residual C2 Land' described in clause 2.3 that is owned by Council either at the date of adoption of this policy or that has been acquired by Council under this policy.

## 3. Statement

- 3.1. This policy facilitates and provides a mechanism for the cost-neutral voluntary acquisition of 'Residual C2 Land' in Jerberra Estate, Tomerong (Jerberra) and the Nebraska Estate, St Georges Basin (Nebraska) (if/when the land is rezoned) using net profits from the sale of Council land [in the relevant Estate] that is both zoned and suitable for development (developable).
- 3.2. Land acquired by Council under this policy will be managed for environmental and biodiversity conservation purposes in perpetuity consistent with clause 34A of the *NSW Biodiversity Conservation (Savings & Transitional) Regulation 2017*.

## 4. Planning controls – clause 34A Certification

- 4.1. Planning controls for Jerberra are certified under clause 34A of the *NSW Biodiversity Conservation (Savings and Transitional) Regulation 2017* (Biodiversity Savings Order). This means that development applications (DA) that comply with the Estate's biodiversity controls can be assessed under the legislation that applied before commencement of the *NSW Biodiversity Conservation Act 2016*. Therefore, a Biodiversity Conservation Assessment Report (BCAR) is not required to accompany an individual DA. *Clause 5.2.2 – Legal requirements for considering*

**Voluntary Acquisition – Residual C2 Environmental Conservation Land – Jerberra & Nebraska Estates**

*the impact of proposed development* – Shoalhaven Development Control Plan (DCP) 2014 – Chapter N20 – Jerberra Estate applies and should be referred to for more information.

- 4.2. This policy will support Council's application for a similar Biodiversity Savings Order for Nebraska when the planning proposal has been finalised.
- 4.3. The effect of the Biodiversity Savings Order will be included in the provisions of the DCP for Nebraska, if adopted by Council.

## 5. Financial Arrangements

- 5.1. All purchases of 'Residual C2 Land' will be funded by the net profit from the sale of Council land in the relevant Estate as outlined in the Statement at Section 3.
- 5.2. If an offer to sell 'Residual C2 Land' is received before any Council land in the relevant Estate has been sold, the funds will be borrowed from the Property Reserve to make the purchase and will be paid back into reserve when Council land is sold. The dollar value of such purchases must not exceed the dollar value of the anticipated net profits from the future sale of Council land.
- 5.3. Net profits from the sale of land in the relevant Estate may also be directed towards conservation objectives and the implementation of management plans outlined in clause 6.7 of this policy.
- 5.4. If net profits from the sale of developable Council land in one Estate are surplus to those required to purchase and manage Residual C2 land in that Estate, such funds may be used to purchase or manage Residual C2 land in the other Estate.
- 5.5. The internal reserve (*Jerberra and Nebraska Estates Property Reserve*) to be established to restrict net profits from the sale of land of the relevant Estate and to fund purchases of the C2 Land and other relevant activities as outlined in this Policy.
- 5.6. Net profits from the sale of land will **not** be directed towards the provision of roads and service infrastructure.
- 5.7. All decisions regarding the allocation of funds for each Estate will be at the discretion of the CEO or his delegate within relevant financial delegations.

## 6. Provisions

### 6.1. Applicable legislation

The following legislation, as amended from time to time, and relevant statutory instruments apply:

- *NSW Biodiversity Conservation Act 2016*
- *NSW Conveyancing Act 1919*
- *Environment Protection and Biodiversity Conservation Act 1999 (C'wth).*
- *NSW Environmental Planning & Assessment Act 1979*
- *NSW Local Government Act 1993*
- *NSW Real Property Act 1900*
- *NSW Valuation of Land Act 1916*

**Voluntary Acquisition – Residual C2 Environmental Conservation Land – Jerberra & Nebraska Estates**

**6.2. Related policies**

Related policies include:

- ~~POL16/113~~ [Acquisition of Land by Shoalhaven City Council](#)
- ~~POL16/247~~ [Rates - Small Lot rural Subdivisions – Dealing with Unpaid Rates and Charges](#)
- ~~POL18/76~~ [Sale of Land to Recover Unpaid Rates and Charges](#)

**6.3. Voluntary acquisition**

The owner(s) of 'Residual C2 Land' identified in clause 2.1 may make a request in writing to sell their interest in the land to Council.

This policy does not bind Council to acquire the land.

**6.4. Land valuation**

The maximum amount that Council is willing to pay for 'Residual C2 Land' is the market value, as determined by an Independent Valuer engaged by the landowner.

**6.5. Threatened Species – Nebraska – Priority acquisitions if/when the land is rezoned**

- 6.5.1. The [Leafless Tongue Orchid \[\*Cryptostylis hunteriana\*\]](#) is listed as 'vulnerable' under the *NSW Biodiversity Conservation Act 2016* and the *Environment Protection and Biodiversity Conservation Act 1999 (C'wth)[effective 16-Jul-2000]* and is the subject of a Priority Action Statement.
- 6.5.2. [The Pot-Bellied Greenhood Orchid \[\*Pterostylis ventricosa\*\]](#) is listed as 'critically endangered' under the *NSW Biodiversity Conservation Act 2016*. Nebraska has been identified as a Priority Management site under the 'Saving Our Species' Program.
- 6.5.3. Priority for voluntary acquisition is therefore focused on:
  - Lots 1-3, Section D in DP 9699; and
  - Lots 8-10, Section B and Lots 3-7, Section F in DP9699

**6.6. Land classification**

Land acquired under this policy will 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*.

**6.7. Management plans**

A management plan for each Estate will be prepared for land acquired under this policy as required by s36 of the *Local Government Act 1993*. Each management plan will provide for:

- Management of the land for in-perpetuity protection / conservation of its ecological/ biodiversity values in accordance with *NSW Biodiversity Conservation Act 2016*.
- Monitoring of nearby development impacts and conservation outcomes on the above values;

**Voluntary Acquisition – Residual C2 Environmental Conservation Land – Jerberra & Nebraska Estates**

and identify:

- net profits from the sale of developable Council land in the relevant Estate as an internal funding source; and
- key opportunities, in general terms, for access to external funds for environmental/biodiversity conservation management/works including, for example, any Commonwealth or NSW State Government programs.

Options for the establishment of a Biodiversity Stewardship Agreement (BSA) or Conservation Agreement (CA) over consolidated areas of 'Residual C2 Land' will be explored. If a BSA or CA is deemed to be the preferred management tool to conserve the environmental values of the land, management plans under the *Local Government Act 1993* would not be required.

**6.8. Conveyancing Requirements**

- 6.8.1. Land offered for sale to/or by Council under this policy must be unencumbered by any outstanding rates and/or charges. Alternatively amounts outstanding, if any, will be adjusted at the date of settlement by agreement with Council.
- 6.8.2. The land must be in fair-good condition and suitable for inclusion in a management plan/program/agreement to protect and enhance its environmental conservation values into the future. It must be:
  - clear of any unauthorised buildings or structures (including any inground or above ground domestic infrastructure such as water tanks, outhouses and associated pipework or cables); and
  - clear of all debris, including builders waste, concrete slabs, scrap metal, green waste heaps and any other extraneous refuse located on the land.

In this regard:

- all demolition works must be undertaken in accordance with an approved Development Consent or Development Control Order issued by Council; and
- All works must be completed prior to settlement.

**Note:** Removal of **structures** can only be lawfully undertaken with a Development Consent or a Development Control Order issued by Council.

- 6.8.3. Where the requirements of clause 6.8.2 are not satisfied Council may, at its discretion, accept the land in "as is" condition. In this regard, the costs of reinstatement must be independently assessed by a contractor approved by Council, must be met by the Vendor, and will be deducted from the agreed sale price.
- 6.8.4. Council shall bear the reasonable conveyancing costs (valuation and solicitors fees) incurred in consequence of the transfer of the land.
- 6.8.5. Council will not meet any legal costs incurred by the Vendor in pursuit of dispute resolution.

**7. Implementation**

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**Voluntary Acquisition – Residual C2 Environmental Conservation Land – Jerberra & Nebraska Estates**

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The policy will be implemented as follows:

City Futures Directorate (Strategic Planning) – policy maintenance  
City Performance Directorate (Finance Department) – funding allocation and budgeting  
City Services Directorate (Property Services) – acquisition decisions, conveyancing, land classification  
City Development Directorate (Environmental Services) – land management

## **8. Application of ESD Principles**

The policy is consistent with the principles of ecologically sustainable development. It provides a mechanism for Council to voluntarily acquire 'Residual C2 Land' currently in fragmented ownership so that it can be managed sustainably for conservation in perpetuity by Shoalhaven City Council as Community Land – Natural Area – Bushland.

## **9. Policy Notes**

### **9.1. Nebraska Estate**

Nebraska Estate is zoned RU2 Rural Landscape under Shoalhaven Local Environmental Plan 2014. Residual C2 Land in Nebraska will not be voluntarily acquired until the planning proposal has been finalised, the land has been rezoned and a DCP has been adopted by Council. If/when the land has been rezoned the policy will be updated to reflect the new planning controls that apply.

### **9.2. Who or what is an independent valuer?**

An independent valuer is a person who is "suitably qualified" to provide evidence of the value of property, who does not have a conflict of interest and does not work for Council or any other authority with an interest in the land. For example, for the purposes of Section 305 of the *Duties Act 1997* the NSW Commissioner for Revenue has determined that the following persons are considered suitably qualified to provide evidence of value of property:

- i. a member of the Australian Valuers Institute (other than an associate or student member), or
- ii. a member of the Australian Property Institute (other than a student or provisional member), who has acquired membership in connection with his or her occupation as a valuer, or
- iii. a member of the Royal Institution of Chartered Surveyors who holds the designation "Chartered Valuer" or 'Chartered Valuation Surveyor'. The NSW Valuer General sets the standards and policies for the valuation system to ensure that valuations are consistent and accurate, transparent and in line with the Valuation of Land Act 1916.

### **9.3. Priority Acquisitions**

The identification of priority acquisitions under clause 6.5 does not preclude the acquisition of other land identified in clause 2.1. All voluntary acquisitions will be at the discretion of Council.

### **9.4. Additional Information**

For additional information refer to Council's webpage: [Paper-Subdivisions](#)

**Voluntary Acquisition – Residual C2 Environmental Conservation Land – Jerberra & Nebraska Estates**

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**9.5. Enquiries**

Enquiries about this policy should be directed to the City Futures Directorate – Strategic Planning on 1300 293 111.

**9.6. Administrative update**

On 1 December 2021, the prefix for all Environmental Zones in NSW was changed from 'E' to 'C'. For example, the 'E2 Environmental Conservation' zone became 'C2 Environmental Conservation'. This Policy has been updated to respond to this change.

**10. Review**

The policy will be reviewed within one year of the election of each new Council, or earlier if circumstances require.

Voluntary Acquisition – Residual C2 Environmental Conservation Land – Jerberra & Nebraska Estates

**FIGURES**



**Figure 1 - Site Locations**

CL22.329 - Attachment 2



Voluntary Acquisition – Residual C2 Environmental Conservation Land – Jerberra & Nebraska Estates

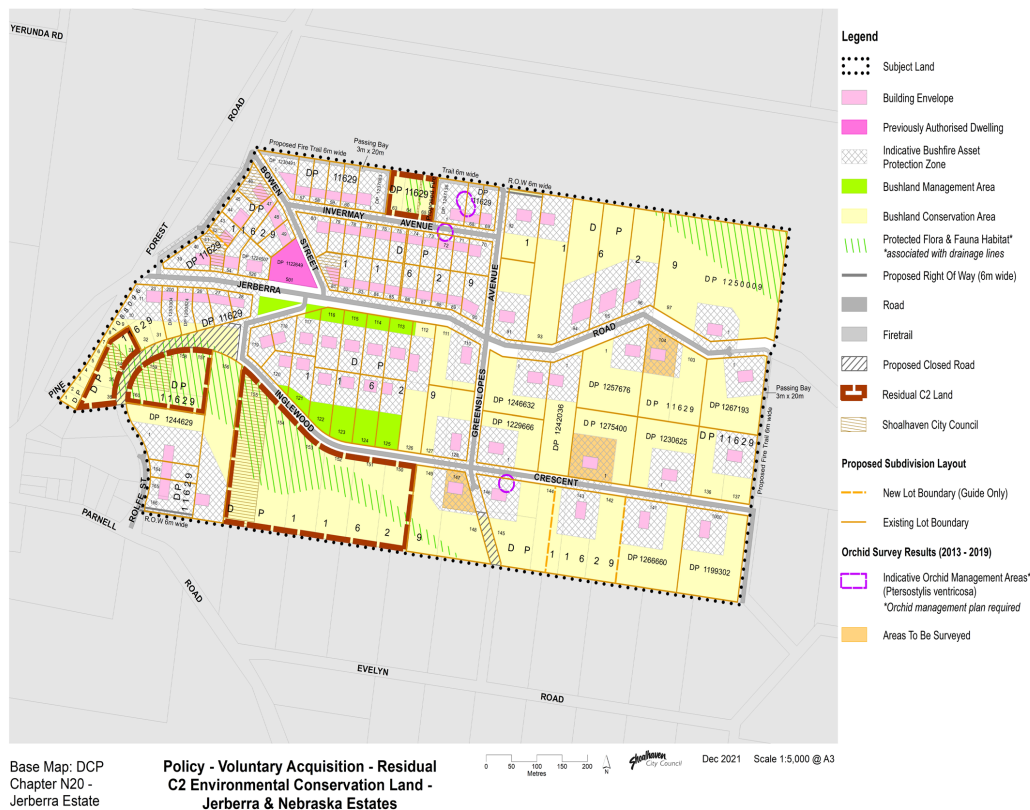
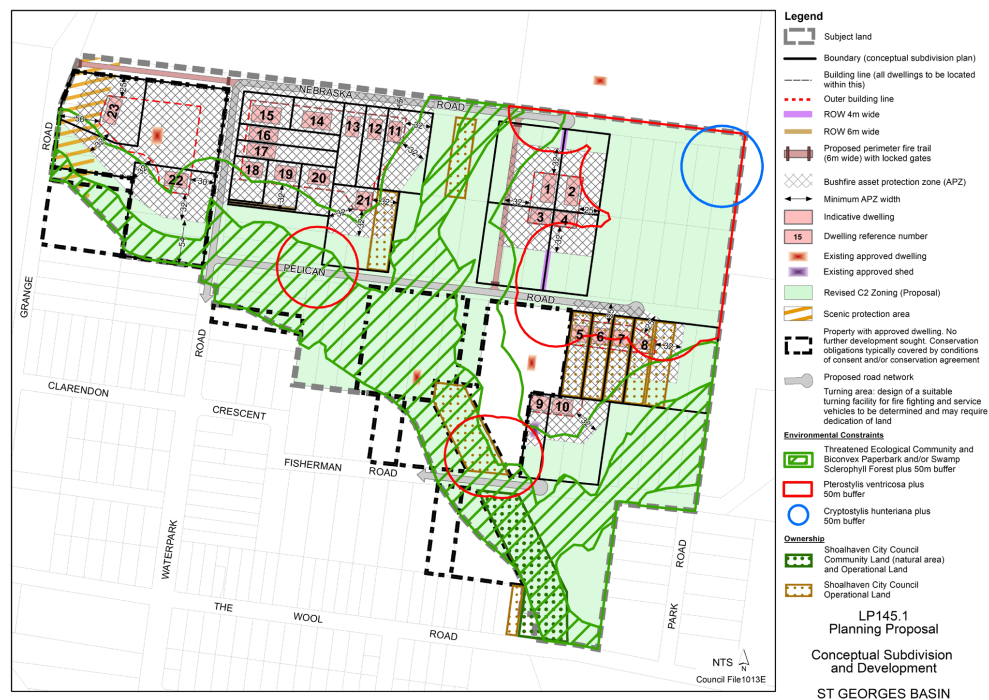


Figure 2 - Jerberra Estate – Residual C2 Land

CL22.329 - Attachment 2

Voluntary Acquisition – Residual C2 Environmental Conservation Land – Jerberra & Nebraska Estates



**Figure 3 – Nebraska Estate – Proposed Residual C2 Land\***

\*Note: the Nebraska Estate Planning Proposal (LP145.1) is yet to be finalised and is subject to change.

## CL22.330 Policy - Coastal Areas Planning and Development (POL16/23)

**HPERM Ref:** D22/251624

**Department:** Strategic Planning

**Approver:** Carey McIntyre, Director - City Futures

### Reason for Report

The reason for this report is to enable reconsideration of Coastal Areas Planning and Development Policy (POL16/23), noting that all Public Policies are to be submitted to Council within 12 months of the election of Council for consideration.

### Recommendation

That Council rescind the Coastal Areas Planning and Development Policy (POL16/237).

### Options

1. As recommended.

Implications: The Policy would be rescinded, recognising that its contents are now addressed in a range of legislation and policy documents.

2. An alternative recommendation.

Implications: Will depend on the extent of any changes/approaches.

### Background

The current [Coastal Areas Planning and Development Policy](#) sets out a range of provisions and implementation strategies to mitigate against the loss of public amenity and the aesthetic and environmental impacts of development in the City's coastal locations.

The Policy was first adopted in 1990 and has been reaffirmed through time and most recently in 2017.

Over the last 32 years, the provisions within the Policy have generally all be incorporated into the Shoalhaven LEP 2014 and Shoalhaven DCP 2014. Further, existing state legislation (e.g., *Coastal Management Act 2016* and State Environmental Planning Policy (Resilience and Hazards) 2021) and Ministerial Planning Directions also seek to shape appropriate development in coastal areas at the rezoning and assessment stages of development.

As such, there is considered to be no value in retaining the Coastal Areas Planning and Development Policy into the future.

### Community Engagement

No community engagement is required as part of the rescission process.

### Policy Implications

As the content of the Policy is addressed in a range of Council and NSW Government legislation and policy, there are no anticipated policy implications associated with the proposed rescission.

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## CL22.331 Policy and Current Application Consideration - Nowra CBD Contributions Discount Subsidy

HPERM Ref: D22/256366

Department: Strategic Planning

Approver: Carey McIntyre, Director - City Futures

### Reason for Report

The purpose of this report is to enable reconsideration of POL17/69 and also an application that has been received under the current Policy.

It should be noted all Public Policies are to be submitted to Council within 12 months of the election of Council for consideration.

### Recommendation

That Council:

1. Rescind the Nowra CBD Contributions Discount Subsidy Policy (POL17/69).
2. Pay \$20,399.00 (or as otherwise budgeted in the final Delivery Program and Operational Plan) of the eligible Subsidy amount (\$41,957.96) relating to 2 Lawrence Avenue, Nowra immediately (2022/23 Budget), with future payment of the remaining balance subject to a funding allocation being identified in the quarterly budget review process.
3. Advise the following of this decision; the applicant of the 2 Lawrence Avenue, Nowra subsidy request, Nowra CBD Revitalisation Committee, Nowra CBD Business Chamber, and the Shoalhaven Business Chamber.

### Options

1. As recommended.

Implications: This would see the subsidy for 2 Lawrence Avenue, Nowra partially paid from the 2022-2023 budget allocation, with the remainder subject to funding allocation in the quarterly budget review process.

The Nowra CBD Contributions Discount Subsidy Policy (Subsidy Policy) would also be rescinded under this option, recognising the minimal take up of the Policy, yet the high value of the subsidies paid in comparison to the relatively low budget allocation.

2. An alternative recommendation.

Implications: This will depend on the extent of any changes/approaches and could include (not exclusively):

- Part payment of the 2 Lawrence Avenue, Nowra subsidy request in accordance with the budget allocation, with refusal of the balance.
- Refusal of the entire 2 Lawrence Avenue, Nowra subsidy request.
- Retention of the existing Policy with adjustment. This may or may not include a greater budget allocation to acknowledge the large value of subsidy requests that have been received.
- Retention of the existing Policy without adjustment, with the inclusion of a greater budget allocation to acknowledge the large value of subsidy requests that have been received.

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## Background

The current [Nowra CBD Contributions Discount Subsidy Policy](#) seeks to subsidise contributions payable in relation to Contributions Plan (CP) 2019 car parking project:

[01CARP3001 Nowra Car Parking \(Egans Lane, Lawrence Ave, Collins Way, Bridge Road, Lamonds Lane, 9 Haigh Avenue & 67 Kinghorne Street\).](#)

This CP project only applies to commercial development (or commercial components of a development) within a defined area. It is currently levied on a car parking space basis as follows:

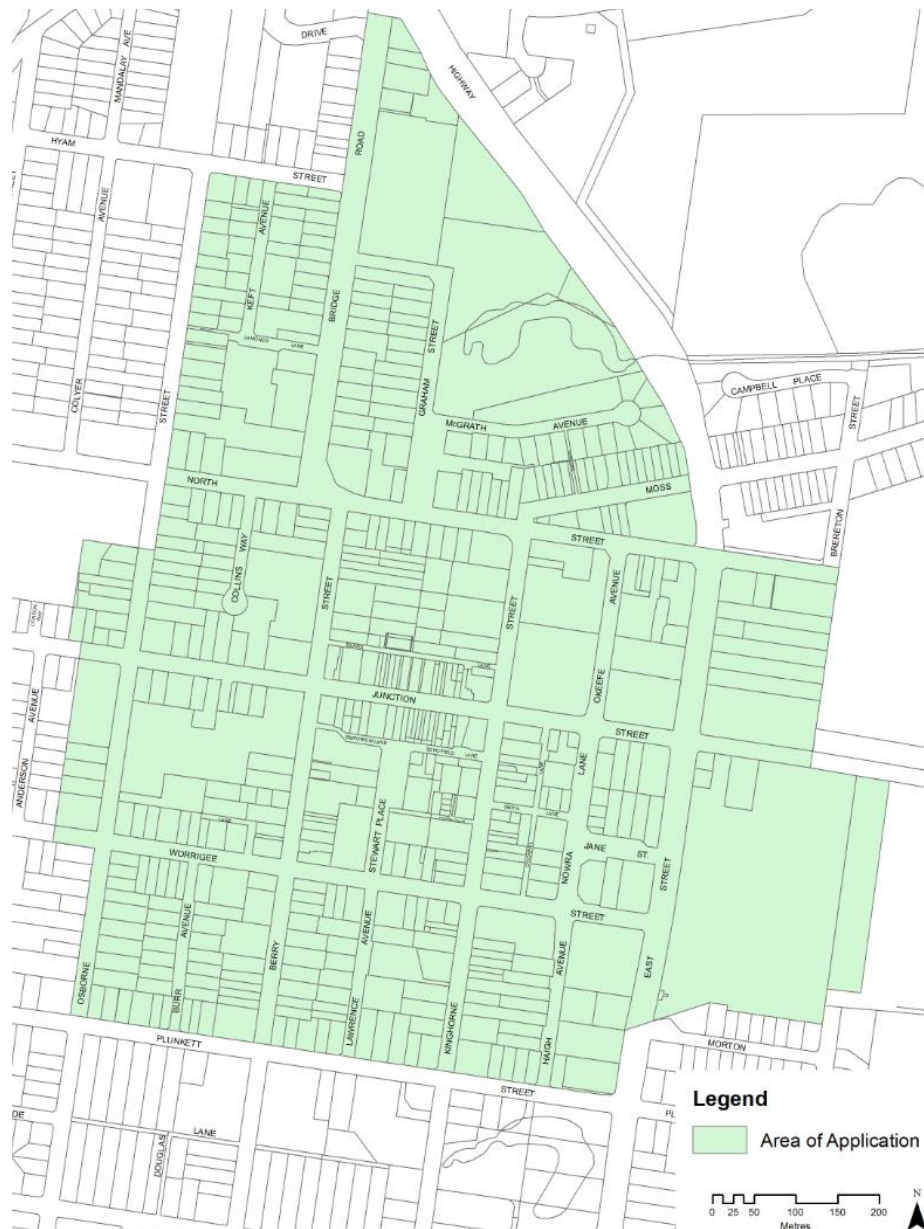
- Commercial (GFA) – B3 zone, 1 space per 24m<sup>2</sup> (ground level), 1 space per 40m<sup>2</sup> above ground.
- Commercial (GFA) – B4 zone, 1 space per 40m<sup>2</sup>.
- Retail (shop) (GLA) - 1 space per 24m<sup>2</sup>.

At the time of writing, the contribution rate for one parking space under this project is currently \$27,971.97 (2021 FY). This rate is based on the costs of the project and its components (land acquisition, construction etc). The contribution is levied when development does not provide the required carparking on site, with the contribution used to provide such parking in an alternate, off-site location.

Development applications within Area 1 of the contributions project are charged contributions for parking at the above rate, noting that they do not have the option to provide parking onsite. Applications in the broader Area 2 are charged contributions for parking, only where it cannot be provided on site.

The current Subsidy Policy effectively aims to stimulate development in the Nowra CBD by lessening the impact of car parking contribution requirements and currently applies to land in the area of application shown in **Figure 1** below.

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**Figure 1: Area of Subsidy Application**

The Subsidy Policy resulted from concerns raised by the development industry and others that the cost of current car parking contributions was/is inhibiting development in the Nowra CBD, particularly small to medium sized commercial/retail development, and was seen as an opportunity to ‘test’ in the short term whether this was actually the case.

The Subsidy Policy currently:

- Applies to small to medium development scenarios that generally have a net development area of less than 1,500m<sup>2</sup>.
- Excludes supermarkets, clubs, hotel and motel developments.
- Applies to applications that were lodged on or after 30 July 2014.
- Requires that development cannot already be complete or have received an Occupation Certificate.
- Requires the contributions to be paid in full, then a subsidy (of 50%) is applied.

If required, the discount subsidy is currently paid from Council’s General Revenue funds, not the Contributions Plan, to ensure that the money for the contribution project remains available for the purpose collected (i.e., car parking in the Nowra CBD).

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Over the years, the take-up of the discount subsidy has been low and initially for relatively small amounts - this is reflected in the current annual budget allocation of ~\$20,000 per annum that exists to support the Subsidy Policy. Since the adoption of the Subsidy Policy in 2014, only four discount subsidy requests have been received and paid.

The first was for a development that had already been completed, and the subsidy was applied retrospectively. The second was an application for an expansion of an existing medical centre. The value associated with these two initial instances were of a relatively minor nature (\$37,397.42 total). More recently, the following subsidy requests have been approved and paid:

- 2020 – A four-storey mixed use commercial and residential building at 61 Kinghorne Street, Nowra (DA18/2325). Value: \$31,663.40. Only \$20,000 was specifically available in the 2019/2020 budget and the \$11,663.40 balance was paid from other budgets.
- 2021 – A four-storey mixed use commercial and residential building development at 2 Lawrence Avenue, Nowra (DA18/2326). Value: \$182,968.30. Only ~\$20,000 was specifically available in the associated budget and the ~\$162,000 balance was paid from other budgets.

### Current Subsidy Application

A further discount subsidy request has been recently received, again relating to 2 Lawrence Avenue, Nowra (DA22/1427). An amending Development Application has been approved over the site, changing the use of the three residential units to commercial floor space. This results in a car parking shortfall of 3 spaces on the site.

The applicant is potentially eligible for a discount subsidy of **\$41,957.96**. A discount of this scale has not been budgeted for and would need to be considered in Council's quarterly budget review process. At the time of writing, the potential amount in the draft DPOP is \$20,399, which can be allocated to this subsidy, however the remaining balance of \$21,558.96 will need to be sourced from an alternative budget.

It is recommended that the budgeted amount be paid immediately, with the balance being considered by Council in future 2022/2023 quarterly budget reviews. As per Council's standard practice, it is recommended that the 2 Lawrence Avenue Subsidy Applicant be directly advised of Council's decision on this matter.

It is also likely that a further discount subsidy request will be received relating to a four-storey commercial development at 15 Nowra Lane, Nowra (DA20/1890). The applicant could be eligible for a discount subsidy of approximately **\$86,000** which again relates to commercial car parking that was not provided on site, the shortfall being 6.18 spaces. This discount has not been budgeted for and would need to be wholly considered in the quarterly budget review process.

### Future of the Contributions Discount Subsidy Policy

The Subsidy Policy originally commenced in late 2014 and was trialled for an initial two (2) year period. Given limited use and take up, Council resolved in late 2016 to extend the initial trial period by twelve (12) months.

In September 2017 it was recommended that the Subsidy Policy be rescinded given its low take up to that point (used twice at a cost of \$37,397). It was noted in the report that the Subsidy Policy had possibly not had the desired outcome of encouraging new development in the CBD. It was also noted that the amount needed to support the Subsidy Policy was difficult to accurately predict.

The Council subsequently resolved in March 2018 to continue the operation of the Subsidy Policy and consider an annual budget allocation to support its operation. In 2020, Council resolved to commence another review of the Policy.

Following the recent sizeable subsidies issued, and future discount subsidy requests relating to DA22/1427 (request received, \$41,957.96) and DA20/1890 (request not yet received; \$86,000 – possible) and lack of any real intended impact, it is appropriate to again consider the future of the Subsidy Policy as part of the public policy review/reaffirmation process.

It is recommended that the Subsidy Policy be rescinded by Council, in light of the following:

- Generally, the Subsidy Policy has not had the desired outcome of encouraging new development within the CBD, particularly retail and commercial. In eight years, subsidies for only four developments have been paid, and it is likely that these developments would have occurred whether the subsidy was in place or not.
- Importantly, the Subsidy incentive is consistently and significantly under budgeted.
- The Subsidy Policy was initially prepared to provide relief for smaller development scenarios (small to medium retail businesses) where they had no other option but to pay a contribution that may have been too much for them; not necessarily for developments with substantial car parking that has not been accommodated on site.
- The Subsidy Policy was originally not intended for applications of a mixed use/residential nature outside the CBD Core.

The Nowra CBD Revitalisation Committee, Nowra CBD Business Chamber, and the Shoalhaven Business Chamber have been advised of previous Subsidy Policy reviews as key stakeholders in the Nowra CBD business community, and it is recommended that these stakeholders continue to be notified throughout this current review process.

## Conclusion

Given the emerging implications arising from recent applications and enquires, it is appropriate to determine whether the Subsidy Policy should continue to operate, especially considering that the relevant contributions Plan project (01CARP3001) does not appear to be inhibiting development in the Nowra CBD.

It is recommended that the Subsidy Policy be rescinded. However, should the Subsidy Policy be retained, it is important to ensure that budget implications are considered and managed appropriately.

A resolution regarding the payment of the subsidy request for 2 Lawrence Avenue, Nowra is required.

## Policy Implications

Considering the recent development applications which have or will soon potentially request a discount subsidy, and the financial implications discussed within this report, it is timely that the Subsidy Policy is being considered as part of the public policy review process. The Policy is recommended for rescission as it does not appear to have overly assisted in the delivery of retail/commercial development in the Nowra CBD, and an appropriate budget is not consistently allocated to facilitate the Subsidy Policy.

## Financial and Risk Implications

This policy operates separately and in isolation to Council's Contributions Plan (Plan). This is to ensure the integrity of the Plan and the funding for the projects within it. Therefore, any discount subsidy is paid from Council's General Revenue funds and not from the contribution projects funds. This means that all contributions funds are retained for the purpose that they were collected.

The current annual budget allocation (~\$20,000) for the discount subsidy is not enough to cover potentially sizeable requests if the Subsidy Policy continues in its current form. It is



common for remaining balances to be sourced elsewhere and for other Strategic Planning projects to not proceed (or be stalled) because of this reallocation.

The current subsidy request for 2 Lawrence Avenue, Nowra, places Council in the same position. At the time of writing, the draft value in the draft DPOP for the entire 2022-2023 financial year is \$20,399, which can be allocated to this subsidy, however the remaining balance will need to be sourced from an alternative budget. Any subsequent applications would need to be wholly considered in the quarterly budget review process.

## CL22.332 Policies - COVID-19 Contribution Discount Subsidy Policy and Development Adjoining Narrow Laneways Interim Policy

**HPERM Ref:** D22/251612

**Department:** Strategic Planning

**Approver:** Carey McIntyre, Director - City Futures

### Reason for Report

The reason for this report is to enable reconsideration of the:

- COVID-19 Contribution Discount Subsidy Policy.
- Development Adjoining Narrow Laneways Interim Policy.

It is noted all Public Policies are to be submitted to Council within 12 months of the election of Council for consideration.

### Recommendation

That Council reaffirm the COVID-19 Contribution Discount Subsidy Policy and the Development Adjoining Narrow Laneways Interim Policy.

### Options

1. As recommended.

Implications: This option will see the reaffirmation of COVID-19 Contribution Discount Subsidy Policy and the Development Adjoining Narrow Laneways Interim Policy which is the preferred option as the content of the policies remains contemporary.

2. An alternative recommendation.

Implications: This will depend on the extent of any changes/approaches.

### Background

#### COVID-19 Contribution Discount Subsidy Policy

The [COVID-19 Contribution Discount Subsidy Policy](#) was adopted by Council on 22 September 2020, and more recently amended on 28 September 2021. In response to the COVID-19 pandemic, the Policy seeks to encourage as much economic activity as possible in the Shoalhaven Local Government Area (LGA) through the provision of a short-term discount subsidy.

The content of the Policy is contemporary, and as the Policy is being phased out to ultimately conclude in March 2024, a further policy adjustment is not considered necessary at this stage.

No changes to this Policy are recommended.

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### Development Adjoining Narrow Laneways Interim Policy

The [Development Adjoining Narrow Laneways Interim Policy](#) was adopted by Council in 2018. The Policy seeks to provide clarity regarding development of land adjacent to narrow laneways across the Shoalhaven Local Government Area.

The content of the Policy remains current. Council resolved (MIN18.891) on 6 November 2018 to transfer the content of this Interim Policy into the Shoalhaven DCP 2014, however it is noted that this project is currently identified as 'Hold' on the Strategic Planning Works Program, due to resourcing constraints.

No changes to this Policy are recommended.

### **Community Engagement**

No community engagement is required as part of the reaffirmation process.

## CL22.333 Policy - Payment of Development Contributions and Section 64 Headworks Charges by Deferment or Instalments (under special circumstances)

**HPERM Ref:** D22/279823

**Department:** Strategic Planning

**Approver:** Carey McIntyre, Director - City Futures

**Attachments:** 1. Proposed Payment of Development Contributions and Section 64 Headworks Charges by Deferment or Instalments (under special circumstances)

### Reason for Report

The reason for this report is to enable reconsideration the Payment of Development Contributions and Section 64 Headworks Charges by Deferment or Instalments (under special circumstances) Policy (POL18/54).

It is noted all Public Policies are to be submitted to Council within 12 months of the election of Council for consideration.

### Recommendation

That Council reaffirm the Payment of Development Contributions and Section 64 Headworks Charges by Deferment or Instalments (under special circumstances) Policy POL18/54, with the minor changes outlined in **Attachment 1**.

### Options

1. As recommended.

Implications: Will see the reaffirmation of POL18/54, with some minor adjustments, which is the preferred option as the content of the policy remains contemporary.

2. An alternative recommendation.

Implications: Will depend on the extent of any changes/approaches.

### Background

The [Payment of Development Contributions and Section 64 Headworks Charges by Deferment or Instalments \(under special circumstances\) Policy](#) was adopted by Council on 30 January 2007, has been amended a number of times and was most recently reaffirmed in 2017. The Policy seeks to enable the payment of development contributions and Section 64 (Local Government Act 1993) headworks charges by deferment or instalments.

Whilst there is limited take up of the deferral or instalment opportunity in terms of development contributions, it is considered worthy of retention for when appropriate circumstances may arise.

With regards to the Section 64 headworks charges, it is noted that the opportunity to defer or pay by instalment is possibly underutilised, and this may be due to the requirement for a

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bank guarantee to the value, plus interest. This is something that can be further considered by Shoalhaven Water during the current Council term, as required. However, in the interim the opportunity should be retained.

Only minor changes are recommended to the Policy to reflect directorate changes and responsibilities to reflect the current structure, as outlined in **Attachment 1**.

### **Community Engagement**

No community engagement is required as part of the reaffirmation process.

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## Payment of Development Contributions and Section 64 Headworks – Charges by Deferment or Instalments (under special circumstances)

<b>Adoption Date:</b>	30/01/2007
<b>Affirmed:</b>	26/02/2013, 9/05/2017
<b>Amendment Date:</b>	9/06/2009, 19/04/2011, 29/05/2012
<b>Minute Number:</b>	MIN07.61, MIN09.719, MIN11.313, MIN12.596, MIN13.106, MIN17.378
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Futures
<b>Record Number:</b>	POL22/39

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**Payment of Development Contributions and Section 64 Headworks – Charges by Deferment or Instalments (under special circumstances)**

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**1. Purpose**

To enable the payment of development contributions and Section 64 (*Local Government Act 1993*) headworks charges by deferment or instalments.

**2. Statement**

Upon consideration of special circumstances, Council permits the payment of development contributions by deferment for a maximum of two years to all applicants and payment by instalments (periodic payment) over five years for tenants or businesses operating in the Shoalhaven Local Government Area. Where the request relates to residential subdivisions, Council allows deferring payment of development contributions and Section 64 headworks charges until the settlement of sale of the subdivided lots.

In circumstances where Council is to consider the waiving or long-term (i.e. greater than 5 years) deferred payment of development contributions, this arrangement should be detailed and finalised in a Voluntary Planning Agreement.

**3. Provisions**

Requests for payment of contributions by deferment for 2 years or instalments are by written application to Council. The application is to include the reasons why special circumstances apply and will be determined at Council's discretion. Special circumstances will relate to the financial circumstances of the applicant, the amount of the contribution, the works that the contribution is applied to and its location and for tenants, the nature and duration of the tenancy.

For residential subdivisions, special circumstances relate to the difficulty in financing projects and do not need to be demonstrated in an application.

Payment of contributions by deferment or instalments will not be considered when the works projects to which the contributions apply, relate to public safety or health, or the amount of contributions is less than \$5,000.

**Deferment for 2 Years or Payment by Instalments**

Payments will be subject to an interest charge equivalent to that applied to overdue rates and an administration charge equivalent to the bank guarantee lodgement fee for subdivision related matters, as shown in Council's Fees & Charges.

The full amount of contributions plus interest is to be secured by bank guarantee, to be accepted by Council before release of plans or construction certificate.

If Council agrees to accept deferred payment for 2 years or payment by instalments, Council will require the applicant to provide a bank guarantee with the following conditions:

- the bank guarantee be by a bank equal to the value of the contribution payable or the amount of the outstanding contribution, plus interest;
- the bank unconditionally pays the guaranteed sum to the Council if the Council so demands in writing;
- the bank must pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute,

**Payment of Development Contributions and Section 64 Headworks – Charges by Deferment or Instalments (under special circumstances)**

controversy, issue or other matter relating to the development consent or the carrying out of the development;

- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required;
- where a bank guarantee has been deposited with Council, the guarantee shall not be cancelled until such time as the original contribution, accrued interest and other charges are paid.

The administration charge is to be paid at the time of lodgement of the bank guarantee.

**Deferment for Residential Subdivisions**

**Note:** This section does not apply to subdivisions where the construction of a dwelling is included in the development application.

In the case of subdivisions, Council will consider the deferment of payment of development contributions and Section 64 headworks charges, subject to the following:

- The owner of the land and, if relevant, any mortgagees of the property entering into, at no cost to Council, a Deed of Agreement.
- The agreement between the Council and applicant binding the applicants land with the obligation to repay the contributions.
- If the applicant's land is subject to a mortgage(s), Council entering into a priority agreement with the mortgagee(s) that gives Council priority for payment of contributions.
- Notice of the agreement and Council's rights being registered in the form of a caveat on the title of the land to be subdivided.
- The agreement making provision for payment of the deferred contribution **at the rate applicable at the time of payment** and detail a schedule for the timing of the payments upon sale of the subdivided lots.
- The caveat shall be in a form that acts as a bar to transfer of ownership of any lot within the subdivision unless Council has provided its agreement to remove the caveat.
- Council's agreement to removal of the caveat from a subdivided lot being provided upon receipt of payment of the deferred contributions in accordance with the terms of the Deed of Agreement.

**Note:** All costs involved in the above requirements are at the expense of the applicant.

**4. Implementation**

The policy applies to specific development and subdivision applications, and therefore implementation of this policy is the responsibility of the **City Futures, City Performance and City Development Directorates** ~~Development & Environmental Services Group~~ and Shoalhaven Water ~~Group~~. The following implementation procedures will apply:



**Payment of Development Contributions and Section 64 Headworks – Charges by Deferment or Instalments (under special circumstances)**

**Deferment for 2 Years or Payment by Instalments**

- Calculations for the amount of the Bank Guarantee plus interest and the deferment or instalment schedule are to be checked and signed off by Finance Section (refer to Financial Accountant) prior to entering an agreement with the developer.
- It is usual practice not to have an expiry date on the Bank Guarantee and it is to be unconditional. If an expiry date is included it must be at least 1 month after the due date for payment of the contribution. Under no circumstances should the Bank Guarantee have an expiry date on or before the due date.
- The Bank Guarantee for the correct amount (including interest) is to be received and confirmed as complying with Council's requirements prior to the release of linen plans or construction certificate (refer to Financial Accountant).
- The original Bank Guarantee is to be forwarded to Council's Finance Section (Financial Accountant) with an accompanying electronic memo which references the related SF or DA file so that it can be checked, registered as a legal document and placed in Council's safe.
- When all the amounts owing (including interest) have been paid, a memo is to be sent to the Financial Accountant requesting that the Bank Guarantee be released.
- If amounts owing (including interest) have not been paid by the due date, ~~Development & Environmental Services Group should send~~ a letter ~~should be sent~~ to the applicant warning that the Bank Guarantee will be called up if payment is not made by a specific date (within 1 week).
- If amounts owing (including interest) have still not been paid despite the warning letter, a memo is to be sent to the Financial Accountant requesting that the Bank Guarantee be called up. This must be done at least 2 weeks before any expiry date on the Bank Guarantee.
- Although Council has agreed to payment of development contributions by deferment or instalments, it is preferred that a Bank Guarantee for the full amount due (including interest) be held by Council until all the contributions plus interest due have been paid.
- It is not preferred that the Bank Guarantee amount be reduced progressively (for example, following part payment). Any reduction to the Bank Guarantee amount is to be requested via a memo to the Financial Accountant who will then contact the bank. It is usual practice for the bank to replace an existing Bank Guarantee with a new Bank Guarantee when the amount is reduced.

**Deferment for Residential Subdivisions**

- Development contributions and Section 64 headworks charges to be deferred are to be confirmed and signed off by the assessing officers prior to being detailed in the Deed of Agreement.
- Council's agreement to removal of the caveat from individual lots will be provided upon receipt of payment of the deferred contributions in accordance with the terms of the Deed of Agreement.

**5. Review**

This policy will be reviewed within 12 months of election of a new Council.

## CL22.334 Policy Review - Film and Photography Policy and River Festival Terms of Reference.

**HPERM Ref:** D22/293124

**Department:** Tourism

**Approver:** Stephen Dunshea, Chief Executive Officer

**Attachments:**

1. Shoalhaven River Festival Terms Committee - Terms of Reference - Amendments [↓](#)
2. Film and Photography in Public Reserves and Places Policy - Amendments [↓](#)

### Reason for Report

The reason for this report is to allow the following policies of Shoalhaven Tourism to be presented for adoption: *The Shoalhaven River Festival Committee – Terms of Reference* and *The Film and Photography in Public Reserves and Public Places*. All Public and Local Approval Policies are to be submitted to Council within 12 months of the election of Council.

### Recommendation

That Council adopt the minor changes made to the following two policies.

1. The Shoalhaven River Festival Committee - Terms of Reference (**Attachment 1**)
2. Film and Photography in Public Reserves and Public Places (**Attachment 2**)

### Options

1. Endorse the recommendation as written.

Implications: The proposed minor changes to both policies are accepted and they are formally updated.

2. Council do not endorse proposed amendments and make recommendations to staff outlining suggested considerations.

Implications: Council staff spend additional hours updating the policy so it can be reviews again before December 2022.

### Overview

Both policies have been operating successfully for the last five years. Minor changes have been suggested to streamline wording and update necessary links. Below is an overview of each policy and associated implications for reference.

#### 1. Shoalhaven River Festival Committee – Terms of Reference

##### Background

The Shoalhaven River Festival Terms of Reference are designed to be a guide for the Shoalhaven River Festival Committee, which is an established 355 Committee of Council. The committee is responsible for the coordination and delivery of the annual Shoalhaven River Festival.

CL22.334

The purpose of the policy has not changed significantly and only minor grammatical and wording amendments have been made. These changes are shown in **Attachment 1** with those changes tracked. The most significant change includes:

- The Establishment of the Shoalhaven River Festival Committee as its own Committee which reports directly to Council. Previously, this committee reported to the Shoalhaven Tourism Advisory Group, which has since been disestablished.

### **Community and Risk Implications**

Should the policy not be endorsed, the River Festival may not survive resulting in the loss of a key community event that attracts roughly 10,000 people per year.

### **Financial Implications**

\$20,000 of operational budget is allocated each year to the River Festival. Should the policy not be endorsed, the festival may not survive.

## **2. Film and Photography in Public Reserves and Public Places**

The Film and Photography Policy (formally known as [Film and Video Production in Public Reserves and Places](#)) establishes guidelines for commercial film approvals on Council Owned and Managed Land. This policy is implemented by the Event Liaison Officer and Tourism Investment and Event Specialist within Council's Tourism Department.

Links to necessary legislation and minor wording changes have been made to streamline this policy. There are no significant changes that will impact the way film permits are approved and managed. All changes are shown in **Attachment 2** with those changes tracked.

This policy plays an important role in ensuring commercial production companies do not damage council owned or managed land and/or negatively disrupt the local community.

### **Community Implications**

There are no major community implications pertaining to this policy.

### **Risk Implications**

If this policy is not endorsed - there will be no clear policy for commercial film approvals in the Shoalhaven – opening the region up to risk to misconduct by production companies.

### **Financial Implications**

There is no operational budget allocated to the implementation of this policy.

# Shoalhaven River Festival – Terms of Reference

<b>Adoption Date:</b>	24/06/2019
<b>Amendment Date:</b>	13/07/2022
<b>Minute Number:</b>	MIN18.321
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Futures
<b>Record Number:</b>	POL21/49

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**Shoalhaven River Festival – Terms of Reference**

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**1. Purpose of the Committee**

To plan, administer and run the Shoalhaven River Festival.

**2. Statement**

The Shoalhaven River Festival is a community event which aims to provide a springtime celebration that involves the whole community while enjoying the beauty and accessibility of the Shoalhaven River.

The first Shoalhaven River Festival was held in October 2013 following the following resolution of the Council on 21 June 2013:

*“That Council:*

- a) Establish a Management Committee formed under Section 355 of the Local Government Act to progress and deliver the Shoalhaven River Festival*
  - i. The Committee be named the Shoalhaven River Festival Committee*
  - ii. The membership of the Committee be formed from the Shoalhaven Tourism Board and co-opted community members as required*
  - iii. The Tourism Manager act as Executive Officer of the Committee and report to the Shoalhaven Tourism Board on the activities of the Committee*
- b) Allocate \$20,000 to the Shoalhaven River Festival Committee from the Strategic Projects Reserve for planning, Development Application and other fees and charges for the running of the event*
- c) Provide support in-kind in the form of a dedicated promotional website, secretariat, meeting space and event liaison assistance”*

Further the Council resolved (interalia) on 24 April 2018 (MIN18.321)

*“That Council....*

- 2. Continues to provide the following support to the Shoalhaven River Festival Committee:*
  - a. Continue to provide \$20,000 funding and support in line with what Council originally resolved on 21 June 2013, provided that the Shoalhaven River Festival Committee is properly constituted*
  - b. Council (including Elected Members) assist the Committee in promoting the event through broader community and industry networks to assist in increasing volunteer numbers and local business support.*
  - c. Council staff continue to work with and provide advice to the Committee to improve the sustainability of the event through the review of the ongoing format of the event to identify potential revenue opportunities and manage event costs.*
  - d. The committee consider a name change such as Shoalhaven Music and River Festival”*

#### Shoalhaven River Festival – Terms of Reference

These Terms of Reference have been developed to meet the requirements of the above Council resolutions and ensure the Committee meets its requirements as a Section 355 Committee.

In accordance with the above resolution it is considered that the Committee shall be 'properly constituted' when it has:

- An appointed and active Chairperson and Treasurer
- Sufficient members to support the activities of the Committee
- Formally minuted meetings and accounts are kept

### 3. Role

- 3.1. To plan, promote and manage the Shoalhaven River Festival event.
- 3.2. To identify and approve all expenditure of funds, including those allocated by Council and grants or funds from any other source.
- 3.3. Provide reports to Council ~~via the Shoalhaven Tourism Advisory Group as required,~~ outlining the event, expenditure and recommendations for future events.
- 3.4. To put in place appropriate risk management measures to provide a safe community event for participants, volunteers and visitors.
- 3.5. Consult with relevant stakeholders as needed.

### 4. Delegated Authorities

- 4.1. To expend funds allocated/obtained for the purpose of the Shoalhaven River Festival.
- 4.2. To establish working groups as deemed appropriate.
- 4.3. To promote the Festival including issuing press releases and other promotional activities.
- 4.4. To raise other funds to support the Festival, with a view to the event becoming self-sufficient.

### 5. Committee Membership

- 5.1. Voting Members
  - ~~Members of the Shoalhaven Tourism Advisory Group who nominate for membership~~
  - ~~Other community~~Community members who bring requisite skills and experience to the Committee
- 5.2. Non-voting Members
  - Shoalhaven Tourism Staff ~~The Manager – Tourism Staff (or nominee)~~ can attend and speak but are non-voting members
- 5.3. The Voting Members of the Committee will be capped at 15.
- 5.4. The Committee will appoint the position of chairperson annually.

#### Shoalhaven River Festival – Terms of Reference

5.5. The role of the chairperson shall be:

- Chairing of meetings
- Representative on sub-committees as appropriate
- Oversight of activities of a co-ordinator (if applicable)
- Provide guidance around event management and delivery
- Provide regular reports to ~~the Shoalhaven Tourism Advisory Group Council~~

### 6. Appointment Of Members

~~6.1.~~ That appointments to the Shoalhaven River Festival Committee will be made by the Council following recommendation from the ~~Shoalhaven Tourism Advisory Group Shoalhaven River Festival Committee (STAG).~~

### 7. Meetings

7.1. Meetings will be held at least quarterly depending on demand.

7.2. Where most practical, meetings may be conducted electronically. In this circumstance:

- A time and date for the vote will be set and notified to members via email.
- The matters to be voted upon must be binary in nature (~~e~~-Yes/No or choice of only 2 options).
- A quorum must be achieved by receipt of the required number of votes by the nominated time and date.
- The decision will be minuted in the next ordinary meeting of the Committee.

7.3. ~~Where relevant, meeting m~~Minutes of the meetings will be ~~taken and~~ supplied to the ~~STAG, Shoalhaven Tourism Staff and/or Council.~~

7.4. Topics for the agenda should be forwarded to the chairperson no later than 14 days prior to the meeting.

7.5. Agenda and minutes from the previous meeting will be circulated to members at least 7 days prior to the meeting.

7.6. Members must declare in writing any conflicts of interest in any report tabled at the meeting.

~~8.0. Council to supply a minute secretary. A member of Shoalhaven Tourism to attend key meetings throughout the year to answer questions and provide input.~~

### ~~9.8.~~ Quorum

~~9.1.8.1.~~ A quorum will consist of at least 50% of members plus one additional member.

### ~~10.9.~~ Voting and Recommendations

~~10.1.9.1.~~ Where possible, voting on recommendations is made by consensus.

~~10.2.9.2.~~ Where a consensus cannot be reached a vote shall be called. The Chairperson shall have a casting vote.

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**Shoalhaven River Festival – Terms of Reference**

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~~10.3.9.3.~~ All decisions regarding the allocation of funding must be stated precisely for the inclusion of the minutes.

**~~11.10.~~ Communication**

~~11.1.10.1.~~ Members of the Committee are not permitted to speak to the media as representatives of the Committee unless approved by the chairperson.

~~11.2.10.2.~~ Where approval has been given by the chairperson, views and opinions expressed are those of the Shoalhaven River Festival and not ~~of of STAG or~~ Shoalhaven City Council.

**~~12.11.~~ Parent Committee**

~~12.1.11.1.~~ ~~Shoalhaven Tourism Advisory Group (STAG).~~ No parent committee

**~~13.12.~~ Code of Conduct**

~~13.1.12.1.~~ All members of the Committee are to abide by Council's Code of Conduct, including declaration and management of all conflicts of interest.

~~13.2.12.2.~~ Members cannot obtain private benefit because of their involvement in decision making as a member of the Committee.

**~~14.13.~~ Review**

~~13.1~~ This policy will be reviewed within 12 months of each Council election.



# Film and ~~Video~~Photography Production in Public Reserves and Public Places

Adoption Date:	11/11/2008
Amendment Date:	27/03/2018
Minute Number:	MIN08.1480, MIN18.241
Review Date:	01/12/2020
Directorate:	City Futures
Record Number:	POL22/36

CL22.334 - Attachment 2

Film and Video Production in Public Reserves and Public Places

## 1. Purpose

This policy applies to all commercial film-related activity on Council Owned or Managed Land. You do not need to notify Council of recreational filming (e.g. filming as a hobby, weddings videography, and student videography).

The policy has the following purposes:

- ~~To provide a~~ Act as a framework for Council to provide the highest possible level of co-operation and to assist companies and/or individuals ~~with~~ film production shoots and/or photography shoots in the Shoalhaven.
- To assist ~~film production companies~~ applicant ~~could argue that not all applicants are a film production company to~~ understand the procedures and guidelines involved with filming in the region.
- To ensure the public safety and free movement of residents whilst shoots are taking place.

## 2. Statement

This policy statement is based on the following Council Minutes:

95.1428 of 20<sup>th</sup> June 1995  
00.290 of 28<sup>th</sup> March 2000  
01.35 of 30<sup>th</sup> January 2001  
03.435 of April 2003  
08.757 of 27<sup>th</sup> May 2008

## 3. Provisions

Council will support photography, filming and video production in public reserves and public places in accordance with the following provisions:

~~Shoalhaven City Council will issue a permit subject to:~~

- a) When a production company or individual ~~film or television company~~ t wishes to film advertisements, television series or films on land or property owned or controlled by Shoalhaven City Council then that company or person should apply for a permit by ~~and~~ provide ing the following information:

1. Applicants Name
2. Applicants Address
3. Title of Production
4. Type of Production
5. Site plan showing the location(s) intended for the production
6. Dates and Times
7. Construction/equipment required on location
8. Scenes to be filmed
9. Special effects such as firearms, animals, smoke, unusual scenes (robbery, flight etc)
10. Dangerous substances
11. Number of cast and crew
12. Vehicles
13. Public Liability Insurance

Film and Video Production in Public Reserves and Public Places

14. Arrangements for maintenance and repair after the event  
15. Risk Management Plan  
16. Details of any intended Drone usage
- b) For each instance the ~~firms~~applicant is required to carry a minimum of \$20 million Public Liability Insurance and ~~that~~ Shoalhaven City Council is to be~~be~~ specifically noted and indemnified under that insurance policy.
- c) Fees for Filming and Photography will be charged based on the most up to date schedule of fees and charges. Review fees here: <https://www.shoalhaven.nsw.gov.au/Council/Fees-Charges>
- e) ~~Where Shoalhaven City Council incurs costs in assisting these firms and/or other bodies doing the filming in the Shoalhaven then Council will recover these costs. They are to be paid in advance by the applicant.~~
- d) When Shoalhaven City Council is satisfied with the application and any costs have been paid then a permit will be issued. ~~detailing:~~
- ~~The address~~
  - ~~The title of the production~~
  - ~~The type of production~~
  - ~~The location~~
  - ~~The date and times~~
  - ~~The construction/equipment required in location~~
  - ~~The scenes to be filmed~~
  - ~~The special effects to be used~~
  - ~~Any parking regulations~~
  - ~~Any services to be provided by Council~~
  - ~~Notification that the company is liable for restoration of any damage and collection of rubbish~~
  - ~~That the company must comply with any directions by an authorised officer of Council or a Police Officer~~
  - ~~That the approval does not include exclusive use of any Public Reserve~~
  - ~~That minimum inconvenience will be caused to residents and other people using the reserve~~
  - ~~The approval of local Police, Fire, Ambulance or other Authorities be secured by the film company, where necessary.~~
- e) The Permit/Approval
- i. The written permit must be in the area being used and must be produced on demand.
  - ii. The permit and use of the area is subject to compliance by any direction given by any authorised officer of Council or a police officer during his or her duty.
  - iii. The approval does not include the exclusive use of the remainder of the public reserve. Minimum inconvenience shall be caused to residents and to other persons wishing to use the public reserve. The rights of the general public to use and have free unrestricted access to the public reserve must be respected.
  - iv. Council reserves the right to cancel the permit immediately should any such action be considered necessary.

#### Film and Video Production in Public Reserves and Public Places

- v. The use of noisy mechanical equipment is restricted to the same provisions as the playing of loud musical equipment and sound systems, after 10.00 p.m. Sunday to Thursday, after midnight Friday, Saturday and Public Holidays, before 7.00 a.m. Monday to Friday and before 8.00 a.m. Saturday, Sunday and Public Holidays. (~~Requirements outlined in the Refer-~~ Protection of the Environment Operations (Noise Control) Regulation ~~2017 2008 and Noise Guide for Local Government, www.environment.nsw.gov.au/noise).~~ <https://legislation.nsw.gov.au/view/html/inforce/current/sl-2017-0449>
- vi. Vehicle access to the reserve is restricted to the time required to load and unload passengers and/or materials. No vehicle shall remain on the Reserve except for this purpose or if that vehicle is directly being used in the production. Any directions given by Council's ~~Rangers~~ in this regard must be observed.
- ~~vi-vii. Vehicle usage on beaches may require direct supervision from Council. The Event Liaison will be responsible for notifying the applicant of requirements based on nature of filming. No vehicle may be used on any beach without the direct supervision of Council's Rangers.~~
- f) Council will support the filming of advertisements for ~~automobiles and~~ promotional material in the Shoalhaven region provided that such filming is consistent with this policy.
- ~~f)g) Delegated Authority be granted to the General Manager (Director City Services and Operations) to negotiate with any company wishing to undertake filming in the Shoalhaven.~~
- h) If filming on private property for commercial purposes, a permit is not required, however please notify Council of the following:
  - 
  - I. Company details
  - II. A description of the filming to take place
  - III. The proposed location/s for your shoot
  - IV. Start and end dates / times
  - V. Number of Cast, Crew and vehicles involved
  - VI. Drone information (if applicable)
  - VII. Details of expected disruption to the surrounding area such as noise, vibrations, release of smells and the use of lighting or special effects.
  - VIII. Copies of resident notification letters / plan.
  - IX. Copies of approvals that you need from other public authorities such as the Police.
  - X. You must also follow the NSW Government's planning restrictions that relate to the property.
  -

## 4. Implementation

Implementation of this policy is guided by the following:

### Applications

- Applications shall be made to Council. An Application Form for this purpose shall be available on Council's ~~website~~ [internet site](#).
- Written applications are not required when filming is of a minor nature e.g., stills photography, video recording of a private function, recording for the immediate purposes of a television program that provides information by way of current affairs/news or student education requirements.
- ~~Council will advise whether Public Liability Insurance is required.~~

#### Film and Video Production in Public Reserves and Public Places

- Applications may be refused where it is considered that the activity ~~may will give rise to~~ damage, danger or ~~be of~~ nuisance to residents or the environment.

#### Bonds

- Bonds are charged in accordance with the State Filming Protocols and are detailed in Council's fees schedule. ~~\_~~

#### Insurance

- At the time of making the application, the Applicant must provide ~~documentary~~ documented evidence of public liability insurance cover to a minimum level of \$20 million. This document should contain the name of the ~~a~~Applicant/production company; details of the policy and its expiry date and Shoalhaven City Council be specifically noted and indemnified under that policy.  
—The value of the insurance policy may need to be extended depending upon the nature of the proposed filming activity. This will be determined by Council's Insurance Manager.

#### Bonds

- Bonds are charged in accordance with the State Filming Protocols and are detailed in Council's fees schedule.

#### Damages

- The site shall be left in the condition ~~as it was~~ ~~it enjoyed~~ prior to filming taking place.
- Any repair for damage to Council's property will be arranged by Council and charged to the Applicant. ~~\_~~

#### Permissible Times for Filming

- Residential Areas: Filming activities may take place routinely between 7.00 am and 8.00 pm from Monday to Saturday and 8.00 a.m. to 7.00 p.m. Sundays and Public Holidays. Special permission is required for filming and/or the use of noisy mechanical equipment outside these hours.
- Filming activity outside of these hours is permitted by negotiation with Council.
- Non-residential areas ~~is~~are permitted by negotiation with Council.
- Where sensitive activity necessitates the presence of a Council officer, costs will be covered by the Applicant.

#### Notification

- All residents and businesses within the vicinity of the film location are to be notified in writing by the Applicant at least 3 days before filming commences. Where the land has been defined as 'critical habitat' under section 47A of the Local Government Act, notification must occur at least 7 days before filming commences.
- Notification must include the name of a contact person on site to handle complaints, and details of the filming activities including whether firearms, stunts or explosives will be used. The start time for set up and hours during which filming takes place will also be specified.

#### Parking

#### Film and Video Production in Public Reserves and Public Places

- It is understood that the following production vehicles require direct access to the location: grip; generator; gaffer; camera; sound; standby props. Other unit vehicles shall adhere to normal parking regulations except by prior arrangement with Council.
- Where the location is a beach or public reserve, vehicle access will be subject to special conditions and may require the direct supervision of a Council Ranger. Costs will be covered by the applicant.
- Where unit vehicle numbers exceed 20, a parking plan shall be submitted with the application.

#### Environmental factors

- There shall be minimal disruption to the normal workings of the Community. Normal pedestrian and vehicle access shall be maintained always other than when filming ~~actually takes~~ place.
- The Applicant will ensure that the site complies with the Film Industry "Safety Code" requirements and that all conditions required in the Applicant's insurance policy are met.
- All activity associated with the film production shoot must be undertaken to comply with the Protection of Environment Operations Act (1997). Lights shall be directed away from motorists and residences.

#### Special Requirements

- Where a road closure or the control of traffic is required, an appropriate traffic management plan and associated traffic control plans should be submitted for review ~~by Council's Traffic Unit~~ a minimum of ~~six weeks~~ 14 days prior to implementation.
- Where filming requires the use of stunts or the lighting of fires etc, full information including an authorised Safety Report must be provided with the application.
- The intention to mount temporary structures is to be advised in the application and a Site Layout Plan submitted for Council's consideration.
- Permission must be sought from Council for the pruning/removal of vegetation.
- The permit issued by Shoalhaven City Council does not include the approved use of a Drone. Any use of a Drone will require separate approval from the Civil Aviation Safety Authority (CASA). Please visit <https://www.casa.gov.au/aircraft/landing-page/flying-drones-australia> for further information. Please note, much of the Shoalhaven exists within a military zone and requires approvals from relevant bodies.

#### Other Authorities

- This policy applies to the use of land owned or managed by the Council. Where land is governed by another authority, (i.e. National Parks and Wildlife Service, Aboriginal Lands Council, Dept of Land) it is the responsibility of the applicant to seek approval from that authority.
- Applications for filming on Council managed land may also require the approval of authorities such as the Police, the RTA, the Environmental Protection Authority, the Civil Aviation Authority etc.
- Whilst obtaining approval from other authorities is the responsibility of the Applicant, where possible assistance will be provided from Council.
- The applicant is responsible for checking whether copyright attaches to any objects that might be filmed.

#### Additional Obligations

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**Film and Video Production in Public Reserves and Public Places**

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- Council will advise the ~~The~~ Applicant ~~will advise if they are required to notify~~ Police, Fire Brigade and Ambulance Services of details of the film location, timetable and any scheduling changes.
- Council will make every reasonable attempt to inform the applicant of any known activities that may conflict with filming.
- Any directions or requests given by Council shall be complied with immediately.
- The Council shall be informed as soon as possible of any production delays necessitating extension or rescheduling of the shooting dates. Confirmation of scheduling changes is contingent upon approval by Council.
- All crew members shall adhere to the Film Industry Code of Practice as outlined in the State Filming Protocols, which are available through the NSW Film and Television Office.
- It is a condition of approval that Council be acknowledged in the credits of the production.

**Penalties**

- Where any person, association or company is found to be in breach of the Agreement, cancellation of approval and refusal of future applications may result.

**5. Review**

To be reviewed within one year of the election of a new Council.

## CL22.335 Policy - Graffiti Management

**HPERM Ref:** D22/100018

**Department:** Works & Services

**Approver:** Stephen Dunshea, Chief Executive Officer

**Attachments:** 1. Draft - Graffiti Management Policy [↓](#)

### Reason for Report

The *Graffiti Management Policy* is presented for adoption. The Local Government Act requires that all Council policies should be reviewed within 12 months of an election of a new Council.

### Recommendation

That Council reaffirm the Graffiti Management Policy with the update to nominate City Services as the responsible Council Directorate and no reference to the Graffiti Management Plan which ended in 2018.

### Options

1. Council reaffirm the Graffiti Management Policy as presented.

Implications: Change to the responsible Directorate name has been updated to reflect the current organisational structure.

2. Council not accept the recommendation, giving reasons and propose an alternative.

Implications: Any significant changes will require community engagement prior to adoption.

### Background

The Graffiti Management policy provides a commitment to the management of graffiti across the Shoalhaven City Council area. It also provides a basis to manage and minimise the impact of graffiti.

The Graffiti Management Policy was developed in response to concerns of graffiti proliferation raised by community members within the Shoalhaven and the need to act quickly.

In the past, Council had no graffiti management strategy or plan to combat graffiti in the Shoalhaven. In late 2011, to show leadership to the community in the area of managing graffiti removal, Council made a deliberate decision to provide additional resources. A management plan was created that included objectives and actions that have been achieved over the years. To deal with its assets, a full-time person with vehicle and equipment has continued to be employed to remove graffiti from Council property on a daily basis and a Parks Programmes Officer also works closely with the community to tackle the graffiti problem as part of their portfolio.

Over the years, due to the above actions continuing to work well and those actions being established in staff's everyday responsibilities, graffiti in the Shoalhaven has reduced, therefore a graffiti management plan is no longer required. Figures capturing the number of



graffiti tags in the Nowra CBD demonstrate the programme and ongoing strategies are successful. The first “Graffiti Blitz” in the Nowra CBD recorded 202 incidents of graffiti and in 2020 the number dropped to 18 recorded incidents. Different types of graffiti abatement have also played a part in being a deterrent to graffiti vandals, those being the establishment of murals and planting of shrubs along walls and fences in graffiti hotspots.

A minor change has been made to the Group name responsible for the policy from *Assets and Works to City Services*.

### **Community Engagement**

No material changes are proposed to the current policy, so community engagement is not considered necessary.

CL22.335

## Graffiti Management

<b>Adoption Date:</b>	23/04/2013
<b>Reaffirmed:</b>	21/03/2017
<b>Amendment Date:</b>	
<b>Minute Number:</b>	MIN13.411, MIN17.203
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Services
<b>Record Number:</b>	POL22/108

## Graffiti Management

### 1. Purpose

The Graffiti Management policy provides a commitment to the management of graffiti across the Shoalhaven City Council area. It also provides a basis to manage and minimise the impact of graffiti across the Shoalhaven City Council Local Government Area.

The Graffiti Management Policy has been developed in response to concerns of graffiti proliferation raised by community members within the Shoalhaven.

### 2. Statement

Shoalhaven Council is committed to providing safer communities, supporting ownership of local neighbourhoods, reducing the occurrence of graffiti and addressing perceptions of criminal activity such as graffiti. This is to establish the Shoalhaven as a preferred place to live, work, visit and play.

Community groups have placed an increased emphasis on graffiti management and in support Council ~~have are to~~ developed a robust management framework including having appropriate operating and management practices in place. In addition, a well defined policy and management framework is essential.

#### 2.1. Objectives of the policy

- To enhance the built and natural environment in the Shoalhaven by reducing the incidence and visibility of graffiti.
- To remove graffiti as quickly as possible as a strict deterrent.
- To involve the local community and youth as partners in reducing graffiti.
- To remove graffiti using environmentally sustainable methods to minimise harm to the environment.
- To encourage private property owners to take responsibility for prompt action against graffiti on property under their management.

#### 2.2. Legislation

The “Graffiti Control Act 2008” is the relevant NSW Government legislation.

For current information relating to Graffiti legislation, please refer to the Crime Prevention website.

[http://www.crimeprevention.nsw.gov.au/Pages/cpd/protectcommunity/graffitivandalism/the\\_laws\\_relating\\_to\\_graffiti.aspx](http://www.crimeprevention.nsw.gov.au/Pages/cpd/protectcommunity/graffitivandalism/the_laws_relating_to_graffiti.aspx)

#### 2.3. Policy Implementation Strategy

Shoalhaven City Council will support this Policy by implementing the following:

~~Implementing a Graffiti Management Plan with strategies that constitute five main categories:~~

**Eradication** – graffiti removal and methods; Private Property Agreement; prioritising actions; response times; partnerships with volunteer services; Crime Prevention Through Environmental Design principles

**Engagement** – networks with community, major infrastructure owners, and business; Public Art Policy, projects and programs; diversionary activities; place management

**Education** – graffiti education program for offenders and non-offenders; public educational information and initiatives; Council website; promotional material; campaigns

## Graffiti Management

**Enforcement** - recording; reporting; prosecution; partnerships with police, schools, Corrective Services and Juvenile Justice;

**Evaluation** – targets; measures; audit; timeframes; surveys; consultation; identification of factors outside Council's control.

Fundamental to implementation of the Graffiti Management Policy are:

- Regular inspections and removal of graffiti based on assessment [within 48 hours for offensive graffiti and 72 hours for non offensive graffiti](#);
- Photographic recording of graffiti to assist police in identifying offenders.
- Encourage private property owners relating to the quick removal of graffiti on their property.
- Publicise the reporting of graffiti within community promotional material.

### 3. Provisions

To achieve this commitment, and in partnership with stakeholders and relevant agencies, Shoalhaven Council will [continue to](#):

- Implement a whole of community approach and proactive response to community safety, protection of assets and graffiti management.
- Promote community participation in decision-making processes and ensure that community expectations are considered. This will be done by integrating the needs and expectations of our stakeholders and employees into our planning through effective communication.
- Establish partnerships between Council and law enforcement agencies, utility owners, private property owner/occupiers, youth and offenders.
- Align our systems with best practice graffiti and vandalism processes where budgets allow.
- Promote community responsibility and assist the community in maintaining their property through awareness, education and reporting.
- Continually improve our management practices by assessing performance against corporate commitments and stakeholder expectations.
- Work with stakeholders to assist in design and planning of the built environment to deter graffiti.
- Retain regular monitoring and incident response capability for Graffiti and effective reporting mechanisms to provide relevant and timely information and promote confidence in graffiti removal and its management.

### 4. Policy Guidelines

#### 4.1. General

The following guidelines provide key directives to Council staff and community:

- Reduce the incidence of graffiti through the use of precise strategies including an improved reporting mechanism, prioritising removal and persisting with removal.

#### Graffiti Management

- Removal of graffiti on Council assets shall be undertaken ~~in accordance with Council's adopted Asset Management Plan~~ in accordance with this policy and the Graffiti Control Act 2008. The frequency of inspection and removal is subject to yearly allocation of resources.

#### 5. Implementation

The City Services Group is allocated overall responsibility for the implementation of this policy ~~and all documents prepared for inclusion in the graffiti management plan~~.

To maximise opportunities, coordinate efforts, ensure efficiencies and reduce costs, relevant council departments will jointly implement the Graffiti Management Policy ~~and Graffiti Management Plan~~.

#### 6. Review

To be reviewed within 1 year of the election of a new council.

## CL22.336 Policies - Demolition & Renovation of Buildings Containing Asbestos Policy, Swimming Pools and Barrier Inspection Policy and Home Modifications - Elderly and Injured Residents - Medical Requirements

**HPERM Ref:** D22/202865

**Department:** Certification & Compliance  
**Approver:** James Ruprai, Director - City Development

**Attachments:**

1. Demolition & Renovation of Buildings Containing Asbestos Policy [↓](#)
2. Swimming Pools - Barrier Inspection Policy [↓](#)
3. Home Modifications - Elderly & Injured Residents - Medical Requirements [↓](#)

### Reason for Report

This policy review is presented to Council in accordance with the recommendations for all policies to be reviewed within the first 12 months of the new council.

The report has been prepared to assist Council to consider the adoption of these existing public policies which deal with the responsibilities within City Development.

### Recommendation

That Council adopt the attached policies and make available on Council's website:

1. Demolition & Renovation of Buildings Containing Asbestos Policy.
2. Swimming Pools - Barrier Inspection Policy.
3. Home Modifications - Elderly & Injured Residents - Medical Requirements.

### Options

1. Adopt the recommendation

Implications: The policy review will assist in maintaining the Compliance and Enforcement program and provide staff with clear guidelines on how to action matters.

2. Not adopt the recommendation

Implications: Council will need to give further instruction to staff.

### Background

The policies listed below have been reviewed and amendments have been made as follows:

1. POL22/14 – Demolition & Renovation of Buildings Containing Asbestos Policy: - this policy was adopted by Council in 2017. Only some minor wording changes have been made to this policy in relation to legislative and internal development consent condition changes. These changes are shown in attachment 1.

CL22.336

2. POL22/25 – Swimming Pools - Barrier Inspection Policy - this policy was adopted by Council in 2017. The wording changes have been made to update the policy to be more contemporary and to incorporate legislative changes. These changes are shown in the attachment 2.
3. POL22/21 - Home Modifications - Elderly & Injured Residents - Medical Requirements - this policy was adopted by Council in 2019. Only minor changes have been made to update the policy in relation to internal works. The changes are shown in the attachment 3.

### **Community Engagement**

These policies support Council's commitment to ecologically sustainable development principles and support good governance practice.

Given there has been only administrative changes made to the attached policies, it is not envisaged that community consultation is required.

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# Demolition and Renovation of Buildings Containing Asbestos Policy

<b>Adoption Date:</b>	23/08/2005
<b>Reaffirmed:</b>	21/05/2013
<b>Amendment Date:</b>	24/03/2007, 11/10/2010, 15/08/2017
<b>Minute Number:</b>	MIN05.1136, MIN07.418, MIN09.1397, MIN13.473, MIN17.697
<b>Review Date:</b>	
<b>Directorate:</b>	City Development
<b>Record Number:</b>	POL22/14



## Demolition and Renovation of Buildings Containing Asbestos Policy

### 1. Purpose

To articulate Council's requirements when assessing and determining Development Applications (DAs) ~~and Complying Development Certificate (CDC) applications~~ for demolition and renovation of buildings containing asbestos.

### 2. Statement

Current scientific literature indicates that there is no safe exposure level for asbestos. This Policy shall be adhered to when assessing and determining DAs for demolition and renovation of buildings containing asbestos.

This policy does not alter the specific requirements set under Council's Asbestos Policy (POL16/57) which is in line with the Model Asbestos Policy for NSW Councils. Individuals are encouraged to contact ~~Council Council~~, or the appropriate organisation as detailed in Appendix E of Council's Asbestos Policy (POL16/57).

### 3. Provisions

#### Licensing Requirements for Removing Asbestos

Since 1 January 2008, a bonded asbestos licence has been required in NSW to remove more than 10m<sup>2</sup> of bonded asbestos material. A Class B licenced ~~bonded~~ asbestos removalist can remove any amount of bonded asbestos material. Any loose or friable asbestos must be removed by a Class A qualified asbestos removalist. Licensing for asbestos removalist is ~~regulated~~ legislated by the Work Health and Safety Regulation 2017 and ~~administered~~ regulated by SafeWork NSW.

#### Legislation

Council has obligations under various Asbestos-Related Legislation, Policies and Standards including the provisions of the *Protection of the Environment Operations (POEO) Act 1997* and the *Contaminated Land Management (CLM) Act 1997*.

#### ~~WorkCover~~ SafeWork NSW Guidelines

SafeWork NSW provides extensive guidelines for dealing with asbestos. The SafeWork catalogue titled "Working with Asbestos Guide" provides up-to-date guidance on identification, licensing and working with asbestos. The catalogue is available on the SafeWork website at:

<http://www.safework.nsw.gov.au>

#### Conditions of Development Consent

Where demolition is proposed, the following conditions of development consent shall be included on applications for the demolition and renovation of buildings containing asbestos as follows:

- Demolition

#### Demolition and Renovation of Buildings Containing Asbestos Policy

Demolition work must be carried out in accordance with AS2601-2 SafeWork NSW – Code of Practice, Demolition Work [ISBN 978-0-642-78415-5] and SafeWork NSW – Code of Practice, How to Safely Remove Asbestos [ISBN 978-0-642-33317-9] as applicable.

##### **Asbestos – Statement**

No later less than seven (7) days prior to the demolition of any building or structure, a written statement must be provided to Council indicating whether the building or structure contains asbestos or material containing asbestos and, if so, the following must also be provided:

a) A hazardous substances audit report prepared by a competent and appropriately qualified person in compliance with AS2601-19912601; and

b) A hazardous substances management plan prepared by a competent and appropriately qualified person in compliance with AS2601-19912601

##### **Asbestos – Licensed Contractors**

Demolition works involving the removal and disposal of asbestos cement containing material must only be undertaken by contractors who hold a current WorkCover SafeWork NSW Demolition Licence or a current WorkCover SafeWork Class 2 B (Restricted) Asbestos Licence bonded asbestos or Class A licence for friable asbestos.

##### **Asbestos – Neighbour Notification of Neighbours**

Fourteen (14) Five (5) days prior to the commencement of any demolition works involving asbestos, all immediate neighbours must be notified in writing of the intention to carry out asbestos demolition works. Copies of these written notifications should be retained and submitted to Council days prior to the commencement of any demolition works involving asbestos removal, all immediate neighbours should shall be notified in writing of the intention to carry out asbestos removal and demolition works. Copies of these written notifications should shall be retained and submitted to Council.

##### **Asbestos Removal**

Asbestos removal must be carried out in accordance with AS2601-2 SafeWork NSW – Code of Practice, Demolition Work [ISBN 978-0-642-78415-5] and SafeWork NSW – Code of Practice, How to Safely Remove Asbestos [ISBN 978-0-642-33317-9] as applicable, by a person holding the relevant licence issued by SafeWork NSW.

A licence is not required to remove less than 10m2 of non-friable asbestos, provided that the total amount of non-friable asbestos removed from the lot does not exceed 10m2.

Asbestos must be taken for disposal to the licensed Waste Management Facility identified in the approved Waste Management Plan.

Post asbestos removal and prior to further work on the site, the following must be submitted to the Certifier:

#### Demolition and Renovation of Buildings Containing Asbestos Policy

- a) A clearance certificate issued by a licensed asbestos assessor or competent person as required by the Work, Health and Safety Regulation 2017 for the specific type of asbestos removal work confirming that the area has been cleaned satisfactorily and is safe to be re-occupied for normal use.
- b) A clearance certificate is required if the removal work involved any quantity of friable asbestos, or if it involved removal of more than a total of 10 square metres of non-friable asbestos from the lot.
- c) Documentary evidence of the legitimate disposal of all asbestos in the form of tip receipts from an approved waste management facility.

#### Asbestos and Demolition – Site Management

- ~~a) An asbestos removalist must ensure that –~~
  - ~~i. signs alerting persons to the presence of asbestos are placed to indicate where the asbestos removal work is being carried out, and~~
  - ~~ii. barricades are erected to delineate the asbestos removal area.~~
- ~~a) b) Precautions must be taken in accordance with the requirements of the Work Cover Authority of NSW in respect of:~~
  - ~~i. Protection of site workers and the public;~~
  - ~~ii. Asbestos handling and disposal where applicable.~~
- ~~b) Suitable measures must be taken to ensure that there is no adverse effect to occupants of adjoining buildings and the public by the generation of dust and/or noise during demolition.~~
- ~~c) Protection must be afforded to users of any adjoining public places by the provision of suitable hoardings. Demolition work must be carried out in accordance with:~~
  - ~~– Demolition work must be carried out in accordance with Australian Standard AS2601-2001: The Demolition of Structures.~~
  - ~~i. SafeWork NSW Code of Practice – Demolition Work (August 2019)~~

#### Asbestos – Tip Receipts

~~Documentary evidence in the form of tip receipts from an approved Waste Management Facility shall be obtained demonstrating the appropriate disposal of the asbestos waste. Tip receipts shall be provided to Council prior to any further building works being undertaken on the site.~~

#### Asbestos – Clearance Certificate

#### Demolition and Renovation of Buildings Containing Asbestos Policy

- a) Following the removal of all bonded asbestos and prior to further works being carried out on the site, a clearance certificate from an independent competent person holding a current WorkCover Class 2 (Restricted) SafeWork NSW Asbestos Assessor Licence in accordance with the Work Health and Safety Regulation 2017 National Occupational Health and Safety Commission Code of Practice for the Safe Removal of Asbestos is to be obtained and submitted to Council.—
- b) Following the removal of all friable asbestos and prior to further works being carried out on the site, a clearance certificate from an licenced Asbestos Assessor in accordance with the Work Health and Safety Regulation 2017 independent occupational hygienist in accordance with the National Occupational Health and Safety Commission Code of Practice for the Safe Removal of Asbestos is to be obtained and submitted to Council.—

#### Asbestos—Less than 10m<sup>2</sup> of Bonded Asbestos Sheeting

Demolition works involving less than 10m<sup>2</sup> of bonded asbestos may be carried out in accordance with the Code of Practice for the Safe Removal of Asbestos NOHSC [2002(2005)] SafeWork NSW Code of Practice—How to Safely Remove Asbestos (August 2019)

### 4. Implementation

This policy will be implemented by the City Development & Environmental Services Group in the assessment and determination of DAs Development Applications and Complying Development Certificate applications for demolition and renovation of buildings containing asbestos.

### 5. Review

This Policy shall be reviewed within 12 months of the election of the new Council.

## Swimming Pools – Barrier Inspection Policy

<b>Adoption Date:</b>	11/11/2013
<b>Amendment Date:</b>	15/08/2017
<b>Minute Number:</b>	MIN17.698
<b>Review Date:</b>	
<b>Directorate:</b>	City Development
<b>Record Number:</b>	POL22/25

Swimming Pools – Barrier Inspection Policy

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CL22.336 - Attachment 2

## Swimming Pools – Barrier Inspection Policy

### 1. Purpose

The Swimming Pools Act 1992 requires Council to develop and adopt a program for the inspection of swimming pools in its Local Government Area. This policy ~~aims~~ ~~is aimed at to~~ ~~increas~~ing pool safety awareness and ~~reduc~~ing the risks associated with infant drowning and near drowning in swimming pools ~~located within Sheolhaven City Council~~ by pursuing compliance with the requirements of the Swimming Pools Act 1992.

The purpose of this policy is to;

- ~~provide a policy framework for Council to comply with requirements of Section 22B of under the Swimming Pools Act 1992, for a swimming pool barrier inspection program.~~
- ~~provide guidelines for swimming pool owners with management of a swimming pool.~~

### 2. Statement

From October 2013 all councils are required to implement a program of swimming pool inspections. The purpose of the inspection program is to identify swimming pool that will be scheduled for inspection under the program.

Inspections under the program ensure the pool barrier effectively restricts access to the swimming pool in accordance with the provisions of the Swimming Pools Act. The inspection results in the issue of a Certificate of Non-Compliance or a Certificate of Compliance from the NSW Swimming Pools Register.

The inspection program requires inspections every three years for swimming pools associated with tourist and visitor ~~accommodation~~; and ~~any~~ rental accommodation. The program also includes pools at other multi-occupancy developments, such as hotels, motels, serviced apartments, backpacker accommodation and unit complexes.

A three yearly inspection regime is required, as pools co-located with these ~~occupancies types of activities~~ are perceived as having a higher risk ~~associated with them~~, due to ~~their~~ more frequent use by a wider range of people.

Each council area must develop a swimming pool inspection program and engage in community consultation regarding the frequency of swimming pool inspections on privately owned pools that are associated with a residential building.

Swimming pool ownership requires owners to comply with construction standards and pool safety. The requirements are under the Swimming Pools Act 1992 and Swimming Pools Regulations, relevant Australian Standards and directions issued by the Department of Local Government.

~~Amendments under the Swimming Pools Amendment Act 2012 introduced;~~

- ~~a system for swimming pool owners to register their swimming pool online and for them to complete a self assessment questionnaire concerning swimming pool compliance.~~
- ~~a requirement for Councils to;~~
  - a) ~~implement a pool barrier inspection program by 29 October 2013;~~
  - b) ~~provide appropriate education programs to assist pool owners; and~~
  - c) ~~administer applications for compliance certificates.~~

#### Swimming Pools – Barrier Inspection Policy

The mandatory provisions for swimming pool compliance include the following property categories;

- ~~tourist and visitor accommodation, including all multi-occupancy (more than 2 dwelling units) developments;~~
- ~~properties that are sold or rented from 29 April 2014; and~~
- ~~where pool owners apply for a swimming pool compliance certificate at any time.~~

### 3. Provisions

Council ~~will~~ aims to undertake ~~the~~ inspection of swimming pools ~~(both outdoor and indoor)~~ ~~that are~~ situated on premises associated with a residential building, in accordance with the following guidelines ~~to ensure compliance with the relevant legislation:~~

- **Complaints** – When a complaint is received by Council concerning swimming pool safety and is registered on Council's MERIT System.
- **Inspection by Request of Owner** – When an owner requests an inspection under Section 22C of the Swimming Pools Act 1992, and inspection will be conducted as per the requirements of the Act and Regulations. These may include inspections for:
  - the sale of land under the Conveyancing (Sale of Land) Regulations 2010 which requires any contract of sale of land to include either a Certificate of Compliance or Certificate of Non-compliance to be attached to any contract of sale.
  - rental properties where a Certificate of Compliance is required to be provided to a tenant under the Rental Tenancy legislation.
- **Building Information Certificate (BIC)** – Where Council receives a BIC application which involves a property with a swimming pool, a swimming pool barrier inspection will be conducted where there is no Certificate of Compliance or Occupation Certificate (within 3 years) or a non-compliance is noted with the swimming pool barrier.
- **Notification from Registered Certifiers** – Where a registered certifier is unable to issue a Certificate of Compliance within 6 weeks of their initial inspection, or in the case of a significant risk immediately after the inspection, they are required to forward a Notice to Council to undertake further enforcement action. Upon receiving the notice, Council will undertake an inspection. Where Council has inspected the pool and commenced action under section 23 of the Swimming Pools Act 1992, irrespective of the barrier being inspected by a private Certifier, Council is to carry out a reinspection of the swimming pool to finalise the section 23 action recorded against the property.
- **Internal Notification** – of pool issues referred to ~~the~~ Building & Compliance Department.

**Proactive Inspections** – When staff resources permit, Council Officers may proactively notify swimming pool owners that do not have a current Certificate of Compliance, that their pool barrier will be the subject of a pool barrier inspection, which will be conducted as per the requirements of the Act and Regulations.

~~The program proposed for pool inspections, including the mandatory inspections required of tourist, visitor and multi-occupancy developments, and pools associated with property sales and leases is:~~



Swimming Pools – Barrier Inspection Policy

- ~~i) Council will carry out inspections of those swimming pools within the Council area which are on the Register, commencing with the urban areas (due to the higher density of population) then moving into the rural areas. This will be an ongoing program.~~
- ~~ii) Before inspecting a swimming pool, Council will ascertain whether, determine within the previous 3 years, an Occupation Certificate or a Compliance of Certificate has been issued. An inspection of that pool will not be carried out until 3 years after the issue of the Occupation Certificate or Compliance of Certificate.~~
- ~~iii) When a swimming pool barrier is compliant or brought into compliance, a Compliance Certificate will be issued. The certificate will be valid for three years from the date of issue. A certificate of compliance ceases to be valid if council issues a direction under s23 of the Act.~~
- ~~iv) When the Compliance Certificate lapses a further inspection will be carried out by Council and a new Compliance Certificate will be issued. This will ensure that swimming pools are kept compliant and will provide the pool owner with a degree of satisfaction knowing their pool meets the safety standards.~~  
~~The property owner or occupier or agent, whichever is relevant, will be notified in writing a minimum of 14 days prior that a swimming pool inspection is to be carried out. The inspection will be carried out on the date notified or on an arranged (reasonable) date and time suitable to the occupier by an Authorised Officer of Council.~~
- ~~v) If a swimming pool is found not to be registered after the 29 October 2013, the pool owner will be contacted and will be required to register the swimming pool. An inspection will then be carried out to ensure that the pool barrier is compliant. A compliance certificate will then be issued and registered by Council.~~
- ~~vi) The mandatory inspection of swimming pools associated with tourist and visitor accommodation and multi-occupancy developments at three year intervals will be carried out by an authorised officer of Council.~~  
~~Notice of an inspection will be given a minimum of 14 days prior that a swimming pool inspection will be carried out. The inspection will be carried out on the date notified or on an arranged (reasonable) date and time mutually suitable.~~
- ~~vii) An owner may voluntarily request an inspection from Council, or an accredited a private registered certifier or swimming pool inspector. Council will carry out an inspection of a swimming pool when requested in writing by the owner to enable the sale or lease of the premises. A private accredited certifier other than a Council inspector, may also be engaged to carry out this inspection by the owner of the premises and issue a compliance certificate.~~
- ~~viii) Council will carry out an inspection of a swimming pool when requested in writing by the owner of any premises for reasons other than any of the above and issue a compliance certificate. A private accredited registered certifier or swimming pool inspector other than a Council inspector may also be engaged to carry out this inspection by the owner of the premises and issue a compliance certificate.~~
- ~~— Council may will carry out swimming pool inspections other than under this program due to complaints from, visitors to the property, the general public or if Council suspects environmental pollution, in accordance with Section 29A of the Swimming pools Act 1992.~~

#### Swimming Pools – Barrier Inspection Policy

- ix) ~~Council will carry out an inspection of a swimming pool that has been subject of an inspection by a private registered certifier or swimming pool inspector and has had a certificate of non-compliance issued (on the NSW Swimming Pool Register) and non-compliance notice referred to Council in accordance with section 22E of the Swimming Pools Act 1992.~~

## 4. Definitions

**Certificate of Compliance** in respect of swimming pools means a certificate issued under section 22D of the Swimming Pools Act.

**Multi-occupancy development** a building, or buildings that is, or are, situated on premises that consist of more than two dwellings.

**Relevant occupation certificate** in respect of a swimming pool, which means an occupation certificate issued under the Environmental Planning and Assessment Act 1979 that is less than 3 years old and that authorises the use of the swimming pool.

**Swimming pool** means an excavation, structure or vessel:

- a) That is capable of being filled with water to a depth great than 300 millimetres, and
- b) That is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity, and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations not to be a swimming pool for the purposes of this Act.

**Tourist and Visitor Accommodation** means a building or place that provides temporary or ~~short term~~short-term accommodation on a commercial basis and includes back packers accommodation, bed and breakfast accommodation, farm stay accommodation and serviced apartment. Note: this does not include residential accommodation operating as exempt development for short-term rental accommodation under Division 2 of the State Environmental Planning Policy (Housing) 2021

## 5. Inspections

Inspections will be carried out by Council Building Surveyors or Swimming Pool Compliance Officers engaged for the purpose of the program in a reasonable time in accordance with the Swimming Pools Act 1992 and Swimming pools Regulation 2018.

## 6. Inspections Fees

Council will set fees for the first inspection and subsequent inspection for compliance certificate applications as adopted in Councils Management Plan and Fees and in accordance with the Swimming Pools Act ~~1992~~ and Swimming Pools Regulation 2018.

## 7. Enforcement

#### Swimming Pools – Barrier Inspection Policy

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Council aims to achieve compliance through effective education and engagement of pool owners and the community. Council acknowledges the ultimate effectiveness of any pool safety barrier relies upon the awareness of the property owner and their willingness to ensure compliance and ongoing maintenance.

The Swimming Pool Act does provide mechanisms, such as Notices, Directions and penalty provisions which are used to actively encourage compliance where deemed necessary and appropriate.

### 8. Implementation

The policy will be implemented by ~~the Planning, Environment and City~~ Development ~~Group~~.

### 9. Review

This policy will be reviewed within one year of the election of every new Council, or earlier if circumstances arise to warrant revision.

# Home Modifications – Elderly & Injured Residents – Medical Requirements

<b>Adoption Date:</b>	06/08/2019
<b>Amendment Date:</b>	
<b>Minute Number:</b>	MIN19.539
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Development
<b>Record Number:</b>	POL22/21

**Home Modifications – Elderly & Injured Residents – Medical Requirements**

**1. Purpose**

To provide guidance to Council Officers when assessing and determining development applications for residential modifications to permit elderly people and those who are injured to return to their homes.

**2. Issue**

Dwellings that are constructed over two or more levels pose manoeuvring difficulties for the elderly or injured residents. This can result in owners seeking alternative accommodation or prematurely transferring to a full-time care facility.

Wherever possible, it is an advantage to keep people within their existing homes. There are obvious social rewards as well as economic benefits by reducing the tension on already stretched nursing care resources.

Simple changes to the configuration may include the provision of access ramps, grab rails, minor internal alterations and additions of bathrooms, laundries and kitchens. It may also result in the provision of additional facilities on the lower level of multi-storey buildings.

Having two kitchens or laundries in a dwelling for instance is not a prohibited arrangement under the National Construction Code provided the building is still used as a single dwelling. It can present problems with a change of classification if they are separately tenanted and this is not the purpose of this policy.

**3. Legislation**

Certain residential home modifications can be completed without the need of a development application and these include the following:

- a) **Exempt Development** which does not require approval from a consent authority; and
- b) **Complying Development** which does require prior approval from Council or a private certifier.

For more details on the requirements of what can be constructed under Exempt or Complying Development provisions, reference should be made to the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Examples of exempt development that may apply in these circumstances are as follows:

- Subdivision 1 - Access ramps.
- Subdivision 5 - Awnings, blinds and canopies.
- Subdivision 6 - Balconies, decks, patios, pergolas, terraces and verandahs.
- Subdivision 10 – Carports.
- Subdivision 14 – Driveways and hard stand spaces.
- Subdivision 26 - Minor building alterations (internal). This includes replacement of a bathroom or kitchen, built in fixtures such as a vanity, cupboard or a wardrobe, shelving and the like.
- Subdivision 27 – Minor building alterations (external). This includes the installation of a door and repair or replacement of a balustrade.
- Subdivision 28 – Pathways and paving.
- Subdivision 35 – Screen enclosures (of balconies, decks, patios, pergolas, terraces and verandahs).

If additional plumbing and drainage services are required, then Council will need to be involved in the inspection of these extended services. This would trigger a separate

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#### Home Modifications – Elderly & Injured Residents – Medical Requirements

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section 68 approval under the Local Government Act. Applications for a section 68 approval can be obtained by completing an application form and submitting it to Council together with a floor plan showing the fixtures.

If the exempt and complying development codes cannot be utilised, then a development application will need to be submitted to Council for consideration.

#### 4. Development Application

If a development application is submitted for consideration, Council has an obligation under the Environmental Planning & Assessment Act and Regulations to assess if the proposed change would result in the creation of two or more dwellings. This will not be permitted under this policy.

The applicant will need to demonstrate in the statement of environmental effects that the proposed works will not result in a change of building classification or the creation of a new dwelling. The application will also need to be supported by documentation from an Occupational Therapists and/or Doctors recommendation specifying why the building needs to be altered to accommodate the occupants. In some instances, the application will also be supported by a report from an accredited access consultant detailing the works required to be completed.

Where development applications are approved, Council will include a condition to the effect that the building shall remain as a single dwelling and must not be used as dual occupancy or for separate residential tenancy.

#### 5. Implementation

This policy will be implemented by the [Planning, Environment and Development Group City Development](#) in the assessment and determination of Development Applications for residential modifications in response to Occupational Therapists and Doctors instructions to allow elderly people and those who are injured to return to their homes.

#### 6. Review

This Policy shall be reviewed within 12 months of the election of the new Council.

## CL22.337 Policy - Vegetation Vandalism Prevention

**HPERM Ref:** D22/263893

**Department:** Environmental Services

**Approver:** James Ruprai, Director - City Development

**Attachments:** 1. Draft Vegetation Vandalism Prevention Policy [↓](#)

### Reason for Report

All Public Policies are to be submitted to Council within 12 months of the election of Council. This report provides a detailed summary of the changes that have been made to the Vegetation and Vandalism Prevention Policy.

### Recommendation

That Council:

1. Exhibit the revised Vegetation Vandalism Prevention Policy for a period of two (2) weeks to allow public comment; and,
2. If no significant comments are received through public exhibition, adopt the policy without further resolution.

### Options

1. Adopt the recommendation as written.

Implications: The revised policy will ensure that Council continues to implement consistent measures in the prevention of, and in response to, acts of vegetation vandalism.

2. Not adopt the recommendation.

Implications: Council can request further details, seek further community input, or make other changes. Implications will depend on the resolution(s) of Council.

### Background

The Shoalhaven Tree and Vegetation Vandalism Prevention Policy was first adopted by Council in November 2019 (MIN19.815).

A workshop was convened with relevant staff from City Development (Environmental Services, Building and Compliance), City Services (Works and Services) to undertake a review of the policy.

The revised policy includes the changes as outlined in the following table.

Section	Notes on changes
Overall length and volume of detail within the policy	Slight re-formatting and re-titling of sections to conform with the standard policy template. Repetition has been removed. Procedural and operational matters have been removed from the draft policy, including most of the Appendices. This was done to enable easier dissemination of the key aspects of the policy to the community.

CL22.337

Section	Notes on changes
<b>1. Purpose</b>	'Introduction' and 'Objective' of current policy grouped under 'Purpose'.
<b>2. Statement</b>	
2.1 Scope	The scope has changed to only include vegetation vandalism on Council owned or managed lands. Private lands are covered under Tree and Vegetation Management – DCP Chapter G4 (private land).
2.2 Background	Updated to include more information about the importance of vegetation in the Shoalhaven Local Government Area.
<b>3. Provisions</b>	
3.1 Policy Principles	Minor word changes and re-ordered.
3.2 Definitions	Minor word changes. Information included to exclude weed removal activities as these are authorised under the <i>Biosecurity Act 2015</i> (NSW).
3.3 Legislation	Unchanged. Appendix retained.
3.4 Education	The importance of community education increased as a preventative measure for vegetation vandalism.
3.5 Monitoring and Prevention	Items relevant to rehabilitation moved to section 3.7. The addition of the use of physical structures to prevent vegetation vandalism where all other preventative measures have been considered and utilised.
3.6 Compliance	Re-worded to include text from various sections of the current policy. Inclusion of the preparation of plans for areas at high risk of further damage. The Investigation and Response Protocol and Compliance Procedure excluded, as this is more operational and procedural, and as such, is not policy-based. It was resolved at the Development and Environment Committee meeting of Council on 5 March 2019 (MIN19.110) that Council does not support the installation of surveillance cameras along Collingwood Beach and the current policy is silent on this matter. It is now recommended that covert and/or remote surveillance devices be utilised where appropriate as part of a plan to address high impact sites where further vandalism is likely. The inclusion of this is intended to act as both a deterrent, as well as allowing adequate evidence collection for compliance action where appropriate.
3.7 Rehabilitation	Re-wording with some additional detail added on rehabilitation. This includes rehabilitation to achieve a plant community structure that would naturally occur within a natural area, rehabilitation of parks and gardens.
'Resources' (current policy)	Removed being more procedural in nature
<b>4. Implementation</b>	Minor additions
<b>5. Review</b>	No changes
<b>6. Application of Ecologically Sustainable Development Principles</b>	Minor changes

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**Community Engagement**

This policy supports Council's commitment to ecologically sustainable development principles and support good governance practice.

Given significant nature of this policy, and to seek constructive feedback from our community, it is recommended that the draft revised policy be placed on exhibition for a two (2) week period to allow public comment. If no comments are received, it is recommended the policy be adopted without further resolution.

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# Vegetation Vandalism Prevention Policy

**DRAFT – 20/06/22**

<b>Adoption Date:</b>	05/11/2019
<b>Amendment Date:</b>	
<b>Minute Number:</b>	MIN19.815
<b>Review Date:</b>	
<b>Directorate:</b>	City Development
<b>Record Number:</b>	POL22/24

CL22.337 - Attachment 1

Vegetation Vandalism Prevention Policy

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*Appendix 1: Legislative framework*

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## Vegetation Vandalism Prevention Policy

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### 1. Purpose

This policy has been prepared to prevent vegetation vandalism that occurs throughout the Shoalhaven Local Government Area. It articulates the actions that Council may take in response to vegetation vandalism on public land.

The primary objective of this policy is to reduce vegetation vandalism across the Shoalhaven by:

- a) Promoting the value of natural and planted vegetation to the community.
- b) Communicating the environmental, social, economic, and cultural consequences of vegetation vandalism and the penalties that can apply.
- c) Facilitating the enforcement of legal action to reduce the reoccurrence of vegetation vandalism.
- d) Defining appropriate and consistent preventative, investigative, response and remediation actions to be undertaken by Council.
- e) Encouraging broader community involvement in the prevention of vandalism.

### 2. Statement

#### 2.1 Scope

This policy applies to all public land owned or managed by Shoalhaven City Council, including natural areas, parks, gardens, roadsides, and sportsgrounds. Vegetation growing on private lands is covered under Tree and Vegetation Management – DCP Chapter G4 (private land).

This policy applies to all instances of vegetation vandalism, including felling, poisoning, pruning, burning, and unauthorised mowing and slashing of native vegetation. It also applies to unauthorised vehicular access to public areas and the associated damage to vegetation.

If this policy conflicts with any other Council policy, this policy prevails over all other policies.

#### 2.2 Background

The Shoalhaven community is the custodian of diverse vegetation across a range of natural and built landscapes. Such vegetation is essential for the conservation of endemic biodiversity, by providing vital foraging, sheltering, and breeding habitat. It also has strong symbology for Indigenous people, given the historical use of bark, wood and trees for practical and emblematic purposes. Accordingly, vegetation is protected under state and commonwealth legislation.

Vandalism of vegetation has a significant and cumulative impact on the environment. These impacts include reduced visual and aesthetic values, loss of environmental functions such as carbon storage and sequestration, air pollution reduction, urban heat mitigation, windbreaks and erosion control, riparian and coastal zone

#### Vegetation Vandalism Prevention Policy

stabilisation, and the loss of cultural connections, and of wildlife habitat and biodiversity values. There is also a social cost of vegetation vandalism with impacts on public health including mental health and general wellbeing, with the potential to create polarisation and conflict within the community.

Tree and vegetation vandalism can have substantial financial and human resource costs for Council including the direct loss of the asset value of the trees or other vegetation, the cost of investigation, rehabilitation costs and the cost of implementing punitive/deterrence measures.

This policy has drawn upon those of other NSW Councils and input from the local community.

### 3. Provisions

#### 3.1 Policy Principles

The principles of this policy are centred on the following:

- a) The long-term protection and management of vegetation (including re-establishment in previously vandalised areas) is integral to maintaining the economic, cultural, environmental, and social values of the Shoalhaven.
- b) Healthy, diverse natural and planted vegetation contributes significantly to environmental health and to human health and wellbeing.
- c) Vandalism of vegetation is a serious criminal offence under state and commonwealth legislation.
- d) The identification and prosecution of perpetrators of vegetation vandalism is pursued consistently throughout the Shoalhaven.
- e) Council and the community have a responsibility for the prevention of vegetation vandalism through the enactment of shared vigilance and the rehabilitation of damaged areas.
- f) Council authorised vegetation trimming, removal, mowing, and slashing is not subject to this policy. Authorisation, dependant on the protection status of the vegetation, may involve that sought in accordance with state and commonwealth legislation.

#### 3.2 Definitions

**Vegetation Vandalism** is the unlawful destruction, removal (dead or alive), damage or injury to vegetation. Examples include poisoning, burning, felling, ringbarking, unauthorised mowing, pruning, trimming, and slashing.

There is a wide variety of situations in which vegetation can lawfully be removed. These include, but are not limited to weed removal, and certain minor vegetation removal and trimming on private property by the owner or with the owner's consent.

**Vegetation** includes any of the following, whether dead or alive, native, or exotic, at any stage of its life cycle:

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#### Vegetation Vandalism Prevention Policy

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- a) A tree (including any sapling or shrub).
- b) An understorey plant.
- c) A groundcover (being any type of grass or herbaceous vegetation).
- d) A plant occurring in a wetland.

The term vegetation within this policy excludes recognised agricultural or environmental weeds listed under the *Biosecurity Act 2015* (NSW).

### 3.3 Legislation

A range of offences under state and commonwealth legislation apply for vegetation vandalism. An overview of the relevant legislation and the associated offences, responsible authorities, and the nature of penalties that apply are included in Appendix 1.

### 3.4 Education

Council's education program associated with the importance of vegetation in the local context, and to prevent vandalism, is to include the following key elements:

- a) Environmental functions of vegetation in natural and urban environments including habitat value, water quality, air quality, shade, erosion control, dune and riparian stabilisation and protection, aesthetics, weed suppression, noise attenuation, climate change mitigation and wind-breaking.
- b) The legislative context that is protecting vegetation, with a focus on why this level of protection is mandated by state and commonwealth legislation.
- c) The importance of healthy, diverse vegetation for maintaining human health and wellbeing.
- d) The role of community collegial works to help protect and enhance our local environment through the promotion of volunteer Bushcare programs.
- e) The cumulative impacts of vegetation loss are assessed and informed in the context of previous and concurrent events.
- f) The economic role and value of vegetation, include carbon sequestration, oxygen production, biodiversity support, erosion control, recreation, and tourism.
- g) Offences may be criminal acts that carry with them potential fines and punishments. Successful prosecutions and enforcement actions may be publicised to ensure that the consequences of these unlawful acts are appropriately advertised.
- h) There is a direct economic cost to ratepayers resulting from acts of vandalism, in terms of investigation, replacement and remediation.
- i) Community is encouraged to be involved in maintenance and protection of vegetation through its volunteer programs such as Bushcare and Parkcare.

#### Vegetation Vandalism Prevention Policy

- j) Any mowing in Council reserves must be authorised by Council. Unauthorised mowing may be an offence under various legislation and can result in penalties.
- k) The identity of the perpetrator of vegetation vandalism cannot be assumed.
- l) Explanation is required on what is lawful vegetation trimming or removal and what is not.
- m) Specific vandalism events can be publicised through a range of activities, such as on-site signage, stencilling of dead trees, localised pamphlet drops, and newsletter and media articles.
- n) Information about rehabilitation and other positive outcomes, to encourage a reduction in occurrences of vegetation vandalism. The dissemination of such information may also include the publication of the successful enforcement of legislation as a preventative measure for vegetation vandalism.

### 3.5 Monitoring and Prevention

Monitoring known locations of vegetation vandalism, as well as areas identified to be moderate to high risk, is a key facet in the prevention of this occurring on a more widespread scale. As such, Council will:

- a) Record vandalism incidents inclusive of an assessment of:
  - o rates of vegetation vandalism.
  - o the cumulative environmental, social, economic, and cultural impacts of vandalism within individual areas; and
  - o the cumulative environmental, social, economic, and cultural impacts of vandalism across the Shoalhaven.
- b) Assess the success of remediation and rehabilitation.
- c) Monitor the effectiveness of rehabilitation response efforts, as well as community education over time to reduce the frequency and spread of vegetation vandalism. This will include, but not be limited to, the installation of signage and the stratification of future surveillance activities.
- d) Actively promote community involvement in stewardship and maintenance of areas where vegetation vandalism has occurred.
- e) Target community awareness-raising initiatives towards areas where vegetation vandalism has occurred.
- f) Strategically consider the placement of physical structures (e.g., shipping containers, bunting, fencing, large-scale signage, sail, or shade cloth) in areas where vegetation vandalism has occurred, and all other measures of prevention have been considered and utilised.

### 3.6 Compliance

Council's compliance activities are key to the reduction of vegetation vandalism. The following compliance processes will be enacted:

#### Vegetation Vandalism Prevention Policy

- a) An attempt will be made to identify the culprit(s) of vegetation vandalism for all cases, with the goal to impose relevant fines or prosecution. Resources will be prioritised for high impact and cumulative vegetation vandalism events.
- b) Variable surveillance actions will be implemented by Council to identify and pursue compliance. Information collected through the surveillance measures (including using cameras within legal bounds) may assist with prosecution, where applicable.
- c) Rewards will typically be offered for information that may lead to prosecution. Council provides a reward of \$5,000 for any information provided that leads to a successful prosecution.
- d) Council may prepare and adopt a vandalism prevention plan for areas that are regarded as being at high-risk of continued vandalism. Covert surveillance devices may be used, within legal bounds, as part of the plan for these areas and images may be publicised to identify the culprit(s). Where vegetation is protected by state and commonwealth legislation, the enforcement of Council's compliance functions and preparation of vandalism prevention plans will involve collaboration with relevant agencies.
- e) For applicable cases, proceedings are to be pursued in the Land and Environment Court where sufficient evidence exists.
- f) Council will seek to recover the full costs associated with response measures. These may include:
  - o professional costs associated with assessing and reporting on the vandalism,
  - o the costs of signage and its installation and other communication activities, and
  - o all rehabilitation costs (planning, works and monitoring) for the area vandalised to have adequately recovered.

#### **3.7 Rehabilitation**

Rehabilitation of areas impacted on by vegetation vandalism will be carried out by Council in the following way:

- a) Vegetation vandalism sites within natural areas will be rehabilitated as a matter of priority to reduce the long-term and cumulative environmental, social, economic, and cultural impacts. The aim of such rehabilitation will be to restore a plant community structure that would naturally occur in the impacted-on area.
- b) Replanting will occur and Council will replace vandalised vegetation with the same vegetation type (i.e., trees, shrubs, and ground covers) at a ratio of five to one.
- c) Consideration is to be given to planting fast-growing and advanced plants.
- d) Vandalised vegetation will not be removed from site unless assessed as a safety hazard.



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**Vegetation Vandalism Prevention Policy**

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- e) Signage will only be removed when site vegetation is assessed to be rehabilitated and appropriately re-established. Council's inspection and surveillance activities will be undertaken to confirm this.

**4. Implementation**

City Development (Environmental Services, Certification and Compliance), City Services (Works and Services), Media and Communications.

**5. Review**

The Environmental Services Department will review this policy within one year of the election of Council.

**6. Application of Ecologically Sustainable Development Principles**

Ecologically Sustainable Development (ESD) requires effective integration of social, economic, and environmental considerations in decision-making processes. ESD can be achieved through implementation of four principles and programs:

- a) The precautionary principle.
- b) Intergenerational equity.
- c) Conservation of biological diversity and ecological integrity.
- d) Improved valuation, pricing, and incentive mechanisms.

This policy incorporates ESD principles by facilitating the protection, restoration, and conservation of beneficial vegetation for future generations. It provides for the maintenance and improvement of biodiversity and recognises the values and costs involved with the issue of vegetation vandalism.

Vegetation Vandalism Prevention Policy

## 7. Appendix

### 1. LEGISLATIVE FRAMEWORK

OFFENCE	OFFENCE PROVISION	PROSECUTION AUTHORITY	JURISDICTION	SHORT OFFENCE CODE	PENALTIES (as at September 2019)	LIMITATION PERIOD (FROM THE DATE OF OFFENCE)	REMEDATION
Prohibited development undertaken	s.4.3b of the Environmental Planning and Assessment Act 1979	Local Government	Penalty Infringement Notice	Carry out development forbidden on land	\$6000 – Corporation \$3000 – Individual	1 years	
Prohibited development undertaken	s.4.3b of the Environmental Planning and Assessment Act 1979	Local Government	Local Court	Carry out development forbidden on land	Tier 1 monetary penalty, Max – 1000 penalty units	2 years	
Prohibited development undertaken	s.4.3b of the Environmental Planning and Assessment Act 1979	Local Government	Land and Environment Court	Carry out development forbidden on land	Tier 1 monetary penalty, Corporation – Max \$5,000,000 Individual – Max \$1,000,000	2 years	A Court may impose remediation
Wilful or negligent use of a pesticide that injures the property of another person	s.7(1)(b) of the Pesticides Act 1999	Environmental Protection Authority (EPA)	Land and Environment Court		Up to \$120,000 / \$250,000 (individual / corporation).	3 years from the date of the offence or the date on which the offence first came to notice of an "authorised officer".	A court may also, where the offence is proven, order the offender to restore land damaged as a result of the offence and / or order the offender to pay the costs of a "public authority" (which includes a Council) where that authority has incurred costs as a result of the offence or in the clean-up, abatement, or mitigation of pesticide pollution
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	Environmental Protection Authority (EPA)	Infringement Notice		Corporation: \$1,500 Individual: \$750	3 years from the date of the offence or the date on which the offence first came to notice of an "authorised officer".	
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	Environmental Protection Authority (EPA)	Local Court		(2) Up to \$20,000	3 years from the date of the offence or the date on which the offence first came to notice of an "authorised officer".	

### Vegetation Vandalism Prevention Policy

OFFENCE	OFFENCE PROVISION	PROSECUTION AUTHORITY	JURISDICTION	SHORT OFFENCE CODE	PENALTIES (as at September 2019)	LIMITATION PERIOD (FROM THE DATE OF OFFENCE)	REMEDATION
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	Environmental Protection Authority (EPA)	Land and Environment Court.		Corporation: \$120,000 Individual: \$60,000	3 years from the date of the offence or the date on which the offence first came to notice of an "authorised officer".	
Use registered pesticide in contravention of approved label	s.15(1) of the Pesticides Act 1999	Environmental Protection Authority (EPA)	As for offence under s.10(1)(b) of the Pesticides Act		As for offence under s.10(1)(b) of the Pesticides Act.	As for offence under s.10(1)(b) of the Pesticides Act.	
Damaging habitat of threatened species or ecological communities	s.2.4 of the Biodiversity Conservation Act 2016	Office of Environment and Heritage	Land and Environment Court		\$330.00 for individuals or \$1,650,000 for corporations.	2 years after the date on which the offence is alleged to have been committed or on which evidence came to the attention of the relevant investigation officer	
Significant impact to a threatened species, threatened ecological communities and migratory species	s.18 of the Environment Protection and Biodiversity Act 1999	Minister for the Environment	Federal Court		5,000 penalty units – Individual 50,000 penalty units – body corporate		The Minister may ensure that appropriate steps are taken to rehabilitate the habitat
Use of pesticide in a manner that leads to pollution of lands	s.142A of the Protection of the Environment Operations Act 1997	Local Government	Penalty Infringement Notice Local Court Land and Environment Court		Up to \$500,000 for individuals or Up to \$2,000,000 for corporations.	3 years	Clean Up Notice Court Order Remediation
Development undertaken without development consent and/or development not carried out in accordance with a consent or environmental planning instrument	s.4.2 of the Environmental Planning and Assessment Act 1979	Local Government	Penalty Infringement Notice	Development without development consent	\$3000 – Individual \$6000 – Corporation		
Development undertaken without development consent	s.4.2 of the Environmental Planning and	Local Government	Local Court	Development without development consent	Tier 1 monetary penalty, Max – 1000 penalty units	2 years	

### Vegetation Vandalism Prevention Policy

OFFENCE	OFFENCE PROVISION	PROSECUTION AUTHORITY	JURISDICTION	SHORT OFFENCE CODE	PENALTIES (as at September 2019)	LIMITATION PERIOD (FROM THE DATE OF OFFENCE)	REMEDATION
and/or development not carried out in accordance with a consent or environmental planning instrument	Assessment Act 1979						
Development undertaken without development consent and/or development not carried out in accordance with a consent or environmental planning instrument	s.4.2 of the Environmental Planning and Assessment Act 1979	Local Government	Land and Environment Court		Tier 1 monetary penalty. Tier 1 monetary penalty, Corporation – Max \$5,000,000 Individual – Max \$1,000,000	2 years	
without lawful excuse removes any plant from a public place	s.629(2) Local Government Act 1993	Local Government	Penalty Notice	Unlawfully remove plant from public place	\$220	6 months	
without lawful excuse removes any plant from a public place	S629(2) Local Government Act 1993	Local Government	Local Court	Unlawfully remove plant from public place	Up to 20 penalty units	6 months	

UNAUTHORISED REMOVAL OF VEGETATION IN OTHER AREAS NOT MANAGED BY COUNCIL	
Area/zoning	Responsibility
National Parks and lands reserved or acquired under the National Parks and Wildlife Act.	NSW National Parks and Wildlife Service
Rural zoning*	Local Land Services
Defence Lands	Commonwealth Government
Marine Parks	Department of Primary Industries

\* unless associated with a Development Application on private property then it is Shoalhaven City Council responsibility

## CL22.338 Policy – Flood Planning Levels for the Lower Shoalhaven River Floodplain

**HPERM Ref:** D22/264568

**Department:** Environmental Services

**Approver:** James Ruprai, Director - City Development

**Attachments:** 1. Draft Policy - Flood Planning Levels for the Lower Shoalhaven River Floodplain [↓](#)

### Reason for Report

All Public Policies are required to be submitted to Council within 12 months of the election of Council. This report summarises proposed updates to the Flood Planning Levels for the Lower Shoalhaven River Floodplain Policy.

### Recommendation

That Council adopt the Draft Flood Planning Levels for the Lower Shoalhaven River Floodplain Policy (attached).

### Options

1. Adopt the recommendation as written.

Implications: This policy will remain in the current form until the Lower Shoalhaven River Flood Study and Lower Shoalhaven River Floodplain Risk Management Study & Plan Review have been finalised and adopted by Council. Council will continue to maintain a dry notch at the Shoalhaven River entrance at Shoalhaven Heads in accordance with the Shoalhaven River Entrance Management Plan for Flood Mitigation (2006) and continue to provide Flood Planning Levels for future development as derived from the Shoalhaven Heads Entrance closed scenario as modelled in the Lower Shoalhaven River Floodplain Risk Management Study & Plan – Climate Change Assessment (2011). This policy will also ensure that Council adheres to its obligations under the NSW Floodplain Development Manual 2005 and Shoalhaven Local Environmental Plan 2014.

2. Not adopt the recommendation.

Implications: Council can request further details, seek further community input, or make other changes.

### Background

The Flood Planning Levels for the Lower Shoalhaven River Policy was originally adopted by Council on 28 January 2003 (MIN03.10).

The provisions of this policy include maintaining a dry notch weir at the Shoalhaven River entrance in accordance with the Shoalhaven River Entrance Management Plan for Flood Mitigation (2006) and Flood Planning Levels for future development being derived from the Shoalhaven Heads Entrance closed scenario as modelled in the Lower Shoalhaven River Floodplain Risk Management Study & Plan – Climate Change Assessment (2011).

The preparation of an updated Lower Shoalhaven River Flood Study and Floodplain Risk Management Study & Plan Review is currently underway. The Draft Lower Shoalhaven River Flood Study (Cardno, 2022) was completed in early 2022 and public exhibition and community consultation was undertaken in June 2022. The Shoalhaven River entrance behaviour at Shoalhaven Heads was investigated using a detailed coastal hydrodynamic and morphological numerical model. The objective of this investigation was to better understand the relationship between the Shoalhaven River inflow (from catchment flooding), the rate at which the berm opens, the maximum width of the entrance under different flow conditions, and what this means for flood levels in the lower reaches of the Lower Shoalhaven River floodplain. The findings from this modelling were used to inform and improve confidence in the entrance condition assumptions for design flood events in the Draft Lower Shoalhaven River Flood Study (Cardno, 2022).

### **Proposed Changes to Policy**

Following the completion and adoption of the Lower Shoalhaven River Flood Study and Review of the Lower Shoalhaven River Floodplain Risk Management Study & Plan, this policy should be updated or repealed.

The proposed amendments to this Policy are attached. These proposed changes include further details in the Background Information section associated with the progress of the Lower Shoalhaven River Flood Study and Floodplain Risk Management Study & Plan Review.

It is recommended that the Policy remains in the current form until the Lower Shoalhaven River Flood Study and Lower Shoalhaven River Floodplain Risk Management Study & Plan Review have been finalised and adopted by Council. Flood Planning Levels for the Lower Shoalhaven River floodplain would then be determined from the outcomes of the Lower Shoalhaven River Floodplain Risk Management Study & Plan Review which would supersede the previous Lower Shoalhaven River Floodplain Risk Management Study & Plan – Climate Change Assessment (2011).

Accordingly, there will be no implications associated with the adoption of this revised policy as it reflects the current situation. Council will continue to maintain a dry notch at the Shoalhaven River entrance at Shoalhaven Heads in accordance with the Shoalhaven River Entrance Management Plan for Flood Mitigation (2006) and continue to provide Flood Planning Levels for future development as derived from the Shoalhaven Heads Entrance closed scenario, as modelled in the Lower Shoalhaven River Floodplain Risk Management Study & Plan – Climate Change Assessment (2011).

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# Flood Planning Levels for the Lower Shoalhaven River Floodplain

<b>Adoption Date:</b>	28/01/2003
<b>Reaffirmed:</b>	20/09/2005, 26/03/2013
<b>Amendment Date:</b>	21/02/2017
<b>Minute Number:</b>	MIN03.10, MIN05.1247, MIN13.264, MIN17.95
<b>Review Date:</b>	<a href="#">01/12/2020</a> <a href="#">30/06/2022</a>
<b>Directorate:</b>	City Development
<b>Record Number:</b>	POL22/19

## Flood Planning Levels for the Lower Shoalhaven River Floodplain

### 1. Purpose

To set standard design modelling conditions for the determination of Flood Planning Levels for development on the Lower Shoalhaven River Floodplain.

### 2. Statement

#### Background information:

- The Lower Shoalhaven River Flood Study (April 1990) determined 1% [Annual Exceedance Probability \(AEP\)](#) flood levels for two different scenarios at Shoalhaven Heads Entrance – initially closed and initially open. The initially closed scenario produced higher levels than the initially open scenario. The impact of the different entrance conditions extends from Shoalhaven Heads upstream to Pig Island. The difference in 1% [AEP](#) flood levels in the vicinity of Shoalhaven Heads can be up to 0.7m. [That is, 0.7m difference of a flood with a one in a hundred chance \(1% AEP\) of being exceeded in any year.](#)
- The Lower Shoalhaven River Flood Study recommended the **closed** scenario as the design standard to set Flood Planning Levels (see Lower Shoalhaven River Flood Study page 25 [first paragraph](#)).
- In the **open** scenario, 499 buildings are flood affected in a 1% AEP flood event. In the **closed** scenario, 683 buildings would be flood affected during the same recurrence event. Adopting the **closed** scenario thus recognises the potential flood liability of an additional 184 buildings.
- The Shoalhaven River Entrance Management Plan for Flood Mitigation (November 2006) sets out detailed procedures of how to maintain a dry notch at [the Shoalhaven River Heads](#) entrance [at Shoalhaven Heads](#), how to breach the entrance, if necessary, during an event and how to monitor the entrance conditions.
- Even with the provision of a dry notch however, there is a high possibility of failure to mitigate flooding of [low-lying low-lying](#) areas, as sand conditions can change rapidly, and the dry notch may not exist or not be able to be accessed at the time of a flood.
- [There is potential danger to operators while opening the entrance during a flood, which must be addressed under Council's \[Work, Health and Safety\]\(#\) obligations.](#)
- [Maintenance of the dry notch must be undertaken in consultation with State Government Agencies due to land tenure and the presence of environmentally sensitive areas, including habitat for threatened and migratory birds. Licenses and approvals are issued by the relevant agencies for these works to be undertaken.](#)
- [The preparation of an updated Lower Shoalhaven River Flood Study and Floodplain Risk Management Study & Plan Review was underway when this policy was last reviewed in June 2022 during the current review of this policy. The Shoalhaven River entrance behaviour at Shoalhaven Heads was investigated using a detailed coastal hydrodynamic and morphological numerical model. The objective of this investigation was to better understand the relationship between the Shoalhaven River inflow \(from catchment flooding\), the rate at which the berm opens, the maximum width of the entrance under different flow conditions, and what this means for flood levels in the lower reaches of the](#)



#### Flood Planning Levels for the Lower Shoalhaven River Floodplain

Lower Shoalhaven River floodplain. The findings from this modelling were used to inform and improve confidence in the entrance condition assumptions for design flood events in the Lower Shoalhaven River Draft Flood Study (Cardno, 2022).

- Following the completion and adoption of the Lower Shoalhaven River Flood Study and Review of the Lower Shoalhaven River Floodplain Risk Management Study & Plan, this policy may be superseded and should then be updated or repealed. Flood Planning Levels for the Lower Shoalhaven River floodplain would then be determined from the outcomes of the Review of the Lower Shoalhaven River Floodplain Risk Management Study & Plan.

### **3. Provisions**

Council has adopted the following recommendations in relation to the Lower Shoalhaven Floodplain:

- A dry notch weir for easier opening of the entrance be maintained for a period of approximately 20 years to assist in the protection of existing development at low levels.
- All future development only be approved at the higher Flood Planning Levels derived from the Shoalhaven Heads Entrance closed scenario, thereby assisting Council in satisfying its obligations under the NSW Floodplain Development Manual 2005.

### **4. Implementation**

This policy is to be implemented by the City Development Flood Planning Levels (= minimum floor levels) for individual areas that are set by Council during the Floodplain Risk Management Study & Plan processes.

Enquiries in relation to determining minimum floor levels for development on individual properties within the affected area should be referred to the Natural Resources and Floodplain Management section/unit Section of Council's City Development directorate. An on-line flood certificate request can be made from Council's website.

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

### **5. Review**

This Policy will be reviewed by the Shoalhaven City Council's City Development (Natural Resources and Floodplain Unit/Management section/unit) within one year of the election of every new Council or following the adoption of a new floodplain-Floodplain risk-Risk management-Management study-Study and plan-Plan for the Shoalhaven River floodplain. All information contained in the policy will be verified against the most current flood information available from Flood Studies, Floodplain Risk Management Studies and Plans.

## CL22.339 Policy – Terms of Reference Northern / Central / Southern Coastal Management Program Advisory Committees and Floodplain Risk Management Committees

**HPERM Ref:** D22/264578

**Department:** Environmental Services

**Approver:** James Ruprai, Director - City Development

**Attachments:**

1. Draft Terms of Reference - Northern / Central / Southern Coastal Management Program Advisory Committees [↓](#)
2. Draft Terms of Reference - Northern / Central / Southern Floodplain Risk Management Committees [↓](#)

### Reason for Report

All Public Policies are required to be submitted to Council within 12 months of the election of Council. This report provides the background for the Terms of Reference for the Coastal Management Program Advisory Committees and the Floodplain Risk Management Committees and a summary of the minor changes to these as formulated into the Policies.

### Recommendation

That Council adopt the amended Terms of Reference Northern / Central / Southern Coastal Management Program Advisory Committees and amended Terms of Reference Northern / Central / Southern Floodplain Risk Management Committees Policies (attached).

### Options

1. Adopt the recommendation as written.

Implications: The revised policies will ensure that Council adheres to its obligations under the *Coastal Management Act 2016* and NSW Floodplain Development Manual 2005.

2. Not adopt the recommendation.

Implications: Council can request further details, seek further community input, or make other changes.

### Background

The principal objective of the Coastal Management Program Advisory Committees is to assist Shoalhaven City Council in the development and implementation of Coastal Management Programs, in accordance with the NSW Coastal Management Manual, while ensuring compliance with legislative obligations under the *Coastal Management Act 2016* (NSW).

Terms of Reference have been established for the Coastal Management Program Advisory Committees to detail responsibilities and delegations enabling appropriate functioning and to meet the principal objective. The Terms of Reference for the Northern / Central / Southern Coastal Management Program Advisory Committees Policy was adopted by Council on 20

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July 2020 (MIN20.479) and amended on 6 October 2020 (MIN20.736) and 11 May 2021 (MIN21.257).

The principal objective of the Floodplain Risk Management Committees is to assist Shoalhaven City Council in the proactive management of flood risks and support the development of Council's Floodplain Risk Management Plans, as outlined in the NSW Floodplain Development Manual guidelines.

Terms of Reference have been established for the Floodplain Risk Management Committees to detail responsibilities and delegations enabling appropriate functioning and to meet the principal objective. The Terms of Reference for the Northern / Central / Southern Floodplain Risk Management Committees Policy was adopted by Council on 20 July 2020 (MIN20.479) and amended on 6 October 2020 (MIN20.736).

### Proposed Changes to Policy

The following minor changes have been made to the Coastal Management Program Advisory Committees' Terms of Reference:

- A change to the name of the *North* Coastal Management Program Advisory Committee to *Northern* Coastal Management Program Advisory Committee.
- Section 6 - Membership:
  - Local Representatives is to include one (1) youth representative between ages 16 and 30 and one (1) indigenous representative.
  - Detailed Community Member Appointment process.
- Section 7 - Committee Meetings:
  - Inclusion of 'Confidentiality and Privacy' clause.
  - Inclusion of 'Communication' clause.
  - Change to vote recording - any votes against will be recorded in the minutes.

The following minor changes have been made to the Floodplain Risk Management Committees' Terms of Reference:

- A change to the name of the *North* Floodplain Risk Management Committee to *Northern* Floodplain Risk Management Committee.
- Section 4 – Role of the Committee:
  - Addition to broaden community consultation and participation.
- Section 6 – Membership:
  - Community representatives have increased from six (6) to seven (7) due to quorum not being met at recent committee meetings.
  - Local Representatives is to include one (1) youth representative between ages 16 and 30 and one (1) indigenous representative.
  - Detailed Community Member Appointment process.
- Section 7 - Committee Meetings.
  - Inclusion of 'Confidentiality and Privacy' clause.
  - Inclusion of 'Communication' clause.
  - Change to vote recording - any votes against will be recorded in the minutes.

CL22.339

# Terms of Reference

## **Northern** / Central / Southern

### Coastal Management Program Advisory Committees

<b>Adoption Date:</b>	20/07/2020
<b>Amendment Date:</b>	6/10/2020, 11/05/2021
<b>Minute Number:</b>	MIN20.479, MIN20.736, MIN21.257
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Development
<b>Record Number:</b>	POL22/27

[Northern](#) / Central / Southern Coastal Management Program Advisory Committees

**[Northern](#) Coastal Management Program Advisory Committee**

**1. Purpose**

The principal objective of the North Coastal Management Program Advisory Committee is to assist Shoalhaven City Council in the development and implementation of one or more Coastal Management Programs for the northern area of the Council. This will need to be in accordance with the NSW Coastal Management Manual. The [northern](#) area applies to the following coastal areas and estuaries:

- All Council managed beaches from Seven Mile / Berry Beach to the most northern coastal boundary of the Shoalhaven LGA, to the southern end of Warrain / Currarong Beach
- Shoalhaven River Estuary
- Broughton Creek
- Crookhaven River/Curleys Bay
- Lake Wollumboola
- Shoalhaven Urban and Rural estuaries

**2. Interpretation**

For the purpose of this document:

*Member* means a member of the committee

*CMP* means [Coastal Management Program](#)

*Committee* means [Northern](#) Coastal Management Program Advisory Committee

*Council* means Shoalhaven City Council

*Chairperson / Chair* means the chairpersons of the Committee

*Elected members* means the elected Councillors of Shoalhaven City Council

**3. Status of the Committee**

The Committee provides non-binding advice to Council for consideration.

**4. Role of the Committee**

- a) To assist the Council in the development and implementation of the ~~coastal management programs-CMPs~~ for the areas ~~listed under~~relevant to 'Purpose' (see above).

Northern / Central / Southern Coastal Management Program Advisory Committees

- b) To assist the Council monitoring and assessing the effectiveness of the management program CMPs during and after ~~its~~ their implementation.
- c) To assist the Council by providing input into known coastal event(s) and erosion behaviour ~~as part of the Coastal Management Program; and~~
- ~~1. Provide and review scientific advice and integrate this knowledge into the preparation and review of the Coastal Management Program; and~~
- d) Facilitate broader community consultation and participation in coast and estuary management through informing and liaising with member community groups.

## 5. Delegations

Advisory committees may make recommendations to Council on all matters within the role outlined above. These recommendations are submitted via the minutes of each meeting to Council for consideration.

With the exception of sSubstantial issues and recommendations (possibly including expenditure) that raised by the advisory committee will be reported to Council by a separate report from the Manager – Environmental Services.

Substantial issues and recommendations including expenditure of funds are to be accompanied by a separate report to Council from the Manager – Environmental Services.

The committee does not have the power to incur expenditure, or the power to bind Council.

## 6. Membership

The Committee will be chaired by a Councillor, elected by Council. The committee is expected to act in accordance with the Role of the Committee as defined above in Section 4. The Committee will comprise the following:

- Appointed Chair (Councillor)
- Elected members of Council
- Chief Executive Officer or nominee
- ~~• Council officers from engineering, planning and environmental disciplines;~~
- Community representatives (6)
- ~~• Department of Planning, and Environment and Industry (DPIE) representatives~~
- Transport for NSW (TfNSW) representatives
- New South Wales State Emergency Services (NSW SES) representatives
- Local Aboriginal Land Council (LALC) representatives
- Other relevant government agency representatives

### **Councillors Representatives**

#### Northern / Central / Southern Coastal Management Program Advisory Committees

Council appoints one (1) Councillor to be the voting Chair of the Committee. All other Councillors are welcome to attend meetings of the Committee as observers and contribute to discussions but are not entitled to vote.

If no Councillors are appointed as members, the Chief Executive Officer or nominee represents the elected member to chair the meeting.

#### Council Officers

~~Council officers provide specialist professional advice in engineering, strategic planning, development assessment and environmental management. Appointed Council officers do not have voting rights. Additional officers may be invited to attend meetings but do not have voting rights.~~

#### **Local Representatives**

Following an expression of interest process, the Chief Executive Officer appoints ~~a maximum of four (4)~~**six (6)** local community representatives, ~~including one (1) youth representative between ages 12-16 and 25~~**30**, and one (1) ~~local representative from the Aboriginal Community~~**indigenous representative**, that meet the following criteria:

- A broad interest, ~~knowledge~~ and understanding of coastal management ~~and the areas within the~~ committee's ~~jurisdiction~~.
- A commitment to coastal management in the nominated Council area; and
- Local resident or businessperson living or working in or near a coastal area.

Local community representatives have voting rights.

#### Community Member Appointments:

- Nominations should be advertised throughout the community via an Expression of Interest (EOI) process.
- Appointments to the Committee will be for a three (3) year term with a set commencement and finish date. Vacancies which are filled during the committee's term will have the same finish date.
- Vacancies will be advertised locally via media and Council communication networks.
- Council will manage the application process; and
- An assessment panel consisting of a Council staff member (Manager – Environmental Services), the Chairperson of the Committee and one (1) suitably qualified independent representative will assess the applications and make recommendations for appointments to Council. Each member of the assessment panel will vote on recommendations with a majority ruling.

#### Council Officers

**Northern / Central / Southern Coastal Management Program Advisory Committees**

Council officers attend meetings to provide specialist professional advice in engineering, strategic planning, development assessment and environmental management. Council officers do not have voting rights.

**Government Agencies**

The Chief Executive Officer (or nominee) invites a range of State Government agencies to nominate one (1) representative each.

The nominated agency representatives provide advice in relation to their functions and areas of expertise and however, are non-votingnon-voting membersdo not have voting rights.

**Chair and Deputy Chair**

Council appoints one (1) Councillor to be the Chair of the Committee. In the absence of the nominated Chair at a particular meeting, the members elect a Chair for that meeting.

**Terms of Office**

The term of the Chair will be one (1) year which will be reviewed annually in September. Councillors continue as members of the Committee until the next Local Government election, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference. Elected members (or their representative) continue as members of the Committee until the next ordinary election of the Mayor, or the next general election of Council, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference.

**7. Committee Meetings**

**Agenda**

The agenda will be developed by the Director – Planning, Environment and Development City Development with support from the Section Manager – Environmental Services in view of the prevailing issues. Councillors and members can contribute to the agenda by requesting a report on a particular issue four (4) weeks prior to the meeting, subject to approval of the Chair and the Director – City Development of Planning, Environment and Development.

**Quorum**

Three (3) provided that a minimum of one (1) Councillor as chair or acting chair with voting rights and two (2) community representatives are present. If a quorum is not present within 30 minutes of the scheduled commencement time, the meeting lapses.

**Voting**

The Committee, and any working group, to develop recommendations by consensus. Where voting is required, the Chair will have the power of a casting vote. Any votes against will be recorded in the minutes.

**Meeting Schedule**



#### Northern / Central / Southern Coastal Management Program Advisory Committees

~~The location, date and time for meetings may be decided by the Chair in consultation with the Chief Executive Officer or nominee.~~ In general, meeting frequency should be conducted on an as required basis.

#### **Minutes**

The Committee provides advice to the Council for consideration. The Committee's advice is posted on the Council website with minutes reported to the elected eCouncil. Following consideration of the advice from the Committee, any resolution determined by Council, will be posted on the Council website.

#### Confidentiality And Privacy

Members may have contact with confidential or personal information retained by Council. If so, members are required to maintain the security of any confidential or personal information and not access, use or remove any information, unless the member is authorised to do so.

#### Communication

In relation to the communication function of the Committee, the following applies:

- Members of the Committee are not permitted to speak to the media as Council representatives of the Committee unless approved by the Chairperson.
- Where approval has been given by the Chairperson, views and opinions expressed are those of the Committee and not of Shoalhaven City Council.
- Where endorsement is required from Shoalhaven City Council, approval must be sought through the formal processes; and
- The Chair of the Committee is the point of contact for communication between Committee members and Council staff.

## **8. Code of Conduct**

All members of the Committee are required to observe the provisions of Council's Code of Conduct and any other policy or requirement applicable to the proper functioning of the Committee.

A breach of the Code of Conduct may lead to the member being expelled from the Committee.

## **9. Document Control**

These Terms of Reference are reviewed at the commencement of each term of Council. Amendments to these Terms of Reference are to be reported to Council for approval. A version history (footnote on front page) is included if amendments have been approved.

[Northern](#) / [Central](#) / [Southern Coastal Management Program Advisory Committees](#)

## Central Coastal Management Program Advisory Committee

### 1. Purpose

The principal objective of the Central Coastal Management Program Advisory Committee is to assist Shoalhaven City Council in the development and implementation of one or more Coastal Management Programs [plans](#) for the central area of the Council. This will need to be in accordance with the NSW Coastal Management Manual. The central area applies to the following coastal areas and estuaries:

- All Council managed beaches from Callala Bay in the north, to Cunjurong Point in the South
- St Georges Basin
- Jervis Bay
- Currambene Creek
- Moona Moona Creek
- Currarong Creek
- Callala Creek
- Sussex Inlet
- Swan Lake
- Berrara Creek
- Shoalhaven Urban and Rural estuaries

### 2. Interpretation

For the purpose of this document:

*Member* means a member of the committee

[CMP](#) means Coastal Management Program

*Committee* means Central Coastal Management Program Advisory Committee

*Council* means Shoalhaven City Council

*Chairperson / Chair* means the chairpersons of the Committee

*Elected members* means the elected Councillors of Shoalhaven City Council

### 3. Status of the Committee

The Committee provides non-binding advice to Council for consideration.

Northern / Central / Southern Coastal Management Program Advisory Committees

#### 4. Role of the Committee

- a) To assist the Council in the development and implementation of the ~~coastal management programs~~ CMPs for the areas ~~listed under~~ relevant to 'Purpose' (see above).
- b) To assist the Council monitoring and assessing the effectiveness of the ~~management program~~ CMPs during and after ~~its~~ their implementation.
- c) To assist the Council by providing input into known coastal event(s) and erosion behaviour ~~as part of the Coastal Management Program~~; and
- ~~1. Provide and review scientific advice and integrate this knowledge into the preparation and review of the Coastal Management Program; and~~
- d) Facilitate broader community consultation and participation in coast and estuary management through informing and liaising with member community groups.

#### 5. Delegations

Advisory committees may make recommendations to Council on all matters within the role outlined above. These recommendations are submitted via the minutes of each meeting to Council for consideration.

Substantial issues and recommendations (possibly including expenditure) raised by the advisory committee will be reported to Council by a separate report from the Manager – Environmental Services.

~~Substantial issues and recommendations including expenditure of funds are to be accompanied by a separate report to Council from the Manager Environmental Services.~~

The committee does not have the power to incur expenditure, or the power to bind Council.

#### 6. Membership

The Committee will be chaired by a Councillor, elected by Council. The committee is expected to act in accordance with the Role of the Committee as defined above in Section 4.  
The Committee will comprise the following:

- Appointed Chair (Councillor)
- Elected members of Council
- Chief Executive Officer or nominee
- ~~• Council officers from engineering, planning and environmental disciplines~~
- Community representatives (6)
- Department of Planning and Environment (DPE) representatives
- Transport for NSW (TfNSW) representatives
- New South Wales State Emergency Services (NSW SES) representatives

Northern / Central / Southern Coastal Management Program Advisory Committees

- Local Aboriginal Land Council ([LALC](#)) representatives
- Other relevant government agency representatives

**Councillors Representatives**

Council appoints one (1) Councillor to be the voting Chair of the Committee. All other Councillors are welcome to attend meetings of the Committee as observers and contribute to discussions but are not entitled to vote.

If no Councillors are appointed as members, the Chief Executive Officer or nominee represents the elected member to chair the meeting.

**Council Officers**

~~Council officers provide specialist professional advice in engineering, strategic planning, development assessment and environmental management. Appointed Council officers do not have voting rights. Additional officers may be invited to attend meetings but do not have voting rights.~~

**Local Representatives**

Following an expression of interest process, the Chief Executive Officer appoints ~~a maximum of four (4)~~[six \(6\)](#) local community representatives, [including](#) one (1) youth representative between ages ~~12-16~~ and ~~25-30~~, and one (1) ~~local representative from the Aboriginal Community indigenous representative~~, that meet the following criteria:

- A broad interest, [knowledge](#) and understanding of coastal management [and the areas within the](#) committee's [jurisdiction](#).
- A commitment to coastal management in the nominated Council area; and
- Local resident or businessperson living or working in or near a coastal area.

Local community representatives have voting rights.

Community Member Appointments:

- [Nominations should be advertised throughout the community via an Expression of Interest \(EOI\) process.](#)
- [Appointments to the Committee will be for a three \(3\) year term with a set commencement and finish date. Vacancies which are filled during the committee's term will have the same finish date.](#)
- [Vacancies will be advertised locally via media and Council communication networks.](#)
- [Council will manage the application process;](#) and

**Northern / Central / Southern Coastal Management Program Advisory Committees**

- An assessment panel consisting of a Council staff member (Manager – Environmental Services), the Chairperson of the Committee and one (1) suitably qualified independent representative will assess the applications and make recommendations for appointments to Council. Each member of the assessment panel will vote on recommendations with a majority ruling.

**Council Officers**

Council officers attend meetings to provide specialist professional advice in engineering, strategic planning, development assessment and environmental management. Council officers do not have voting rights.

**Government Agencies**

The Chief Executive Officer (or nominee) invites a range of State Government agencies to nominate ~~one (1)~~ representatives ~~each~~.

The nominated agency representatives provide advice in relation to their functions and areas of expertise ~~and do not have voting rights~~ however, are non-voting members.

**Chair and Deputy Chair**

Council appoints one (1) Councillor to be the Chair of the Committee. In the absence of the nominated Chair at a particular meeting, the meeting elects a Chair of the meeting.

**Terms of Office**

The term of the Chair will be one (1) year which will be reviewed annually in September. Councillors continue as members of the Committee until the next Local Government election, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference. Elected members (or their representative) continue as members of the Committee until the next ordinary election of the Mayor, or the next general election of Council, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference.

**7. Committee Meetings**

**Agenda**

The agenda will be developed by the Director – ~~Planning, Environment and Development~~ City Development with support from the ~~Section~~ Manager – Environmental Services in view of the prevailing issues. Councillors and members can contribute to the agenda by requesting a report on a particular issue four (4) weeks prior to the meeting, subject to approval of the Chair and the Director – ~~Planning, Environment and Development~~ City Development.

**Quorum**

Three (3) provided that a minimum of one (1) Councillor as chair or acting chair with voting rights and two (2) community representative are present. If a quorum is not present within 30 minutes of the scheduled commencement time, the meeting lapses.

**Voting**

#### Northern / Central / Southern Coastal Management Program Advisory Committees

It is expected that the committee, and any working group to develop recommendations by consensus. If voting is required, the Chair has a casting vote. Any votes against will be recorded in the minutes.

#### **Meeting Schedule**

~~The location, date and time for meetings may be decided by the Chair in consultation with the Chief Executive Officer or nominee.~~ In general, meeting frequency should be conducted on an as required basis.

#### **Minutes**

The Committee provides advice to the Council for consideration. The Committee's advice is posted on the Council website with minutes reported to the elected eCouncil. Following consideration of the advice from the Committee, any resolution determined by Council, will be posted on the Council website.

#### Confidentiality And Privacy

Members may have contact with confidential or personal information retained by Council. If so, members are required to maintain the security of any confidential or personal information and not access, use or remove any information, unless the member is authorised to do so.

#### Communication

In relation to the communication function of the Committee, the following applies:

- Members of the Committee are not permitted to speak to the media as Council representatives of the Committee unless approved by the Chairperson.
- Where approval has been given by the Chairperson, views and opinions expressed are those of the Committee and not of Shoalhaven City Council.
- Where endorsement is required from Shoalhaven City Council, approval must be sought through the formal processes; and
- The Chair of the Committee is the point of contact for communication between Committee members and Council staff.

### **8. Code of Conduct**

All members of the Committee are required to observe the provisions of Council's Code of Conduct and any other policy or requirement applicable to the proper functioning of the Committee.

A breach of the Code of Conduct may lead to the member being expelled from the Committee.

### **9. Document Control**

These Terms of Reference are reviewed at the commencement of each term of Council. Amendments to these Terms of Reference are to be reported to Council for approval. A version history (footnote on front page) is included if amendments have been approved.

[Northern / Central / Southern Coastal Management Program Advisory Committees](#)

## Southern Coastal Management Program Advisory Committee

### 1. Purpose

The principal objective of the Southern Coastal Management Program Advisory Committee is to assist Shoalhaven City Council in the development and implementation of one or more Coastal Management Programs [plans](#) for the southern area of the Council. This will need to be in accordance with the NSW Coastal Management Manual. The southern area applies to the following coastal areas and estuaries:

- All Council managed beaches from Lake Conjola entrance in the north, reaching to the southern boundary of the Shoalhaven LGA in the south – North Durras Beach.
- Lake Conjola
- Narrawallee Creek
- Mollymook
- Ulladulla
- Burrill Lake
- Lake Tabourie
- Lake Willinga
- Shoalhaven Urban and Rural estuaries

### 2. Interpretation

For the purpose of this document:

*Member* means a member of the committee

[CMP means Coastal Management Program](#)

*Committee* means Southern Coastal Management Program Advisory Committee

*Council* means Shoalhaven City Council

*Chairperson / Chair* means the chairpersons of the Committee

*Elected members* means the elected Councillors of Shoalhaven City Council

### 3. Status of the Committee

The Committee provides non-binding advice to Council for consideration.

Northern / Central / Southern Coastal Management Program Advisory Committees

#### 4. Role of the Committee

- a) To assist the Council in the development and implementation of the coastal management programs CMPs for the areas listed under relevant to 'Purpose' (see above).
- b) To assist the Council monitoring and assessing the effectiveness of the management program CMPs during and after its their implementation.
- c) To assist the Council by providing input into known coastal event(s) and erosion behaviour as part of the Coastal Management Program; and
- ~~1. Provide and review scientific advice and integrate this knowledge into the preparation and review of the Coastal Management Program; and~~
- d) Facilitate broader community consultation and participation in coast and estuary management through informing and liaising with member community groups.

#### 5. Delegations

Advisory committees may make recommendations to Council on all matters within the role outlined above. These recommendations are submitted via the minutes of each meeting to Council for consideration.

Substantial issues and recommendations (possibly including expenditure) raised by the advisory committee will be reported to Council by a separate report from the Manager – Environmental Services.

~~Substantial issues and recommendations including expenditure of funds are to be accompanied by a separate report to Council from the Manager Environmental Services~~ The committee does not have the power to incur expenditure, or the power to bind Council.

#### 6. Membership

The Committee will be chaired by a Councillor, elected by Council. The committee is expected to act in accordance with the Role of the Committee as defined above in Section 4. The Committee will comprise the following:

- Appointed Chair (Councillor)
- Elected members of Council
- Chief Executive Officer or nominee
- ~~• Council officers from engineering, planning and environmental disciplines~~
- Community representatives (6)
- ~~• Department of Planning, Environment and Industry (DPIE) representatives~~
- Transport for NSW (TfNSW) representatives
- New South Wales State Emergency Services (NSW SES) representativess
- Local Aboriginal Land Council (LALC) representativess
- Other relevant government agency representatives



Northern / Central / Southern Coastal Management Program Advisory Committees

**Councillors Representatives**

Council appoints one (1) Councillor to be the voting Chair of the Committee. All other Councillors are welcome to attend meetings of the Committee as observers and contribute to discussions but are not entitled to vote.

If no Councillors are appointed as members, the Chief Executive Officer or nominee represents the elected member to chair the meeting.

**Council Officers**

~~Council officers provide specialist professional advice in engineering, strategic planning, development assessment and environmental management. Appointed Council officers do not have voting rights. Additional officers may be invited to attend meetings but do not have voting rights.~~

**Local Representatives**

Following an expression of interest process, the Chief Executive Officer appoints ~~a maximum of four (4)~~six (6) local community representatives, ~~including~~ one (1) youth representative between ages ~~12-16~~ and ~~25-30~~, and one (1) ~~local representative from the Aboriginal Community~~indigenous representative, that meet the following criteria:

- A broad interest, ~~knowledge~~ and understanding of coastal management ~~and the areas within the~~ committee's ~~jurisdiction~~.
- A commitment to coastal management in the nominated Council area; and
- Local resident or businessperson living or working in or near a coastal area.

Local community representatives have voting rights.

Community Member Appointments:

- Nominations should be advertised throughout the community via an Expression of Interest (EOI) process.
- Appointments to the Committee will be for a three (3) year term with a set commencement and finish date. Vacancies which are filled during the committee's term will have the same finish date.
- Vacancies will be advertised locally via media and Council communication networks.
- Council will manage the application process; and
- An assessment panel consisting of a Council staff member (Manager – Environmental Services), the Chairperson of the Committee and one (1) suitably qualified independent representative will assess the applications and make recommendations for appointments to Council. Each member of the assessment panel will vote on recommendations with a majority ruling.

Council Officers

**Northern / Central / Southern Coastal Management Program Advisory Committees**

Council officers provide specialist professional advice in engineering, strategic planning, development assessment and environmental management. Appointed Council officers do not have voting rights.

**Government Agencies**

The Chief Executive Officer (or nominee) invites a range of State Government agencies to nominate ~~one (1)~~ representatives ~~each~~.

The nominated agency representatives provide advice in relation to their functions and areas of expertise however, are non-voting members.

~~The nominated agency representatives provide advice in relation to their functions and areas of expertise and do not have voting rights.~~

**Chair and Deputy Chair**

Council appoints one (1) Councillor to be the Chair of the Committee. In the absence of the nominated Chair at a particular meeting, the meeting elects a Chair of the meeting.

**Terms of Office**

The term of the Chair will be one (1) year which will be reviewed annually in September. Councillors continue as members of the Committee until the next Local Government election, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference. Elected members (or their representative) continue as members of the Committee until the next ordinary election of the Mayor, or the next general election of Council, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference.

**7. Committee Meetings**

**Agenda**

The agenda will be developed by the Director ~~– City Development~~ Planning, Environment and Development with support from the ~~Section Manager – Environmental Services~~ in view of the prevailing issues. Councillors and members can contribute to the agenda by requesting a report on a particular issue four (4) weeks prior to the meeting, subject to approval of the Chair and the Director ~~– City Development~~ of Planning, Environment and Development.

**Quorum**

Three (3) provided that a minimum of one (1) Councillor as chair or acting chair with voting rights and two (2) community representative are present. If a quorum is not present within 30 minutes of the scheduled commencement time, the meeting lapses.

**Voting**

It is expected that the committee, and any working group to develop recommendations by consensus. If voting is required, the Chair has a casting vote. Any votes against will be recorded in the minutes.

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Northern / Central / Southern Coastal Management Program Advisory Committees

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**Meeting Schedule**

~~The location, date and time for meetings may be decided by the Chair in consultation with the Chief Executive Officer or nominee.~~ In general, meeting frequency should be conducted on an as required basis.

**Minutes**

The Committee provides advice to the Council for consideration. The Committee's advice is posted on the Council website with minutes reported to the elected eCouncil. Following consideration of the advice from the Committee, any resolution determined by Council, will be posted on the Council website.

**Confidentiality And Privacy**

Members may have contact with confidential or personal information retained by Council. If so, members are required to maintain the security of any confidential or personal information and not access, use or remove any information, unless the member is authorised to do so.

**Communication**

In relation to the communication function of the Committee, the following applies:

- Members of the Committee are not permitted to speak to the media as Council representatives of the Committee unless approved by the Chairperson.
- Where approval has been given by the Chairperson, views and opinions expressed are those of the Committee and not of Shoalhaven City Council.
- Where endorsement is required from Shoalhaven City Council, approval must be sought through the formal processes; and
- The Chair of the Committee is the point of contact for communication between Committee members and Council staff.

**8. Code of Conduct**

All members of the Committee are required to observe the provisions of Council's Code of Conduct and any other policy or requirement applicable to the proper functioning of the Committee.

A breach of the Code of Conduct may lead to the member being expelled from the Committee.

**9. Document Control**

These Terms of Reference are reviewed at the commencement of each term of Council. Amendments to these Terms of Reference are to be reported to Council for approval. A version history (footnote on front page) is included if amendments have been approved.

# Terms of Reference

## Northern / Central / Southern Floodplain Risk Management Committees

<b>Adoption Date:</b>	20/07/2020
<b>Amendment Date:</b>	06/10/2020
<b>Minute Number:</b>	MIN20.479, MIN20.736
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Development
<b>Record Number:</b>	POL22/28

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Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

## **Northern Floodplain Risk Management Committee**

### **1. Purpose**

The principal objective of the Northern Floodplain Risk Management Committee is to assist Shoalhaven City Council in the development and implementation of one or more ~~floodplain-Floodplain risk-Risk management-Management Study and Floodplain Risk Management plans-Plan~~ for the northern area of the Council. This will need to be in accordance with the NSW Floodplain Development Manual. The northern area applies to the following catchments:

- Lower Shoalhaven River
- Crookhaven River
- Kangaroo River
- Broughton Creek
- Bomaderry Creek
- Nowra and Browns Creek
- Lake Wollumboola

### **2. Interpretation**

For the purpose of this document:

*Member* means a member of the committee

*Committee* means Northern Floodplain Risk Management Committee

*Council* means Shoalhaven City Council

*Chairperson / Chair* means the chairpersons of the Committee

*Elected members* means the elected Councillors of Shoalhaven City Council

### **3. Status of the Committee**

The Committee provides non-binding advice to Council for consideration.

### **4. Role of the Committee**

- a) To assist the Council in the development and implementation of ~~the-a Flood Study, Floodplain Risk Management Study and floodplain Floodplain Risk management-Management plan-Plan~~ for the areas listed under 'Purpose' (see above).

Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

- b) To assist the Council monitoring and assessing the effectiveness of the management plans during and after ~~its~~their implementation.
- c) To assist the Council by providing input into known flood behaviour as part of the ~~flood-Flood~~ studyStudy; and
- d) Facilitate broader community consultation and participation in floodplain risk management through informing and liaising with member community groups.

## 5. Delegations

Advisory committees may make recommendations to Council on all matters within the role as outlined above. These recommendations are submitted via the minutes of each meeting to Council for consideration.

~~With the exception of sSubstantial issues and recommendations (possibly including expenditure) raised by the advisory committee that will be reported to Council by a separate report from the Manager – Environmental Services.~~  
**Substantial issues and recommendations including expenditure of funds are accompanied by a separate report to Council from the Manager Environmental Services.**

The committee does not have the power to incur expenditure, or the power to bind Council.

## 6. \_\_\_\_\_

### 7.6. Membership

The Committee will be chaired by a Councillor, elected by Council. The committee is expected to act in accordance with the Role of the Committee as defined above in Section 4. The Committee will comprise the following:

- Appointed Chair (Councillor)
- Elected members of Council
- Chief Executive Officer or nominee
- Community representatives (7)
- ~~Council officers from engineering, planning and environmental disciplines;~~
- New South Wales State Emergency Services (NSW SES) representativess
- Department of Planning and; Environment ~~and Industry~~ (DPIE) representatives
- Local Aboriginal Land Council (LALC) representatives
- Other relevant government agency representatives

Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

**Councillors Representatives**

Council appoints one (1) Councillor to be the voting Chair of the Committee. All other Councillors are welcome to attend meetings of the Committee as observers and contribute to discussions but are not entitled to vote.

If no Councillors are appointed as members, the Chief Executive Officer or nominee represents the elected member to chair the meeting.

**Council Officers**

~~Council officers provide specialist professional advice in engineering, strategic planning, development assessment and environmental management. Appointed Council officers do not have voting rights. Additional officers may be invited to attend meetings but do not have voting rights.~~

**Local Representatives**

Following an expression of interest process, the Chief Executive Officer appoints ~~a maximum of four~~ five (5) seven (7) local community representatives, including one (1) youth representative between ages 12-16 and 25-30, and one (1) ~~local indigenous representative from the Aboriginal Community~~, that meet the following criteria:

- A broad interest, knowledge and understanding of floodplain management and the areas within the committee's jurisdiction.
- A commitment to floodplain management in the nominated Council area; and
- Local resident or business person living or working in or near a flood prone area.

Local community representatives have voting rights.

Community Member Appointments:

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- Vacancies will be advertised locally via media and Council communication networks.
- Council will manage the application process; and
- An assessment panel consisting of a Council staff member (Manager – Environmental Services), the Chairperson of the Committee and one (1) suitably qualified independent representative will assess the applications and make recommendations for appointments to Council. Each member of the assessment panel will vote on recommendations with a majority ruling.

**Council Officers**

Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

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**Government Agencies**

The Chief Executive Officer (or nominee) invites a range of State Government agencies to nominate ~~one (1)~~ representativeeach.

The nominated agency representatives provide advice in relation to their functions and areas of expertise ~~and do not have voting rights~~however, are non-voting members.

**Chair and Deputy Chair**

Council appoints one (1) Councillor to be the Chair of the Committee.  
In the absence of the nominated Chair at a particular meeting, the members elect a Chair for that meeting.

**Terms of Office**

The term of the Chair will be one (1) year which will be reviewed annually in September. ~~Elected members (or their representative) Councillors~~ continue as members of the Committee until the next ~~ordinary election of the Mayor, or the next general election of Council~~Local Government election, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference.

**8.7. Committee Meetings**

**Agenda**

The agenda will be developed by the Director ~~Planning, Environment and City~~ Development with support from the ~~Section~~ Manager - Environmental Services in view of the prevailing issues. Councillors and members can contribute to the agenda by requesting a report on a particular issue four (4) weeks prior to the meeting, subject to approval of the Chair and the Director ~~of Planning, Environment and City~~ Development.

**Quorum**

Three (3) provided that a minimum of one (1) Councillor as chair or acting chair with voting rights and two (2) community representatives are present. If a quorum is not present within 30 minutes of the scheduled commencement time, the meeting lapses.

**Voting**

The Committee, and any working group, ~~to~~ develop recommendations by consensus. Where voting is required, the Chair will have the power of a casting vote. Any votes against will be recorded in the minutes.

**Meeting Schedule**



#### Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

~~The location, date and time for meetings may be decided by the Chair in consultation with the Chief Executive Officer or nominee.~~ In general, meeting frequency should be conducted on an as required basis.

#### **Minutes**

The Committee provides advice to the Council for consideration. The Committee's advice is posted on the Council website with minutes reported to the elected ~~council~~ Council. Following consideration of the advice from the Committee, any resolution determined by Council, will be posted on the Council website.

#### Confidentiality And Privacy

Members may have contact with confidential or personal information retained by Council. If so, members are required to maintain the security of any confidential or personal information and not access, use, or remove any information, unless the member is authorised to do so.

#### Communication

In relation to the communication functions of the Committee, the following applies:

- Members of the Committee are not permitted to speak to the media as Council representatives of the Committee unless approved by the Chairperson.
- Where approval has been given by the Chairperson, views and opinions expressed are those of the Committee and not of Shoalhaven City Council.
- Where endorsement is required from Shoalhaven City Council, approval must be sought through the formal processes; and
- The Chair of the Committee is the point of contact for communication between Committee members and Council staff.

### **9.8. Code of Conduct**

All members of the Committee are required to observe the provisions of Council's Code of Conduct and any other policy or requirement applicable to the proper functioning of the Committee.

A breach of the Code of Conduct may lead to the member being expelled from the Committee.

### **10.9. Document Control**

These Terms of Reference are reviewed at the commencement of each term of Council. Amendments to these Terms of Reference are to be reported to Council for approval. A version history (footnote on front page) is included if amendments have been approved.

Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

## Central Floodplain Risk Management Committee

### 1. Purpose

The principal objective of the Central Floodplain Risk Management Committee is to assist Shoalhaven City Council in the development and implementation of one or more ~~floodplain~~ [Floodplain risk-Risk management-Management Study and plans Floodplain Risk Management Plan](#) for the central area of the Council. This will need to be in accordance with the NSW Floodplain Development Manual. The central area applies to the following catchments:

- St Georges Basin (includes Sussex inlet)
- Jervis Bay
- Currambene Creek
- Moona Moona Creek
- Currarong Creek
- Berrara Creek
- Callala Creek
- Swan Lake

### 2. Interpretation

For the purpose of this document:

*Member* means a member of the committee

*Committee* means Central Floodplain Risk Management Committee

*Council* means Shoalhaven City Council

*Chairperson / Chair* means the chairpersons of the Committee

*Elected members* means the elected Councillors of Shoalhaven City Council

### 3. Status of the Committee

The Committee provides non-binding advice to Council for consideration.

### 4. Role of the Committee

- a) To assist the Council in the development and implementation of [a Flood Study, Floodplain Risk Management Study and Floodplain Risk Management Plan](#) ~~the floodplain management plan~~ for the areas listed under 'Purpose' (see above).

Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

- b) To assist the Council monitoring and assessing the effectiveness of the management plans during and after ~~its~~their implementation.
- c) ~~To assist the Council providing input into known flood behaviour as part of the flood-Flood studyStudy; and~~
- d) ~~Facilitate broader community consultation and participation in floodplain risk management through informing and liaising with member community groups.~~

## 5. Delegations

Advisory committees may make recommendations to Council on all matters within the role as outlined above. These recommendations are submitted via the minutes of each meeting to Council for consideration.

~~Substantial issues and recommendations (possibly including expenditure) raised by the advisory committee will be reported to Council by a separate report from the Manager – Environmental Services.  
With the exception of substantial issues and recommendations (possibly including expenditure) that will be reported to Council by a separate report from the Manager – Environmental Services.~~

~~Substantial issues and recommendations including expenditure of funds are accompanied by a separate report to Council from the Manager Environmental Services.~~

The committee do not have the power to incur expenditure, or the power to bind Council.

## 6. Membership

The Committee will be chaired by a Councillor, elected by Council. The committee is expected to act in accordance with the Role of the Committee as defined above in Section 4. The Committee will comprise the following:

- Appointed Chair (Councillor)
- Elected members of Council
- Chief Executive Officer or nominee
- Community representatives (7)
- ~~Council officers from engineering, planning and environmental disciplines;~~
- New South Wales State Emergency Services (NSW SES) representativess
- Department of Planning and; Environment ~~and Industry~~ (DPIE) representatives
- Local Aboriginal Land Council (LALC) representatives

Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

- Other relevant government agency representatives

**Councillors Representatives**

Council appoints one (1) Councillor to be the voting Chair of the Committee. All other Councillors are welcome to attend meetings of the Committee as observers and contribute to discussions but are not entitled to vote.

If no Councillors are appointed as members, the Chief Executive Officer or nominee represents the elected member to chair the meeting.

**Council Officers**

~~Council officers provide specialist professional advice in engineering, strategic planning, development assessment and environmental management. Appointed Council officers do not have voting rights. Additional officers may be invited to attend meetings but do not have voting rights.~~

**Local Representatives**

Following an expression of interest process, the Chief Executive Officer appoints ~~a maximum of five (5)~~ seven (7) local community representatives, including one (1) youth representative between ages ~~16~~ 16 and ~~30~~ 25, and one (1) Indigenous ~~local~~ representative ~~from the Aboriginal Community~~, that meet the following criteria:

- A broad interest, knowledge and understanding of floodplain management and the areas within the committee's jurisdiction.
- A commitment to floodplain management in the nominated Council area; and
- Local resident or business person living or working in or near a flood prone area.

Local community representatives have voting rights.

Community Member Appointments:

- Nominations should be advertised throughout the community via an Expression of Interest (EOI) process.
- Appointments to the Committee will be for a three (3) year term with a set commencement and finish date. Vacancies which are filled during the committee's term will have the same finish date.
- Vacancies will be advertised locally via media and Council communication networks.
- Council will manage the application process; and
- An assessment panel consisting of a Council staff member (Manager – Environmental Services), the Chairperson of the Committee and one (1) suitably qualified independent representative will assess the applications and

Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

make recommendations for appointments to Council. Each member of the assessment panel will vote on recommendations with a majority ruling.

**Council Officers**

Council officers attend meetings to provide specialist professional advice in engineering, strategic planning, development assessment and environmental management. Council officers do not have voting rights.

**Government Agencies**

The Chief Executive Officer (or nominee) invites a range of State Government agencies to nominate ~~one (1)~~ representative ~~each~~.

The nominated agency representatives provide advice in relation to their functions and areas of expertise ~~however, are non-voting members and do not have voting rights~~

**Chair and Deputy Chair**

Council appoints one (1) Councillor to be the Chair of the Committee. In the absence of the nominated Chair at a particular meeting, the meeting elects a Chair of the meeting.

**Terms of Office**

The term of the Chair will be one (1) year which will be reviewed annually in September. ~~Elected members (or their representative)~~ Councillors continue as members of the Committee until the next ~~ordinary election of the Mayor, or the next general election of Council~~ Local Government election, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference.

**7. Committee Meeting**

**Agenda**

The agenda will be developed by the Director ~~Planning, Environment and City Development~~ with support from the Section Manager Environmental Services in view of the prevailing issues. Councillors and members can contribute to the agenda by requesting a report on a particular issue four (4) weeks prior to the meeting, subject to approval of the Chair and the Director ~~of Planning, Environment and Development- City Development~~.

**Quorum**

Three (3) provided that a minimum of one (1) Councillor as chair or acting chair with voting rights and two (2) community representative are present. If a quorum is not present within 30 minutes of the scheduled commencement time, the meeting lapses.

Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

**Voting**

It is expected that the committee, and any working group to develop recommendations by consensus. If voting is required, the Chair has a casting vote.  
Any votes against will be recorded in the minutes.

**Meeting Schedule**

The location, date and time for meetings may be decided by the Chair in consultation with the Chief Executive Officer or nominee. In general, meeting frequency should be conducted on an as required basis.

**Minutes**

The Committee provides advice to the Council for consideration. The Committee's advice is posted on the Council website with minutes reported to the elected ~~eeouncil~~Council. Following consideration of the advice from the Committee, any resolution determined by Council, will be posted on the Council website.

**Confidentiality And Privacy**

Members may have contact with confidential or personal information retained by Council. If so, members are required to maintain the security of any confidential or personal information and not access, use, or remove any information, unless the member is authorised to do so.

**Communication**

In relation to the communication functions of Committee, the following applies:

- Members of the Committee are not permitted to speak to the media as Council representatives of the Committee unless approved by the Chairperson.
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**8. Code of Conduct**

All members of the Committee are required to observe the provisions of Council's Code of Conduct and any other policy or requirement applicable to the proper functioning of the Committee.

A breach of the Code of Conduct may lead to the member being expelled from the Committee.

**9. Document Control**

| [Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees](#)

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Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

## Southern Floodplain Risk Management Committee

### 1. Purpose

The principal objective of the Southern Floodplain Risk Management Committee is to assist Shoalhaven City Council in the development and implementation of one or more ~~floodplain~~ [Floodplain risk-Risk management Management Study and Floodplain Risk Management plans-Plan](#) for the southern area of the Council. This will need to be in accordance with the NSW Floodplain Development Manual. The southern area applies to the following catchments:

- Lake Conjola
- Narrawallee
- Mollymook
- Ulladulla
- [Burrill Lake](#)
- [Clyde River](#)
- Lake Tabourie
- Willinga Lake

### 2. Interpretation

For the purpose of this document:

*Member* means a member of the committee

*Committee* means Southern Floodplain Risk Management Committee

*Council* means Shoalhaven City Council

*Chairperson / Chair* means the chairpersons of the Committee

*Elected members* means the elected Councillors of Shoalhaven City Council

### 3. Status of the Committee

The Committee provides non-binding advice to Council for consideration.

### 4. Role of the Committee

- a) To assist the Council in the development and implementation of [a Flood Study, Floodplain Risk Management Study and Floodplain Risk Management Plan](#) ~~the floodplain management plan~~ for the areas listed under 'Purpose' (see above).



Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

- b) To assist the Council monitoring and assessing the effectiveness of the management plans during and after ~~its~~their implementation.
- c) To assist the Council by providing input into known flood behaviour as part of the ~~flood-Flood study~~Study; and
- d) Facilitate broader community consultation and participation in floodplain risk management through informing and liaising with member community groups.

## 5. Delegations

Advisory committees may make recommendations to Council on all matters within the role as outlined above. These recommendations are submitted via the minutes of each meeting to Council for consideration.

Substantial issues and recommendations (possibly including expenditure) raised by the advisory committee will be reported to Council by a separate report from the Manager – Environmental Services.  
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~~Substantial issues and recommendations including expenditure of funds are accompanied by a separate report to Council from the Manager Environmental Services.~~

The committee do not have the power to incur expenditure, or the power to bind Council.

## 6. Membership

The Committee will be chaired by a Councillor, elected by Council. The committee is expected to act in accordance with the Role of the Committee as defined above in Section 4. The Committee will comprise the following:

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- Community representatives (7)
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- New South Wales State Emergency Services (NSW SES) representativess
- Department of Planning and; Environment ~~and Industry~~ (DPIE) representatives
- Local Aboriginal Land Council (LALC) representativess

Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

- Other relevant government agency representatives.

**Councillors Representatives**

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Terms of Reference – Northern / Central / Southern Floodplain Risk Management Committees

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## **7. Committee Meetings**

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**Quorum**

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**9. Document Control**

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## CL22.340 Policy - Food Premises

**HPERM Ref:** D22/266715

**Department:** Environmental Services

**Approver:** James Ruprai, Director - City Development

**Attachments:** 1. Food Premises Policy [↓](#)

### Reason for Report

All Public Policies are to be submitted to Council within 12 months of the election of Council. This report provides the background and rationale, as well as a summary of the proposed updates for the Food Premises Policy.

### Recommendation

That Council adopt and confirm the Draft Food Premises Policy (attached).

### Options

1. Adopt the recommendation as written

Implications: The revised policy will ensure that Council adheres to obligations to uphold food premise design and construction in accordance with relevant legislation and Australian Standards as a necessary function for the preservation of public health.

2. Not adopt the recommendation

Implications: Council can request further details or suggest changes.

### Background

The Food Premises Policy has been formulated to provide advice on how to design and construct a food premises. This is to achieve a satisfactory hygiene standard, and to facilitate easy cleaning and maintenance to ensure safer food handling practices when in operation. More direct food handling safety legislative requirements are governed by overarching state legislation including Chapter 3 of the [Australia/New Zealand Food Standard Code](#), *Food Act 2003*, and the *Food Regulation 2015*.

The [Food Premises Policy](#) was first adopted by Council on 20 September 1976 (MIN76.1362). The policy was most recently reviewed on 21 February 2017.

### Proposed Changes to Policy

Minor revisions have been made to the policy including updates to reflect new food safety legislation, the “Scores on Doors” program and change in Council directorate terminology from Planning, Environment & Development Services to City Development Group.

CL22.340

## Food Premises Policy

<b>Adoption Date:</b>	20/09/1976
<b>Reaffirmed:</b>	24/05/2005, 21/05/2013
<b>Amendment Date:</b>	21/02/2017
<b>Minute Number:</b>	MIN76.1362, MIN05.595, MIN09.1397, MIN13.473, MIN17.95
<b>Review Date:</b>	<del>01/12/2020</del> 30/06/2022
<b>Directorate:</b>	City Development
<b>Record Number:</b>	POL22/20

Food Premises Policy

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## Food Premises Policy

### 1. Purpose

This policy ~~document~~ has been prepared as a guide for the planning and construction of food premises. The implementation of this ~~pPolicye standards~~ will assist food businesses in achieving promoting a satisfactory hygiene standard, to facilitate easy cleaning and maintenance to ensure safer with the food handling practices. ~~ultimate achievement of economic operation, preservation and promotion of public health.~~

#### 1.1 SCORES ON DOORS

As part of Council's food inspection program, ~~every~~ food businesses undergoes a routine inspection where an authorised officer completes a Food Premises Assessment Report. The outcome of this report will determine a Scores on Doors rating where the premises is scored as either Excellent (5 Star), Very Good (4 Star), Good (3 Star), Satisfactory or Poor No Grade (No Star rating).

The Food Premises Assessment Report concentrates on issues relevant to the operation of the construction of food premises, including:

- temperature control;
- food storage, food handling and processing;
- hand washing;
- cleaning and maintenance; and,
- pest control. ~~Animals and Pests, Design and Construction and Maintenance. Issues that are specifically referred to within the policy.~~

### 2. Statement

This policy sets general standards for the construction and alteration of food premises and requirements in connection with the installation of equipment and appliances.

#### 2.1. Scope

This ~~policy code~~ applies to all retail food premises (except butchers' shops\*) within the City of Shoalhaven including: - and this includes but is not limited to:-

- |                                                    |                                 |
|----------------------------------------------------|---------------------------------|
| • <u>Bakeries</u>                                  | • <u>Health Food Shops</u>      |
| • <u>Boarding Houses (Backpackers Hostels etc)</u> | • <u>Hotels</u>                 |
| • <u>Cafeterias</u>                                | • <u>Kiosks</u>                 |
| • <u>Canteens</u>                                  | • <u>Milk Bars</u>              |
| • <u>Clubs</u>                                     | • <u>Motels</u>                 |
| • <u>Coffee Lounges</u>                            | • <u>Oyster Openers</u>         |
| • <u>Confectionery</u>                             | • <u>Pastry Cooks</u>           |
| • <u>Delicatessens</u>                             | • <u>Provision Stores</u>       |
| • <u>Drink Bars</u>                                | • <u>Restaurants</u>            |
| • <u>Greengrocers</u>                              | • <u>Sandwich Shops</u>         |
| • <u>Fish Shops</u>                                | • <u>Smallgoods Shops</u>       |
| • <u>Food Factories</u>                            | • <u>Takeaway Food Shops</u>    |
| • <u>Food Processing Plants</u>                    | • <u>Tea Rooms, or the like</u> |
| • <u>Food Storage Warehouses</u>                   |                                 |

## Food Premises Policy

**\*Note:** This policy does not set standards for the construction and alteration of NSW Food Authority licensed food businesses. This includes but is not limited to of butchers' shopsmeat food premises, dairy, and seafood premises. Enquiries in relation to butchers' shops these types of businesses should be referred to the NSW Food Authority. ~~Standards are contained in the NSW Safe Food Standard for Construction and Hygienic Operation of Retail Meat Premises.~~

### 2.2. Related Documents

This policy should be read in conjunction with the *National Food Safety Standard 3.2.3 - Food Premises and Equipment* and *Australian Standard AS 4674-2004 - Design Construction and Fit out of Food Premises* and Australian Standard AS 1668.2-2012 – Mechanical Ventilation in Buildings.

### 2.3. Definitions

**all-purpose room** means a low temperature room which may be used for the storage of “wet” goods such as would be stored in a restaurant, butcher’s shop, fish shop, smallgoods shop, food factory and similar premises.

**approved or approval** means approved by the Council’s Environmental Health Officer.

**cooking** means the process of converting food from a raw state to an acceptable, edible state by the application of energy in the form of heat (and in certain cases other forms of energy) and, without limitation, includes roasting, grilling, barbecuing, frying and the like and includes the reheating of precooked foods.

**cove** means having a concave curve at the junction of two ~~surfaces—surfaces~~ – the radius of the curve is to be not less than 25mm.

**dry goods storage room** means low temperature rooms used for the storage of pre-packaged goods, cartoned goods, canned goods and food sealed in containers.

**exposed** means (in relation to food display) not protected against any likely contamination from customers where related to food display. In relation to construction material **exposed** means visible where related to construction material.

**food preparation area** means any room, compartment or place used for the purpose of preparing and serving food for sale for human consumption, and, without limitation, includes preparation and servery areas of coffee lounges, drink bars, delicatessens, provision stores and the like.

**impervious** means impermeable to water, moisture, or grease.

**kitchen** means any room, compartment or place used for the purpose of cooking and heating food for human consumption and, without limitation, includes cooking areas of clubs, shops, factories, and the like. The minimum area of a kitchen, including food preparation area shall be 20% of the dining room area or 7.5 sq m, whichever is the greater.

#### Food Premises Policy

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**preparation – prepare – preparing** includes manufacture, processing, and treatment of foods for human consumption.

**solid construction** is defined as brick, concrete, concrete blocks, structural fibrous cement, or other similar homogeneous materials:-

**Notes:-**

- a) Solid materials and solid construction are required to prevent the formation of cavities which become possible harbourages for insects and vermin.
- b) Structural fibrous cement is only suitable for free standing internal partitions where no cavities are formed, not as a lining to cavity framing.

#### 2.4. Acknowledgement

Acknowledgment is made to the ~~Australian Institute of Environmental Health Surveyors, N.S.W. Division on Environmental Health Australia~~ whose National Code this ~~publication~~ policy is based upon.



Food Premises Policy

### 3. Provisions

#### PART A – CONSTRUCTION, MATERIALS AND FINISH

##### 3.1. Walls

###### 3.1.1 Construction

Walls of food premises including food preparation areas, kitchens, sculleries, food serveries, food display and food storage areas shall be of solid construction. ~~(See definition.)~~

###### 3.1.2 Finish

In all food preparation areas, kitchens, sculleries and the like such walls shall be finished to a height of at least 2m above floor level with:–

- a) Glazed tiles fixed in accordance with the requirements of Australian Standards AS3958.1–2007 Ceramic tiles (Part 1: Guide to the installation of ceramic tiles)
- b) Stainless steel, laminated plastics (i.e., formica, laminex, panelyte) or similar approved impervious material adhered directly to the wall.

###### ~~Where~~ 3.1.3 Untiled Walls

Untiled walls are to be cement rendered, set with plaster and steel trowelled to a smooth even surface, painted with a washable gloss paint of a light colour or sealed with other approved materials.

###### 3.1.4 Surface Material Fixing

The finishing materials outlined in 3.1.2 ~~(b) (iii)~~ are to be fixed so as to provide a smooth even surface to ensure ease of cleaning; be free of buckles, fixing screws, open joint spaces, cracks, or crevices which may permit the access of vermin or the collection of liquids, food particles, grease, or other refuse.

###### 3.1.5 Intersections

The intersection of walls with floors and exposed plinths is to be coved to a 25mm radius.

###### 3.1.6 Tiles to 450 mm

In approved positions where the business operation does not require tiling the walls to a height of 2m above floor level, the accepted alternative is tiles or similar approved materials carried to a height of 450mm above the bench tops wash hand basins and similar fittings.

###### 3.1.7 Tiles to 300 mm

In special circumstances, dependant on the operation, this height may be reduced to 300mm provided the bench top and turn-up are made of stainless steel all in one piece ~~(ie)~~ i.e., no joint at the wall and bench section).

###### 3.1.8 Top Edge of Wall Tiles

#### Food Premises Policy

The wall finish between the top edge of the wall tiling and the ceiling is to be finished flush to the tiling or other approved surface or splayed with an impervious material so as not to form a ledge upon which dust or grease can accumulate. (~~See~~ Figure 7).

##### 3.1.9 Architraves etc

Architraves, skirting boards, picture rails ~~and the like~~ or similar are not permitted.

##### 3.1.10 Vertical Corners, Corridor Walls and the Like

Vertical corners, corridor walls and the like, which are likely to be damaged by trolleys, kegs or similar traffic are to be protected by stainless steel angles, rubbing strips or other approved material (applies to door openings, columns and ~~the like~~ similar).

### **3.2. Floors**

#### 3.2.1 Construction

~~In food preparation areas and the like~~ floors within food preparation areas are to be constructed of solid construction and finished with materials which are impervious, non-slip, non-abrasive, resistant to chemicals, capable of withstanding heavy duty operation, scouring with steam, hot water, soap and detergent; and include ceramic tiles of an approved size and type properly fixed, impermeable cement render or similar topping over concrete, quarry tiles, magnesite or other approved material laid to the manufacturer's specifications.

#### 3.2.2 Vinyl and Similar Preformed Materials

In food display, food storage and other selected positions in food preparation areas commercial grade vinyl sheeting with welded joints or similar preformed material laid over a solid impervious base or an approved underlay is acceptable providing they are laid strictly in accordance with the manufacturer's specifications.

#### 3.2.3 Finish

The floor finish is to be smooth and even, free of cracks, crevices or surface protrusions that will prevent easy cleaning, graded and drained where necessary.

#### 3.2.4 Tile Joints

Floor tiles are to be butt jointed or alternatively the open joints are to be epoxy grouted, ~~and grouted and~~ finished flush with the floor surface material.

#### 3.2.5 Floor Wastes

Floor wastes shall be provided in food preparation areas and wet areas in locations where directed.

#### 3.2.6 Coving

#### Food Premises Policy

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The intersections of floors with walls and exposed plinths are to be coved to a radius of 25mm. Vinyl and similar preformed material is to be continued at least 75mm up the wall or other vertical surfaces.

##### 3.2.7 Backing Piece

Where vinyl sheeting and other similar preformed material is turned up to form a cove, a fillet or backing piece is to be fitted to provide support.

##### 3.2.8 Carpet

Carpet may be used as a floor finish only in areas where customers stand or sit to receive food or service.

### **3.3. Ceilings**

#### 3.3.1 Provision

Ceilings shall be provided over food preparation, display, or storage areas.

#### 3.3.2 Construction

Ceilings are to be constructed of a rigid smooth faced, non-absorbent material and could include fibrous plaster, plasterboard, fibrous cement, cement render or other approved material painted with a washable gloss paint of a light colour.

#### 3.3.3 Drop-in Panels

Drop-in removable panel ceilings are not permitted over food preparation, display, and serving areas.

#### 3.3.4 Finish

The surface finish shall be free of open joints, cracks, crevices or openings in which grease, vapours or vermin may collect.

#### 3.3.5 Intersections

The intersection of the walls and ceiling are to be tight jointed, sealed, and dustproof.

#### 3.3.6 Ceiling Light Fittings

Ceiling light fittings are to be installed flush with the ceiling surface, or alternatively, provided with an approved diffuser cover to prevent the accumulation of dust or harbourage of vermin.

### **3.4. Window Openings, Door Openings, and Serving Hatches**

#### 3.4.1 Windows

Window openings in kitchens and food preparation areas are to be designed and constructed with the windowsills at not less than 300 mm above the top of any bench, table, or equipment where splashing is likely to occur.

#### Alternatively

#### Food Premises Policy

In approved positions where benches, tables, ~~equipment, etc. are~~ equipment are at least 100mm clear of the wall surface and windowsills are exposed, the provisions of 3.4.1 may be varied.

#### 3.4.2 Splayed Sills

All windowsills are to be splayed inwards at an angle of 45° and finished with material matching the wall finish, with all vertical and horizontal edges rounded or bullnosed to a smooth even finish.

#### 3.4.3 Architraves

Window and door architraves are not permitted.

#### 3.4.4 Fly Proofing

Removable fly proofing shall be provided as directed by Council's Environmental Health Officer.

#### 3.4.5 Finish

Door openings, serving hatches and ~~the like~~ similar are to be finished in the same material as the wall, returned to meet the door jamb with the vertical and horizontal edges rounded or bullnosed to a smooth even surface.

#### 3.4.6 Corner Protection

Where door openings are likely to be damaged by trolleys or similar traffic, the vertical corners are to be protected in an approved manner. (See section 3.1.10).

#### 3.4.7 Flyscreen Doors

Fly proofing to external door openings shall be provided as directed by Council's Environmental Health Officer.

### **3.5. Service Pipes, Vermin-Proofing**

#### 3.5.1 Concealment of Pipes

Where possible, all service pipes are to be located on the exterior of the premises or concealed in floors, plinths, walls, or ceilings.

#### 3.5.2 Pipe Supports on Brackets

Where it is not possible to conceal pipes or where it is contrary to the regulations of other authorities, such pipes are to be fixed on brackets so as to provide at least 25mm clearance between the pipe and the adjacent vertical surface and 100mm between the pipe and adjacent horizontal surfaces.

#### Food Premises Policy

##### 3.5.3 Vermin-proofing of Openings

All openings in walls, floors and ceilings through which service pipes and the like, pass, shall be ~~made proof~~proofed against to prevent access of vermin.

##### 3.5.4 Cavities and Voids

Cavities, false bottoms, and similar hollow spaces capable of providing access and harbourage for vermin are not permitted to be formed in the construction of premises, nor in the installation of fittings and equipment, unless approved means of access are provided to such spaces, or such spaces are completely sealed in an approved manner.

##### 3.5.5 Sewerage Pipes

The location of sewerage pipes in food preparation, storage or serving areas is not desirable; however, where circumstances will not permit an alternative position, cleaning eyes and access openings will not be permitted unless special precautions are taken to prevent likely contamination of the food in that area should any defect or chokage occur in the line. Such prevention of contamination will be conferred by Council's Environmental Health Officer.

##### 3.5.6 Roller Shutters

Roller shutters and roller grilles located on external openings are to be of vermin proof design.

#### **3.6. Servery Bar Construction**

##### 3.6.1 In situ Construction

Where counters or bars are constructed in ~~in~~situ, the supporting wall shall be of solid construction finished with an approved impervious material commensurate with the use.

##### 3.6.2 Timber Framing

Framing of in situ bars and counters in timber is not permitted.

##### 3.6.3 Counter and Bar Tops

Counter and bar tops may be constructed in solid core timber or similar timber sheeting glued and jointed in an approved manner. (~~See~~ Figure 5).

##### 3.6.4 Exposed Surfaces

All exposed surfaces of the bar top or ~~counter top~~countertop are to be finished with a smooth impervious material.

##### 3.6.5 Exposed walls

On the preparation and/or serving side, exposed wall surfaces are to be smooth, free of ledges and the surface is to be cement rendered, set with plaster, and steel trowelled to a smooth even surface and finished with a washable gloss paint, tiled, or sealed with an approved material commensurate with the use of the counter or bar. (~~See~~ Figure 5).

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**Food Premises Policy**

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**3.7. Storerooms****3.7.1 Wall Construction**

Walls of rooms used for the storage of food enclosed in hermetically airtight sealed containers, dry packaged goods, vegetables, cleaning materials and equipment, shall be of solid construction finished with an approved impervious material commensurate with use.

**3.7.2 Floor**

The floors of such rooms shall be impervious and coved at the intersection with walls and plinths.

**3.7.3 Cleaning Material Storage**

Materials and equipment for cleaning are to be stored in a place physically separated from any food storage, display, or preparation area.

**3.8. Garbage Rooms, Grease Arresters****3.8.1 Garbage Storage**

A room separate from the kitchen or an appropriately constructed area outside the building is to be provided for the storage of garbage. Controls are to be implemented to prevent the foraging and harbourage of vermin within garbage storage areas.

**3.8.2 Refrigerated Garbage Rooms**

Refrigerated garbage rooms must comply with the requirements of Section 3.9.

**3.8.3 Construction**

Rooms used for the storage of garbage and rooms used for the washing and storage of garbage receptacles are to be constructed of solid material and cement rendered and steel trowelled to a smooth even surface and made vermin proof.

**3.8.4 Floor**

The floor shall be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room.

**3.8.5 Storage Racks**

Racks shall be provided for the storage and drainage where domestic type garbage bins are used and may be fixed or freestanding, with the lowest shelf 300mm above floor level.

**3.8.6 Rack Construction**

Racks to be constructed of galvanised piping, "T" iron, angle iron or solid flat steel or other approved material and preferably designed to be demountable for ease of cleaning.

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### 3.8.7 Separate Room

Garbage receptacle washing machines and ~~heavy-duty~~ heavy-duty commercial garbage disposal units should be housed in a room separate from the garbage store and kept 300mm clear of all walls.

### 3.8.8 Ventilation

Garbage rooms shall be vented to the external air by natural or artificial means.

### 3.8.9 Hot and Cold Water

Hot and ~~cold water~~ cold-water hose cocks shall be located within a garbage room or in close proximity.

### 3.8.10 Grease Arresters

The installation of grease arresters within kitchens and food preparation area is not permitted.

### 3.8.11 Internal Grease Arrester Room

Where there is no alternative but to install the grease arrester within the building, it shall be subject to the following conditions:–

- Prior approval shall be obtained in each case.
- The arrester shall be installed in a special room.
- The floor, walls and ceiling of the room shall be constructed of solid material sealed to prevent the escape of odours; the walls are to be cement rendered, set with plaster and steel trowelled to a smooth even surface and finished with washable gloss paint or sealed with an approved material; all angles are to be coved.
- The door shall be ~~self-closing~~ self-closing and fitted with a rubber or other approved gaskets to provide a seal when closed; independent access to the arrester for cleaning purposes shall be provided where practicable from outside the building.
- Proposals to mechanically ventilate grease arrester are to be submitted for approval.

For information on grease arresters and liquid ~~trade waste~~ generally, advice should be sought as to the requirements ~~of the respective drainage authority~~ specified by Shoalhaven Water prior to installation (<https://shoalwater.nsw.gov.au/your-business/liquid-trade-waste/about-liquid-trade-waste>).

## **3.9. Low Temperature Rooms, Including Cool Rooms and Freezer Rooms**

### 3.9.1 Solid Construction

~~All-purpose~~ All-purpose rooms may be of solid construction which includes such materials as bricks, concrete or similar approved material, cement rendered to a smooth even finish and coved to a minimum radius of 25mm at all angles.

### 3.9.2 Prefabricated Construction

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~~All-purpose~~All-purpose rooms may also be constructed of prefabricated wall and ceiling sections with internal and external finishes of the following material – non-corrosive aluminium, stainless steel, polyester faced or other approved materials.

##### 3.9.3 Embossed Surfaces

Embossed finish is not permitted as internal lining material or panels of prefabricated low temperature rooms.

##### 3.9.4 Panel Construction

The internal and external panels are to be adhered directly to the insulating material (core) to form an integral wall section.

##### 3.9.5 Coving of Joints

Joints at the floor to wall intersections are to be coved and the vertical wall to wall intersections are to be finished with a cove and the edges of all joining moulds are to be tight fitting and water repellent.

##### 3.9.6 Panel Finish

All panels are to be neatly cut and finished smooth to eliminate any cracks, crevices or imperfections which may provide access for vermin or be difficult to clean.

##### 3.9.7 Dry Goods Storage Rooms

Approved wall and ceiling lining materials for dry goods storage rooms includes stainless steel, aluminium, polyester faced finish, hot bonded sheets, ~~alumpy~~, laminated plastics or other approved materials and all lining material joints are to be tight fitting and water repellent.

##### 3.9.8 Concrete Floor

A concrete floor at least 75mm thick is to be provided in all low temperature rooms, graded to the doorway, coved at the intersections with the walls and finished ~~se-as-to~~ be impervious to liquids.

##### 3.9.9 Concrete Floor Finishes

Unless constructed of impermeable type concrete, all low temperature room floors shall be coated, topped, or otherwise finished with an impervious material.

##### 3.9.10 Plinths

Where a plinth is used its dimensions shall be identical with the external face of the low temperature room so as not to protrude beyond or recede under the vertical face.

##### 3.9.11 Internal Floor Wastes

Floor drains connected directly to the sewerage service are not permitted within a low temperature room.



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##### 3.9.12 Special Approval

Floor wastes may be permitted within a low temperature room where the room is used as a work or preparation room and shall be subject to special approval in each case.

##### 3.9.13 External Floor Wastes

Where circumstances require drainage, a floor waste is to be located outside the low temperature room as near as practicable to the door opening.

##### 3.9.14 Painting of Walls and Ceilings

Internal walls and ceiling surfaces are not to be painted unless the paint is of a special type prepared for use on low temperature room walls and ~~ceilings, and~~ ceilings and applied in accordance with the paint manufacturer's specification.

##### 3.9.15 Sealing of Joints

The joint between the external walls of the low temperature room and the floor surface is to be sealed and finished in an approved manner.

##### 3.9.16 External Wall Finish

Where the external walls of a low temperature room such as "~~cool room~~ cool room sandwich panelling" are in the kitchen, cooking or food preparation area or any other place where splashing of walls is likely to occur; the walls are to be finished with tiles or in an approved manner commensurate with the use.

##### 3.9.17 Rat-proofing

All exterior surfaces including the roof of the low temperature room are to be faced with an approved rat-proof and/or vermin proof material.

##### 3.9.18 Inaccessible Spaces

Where the room is built in such a position that an inaccessible cavity is formed between the top of the low temperature room, and the ceiling above or between the low temperature room and any other wall or fixture, such cavities are to be made proof against the access of rats or other vermin.

##### 3.9.19 Storage Rack Construction

Hanging bars and storage racks shall be constructed of galvanised pipe, angle iron, "T" iron, channel iron, flat metal, or other approved materials, all of which should be treated to prevent corrosion.

##### 3.9.20 Rack Clearance

Racks may be fixed or freestanding; the underside of the lowest shelf or rack to be at least 150mm clear of the floor.

##### 3.9.21 Refrigeration Machinery

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Where possible, all machinery and equipment ~~is~~<sup>are</sup> to be located outside the food premises. ~~Where-If they cannot be~~ located ~~outside, -inside it shall~~ <sup>shall</sup> be installed in an approved manner with sufficient space for cleaning being provided both within and around:-

- Equipment (~~eg~~-e.g., compressor, motor condenser, evaporator).
- Fittings (~~eg~~-e.g., refrigeration pipes, condensate pipes).
- The floor, walls, and ceilings.

#### 3.9.22 Concealment of Pipes

Where possible, all service pipes and conduits are to be concealed in floors, walls, or ceilings.

#### 3.9.23 Fixing of Pipes on Brackets

Where concealment is not possible, pipes are to be fixed on brackets ~~so as to~~<sup>to</sup> provide at least 25mm clearance between the wall and pipe and 100mm between the floor and pipe. All such runs shall be kept to an absolute minimum.

#### 3.9.24 Clearance from Fittings

Pipes so installed are not to run underneath fittings.

#### 3.9.25 Temperature Gauge

A temperature gauge is to be provided externally to each low temperature room (including cool-rooms, chillers, freezer rooms).

#### 3.9.26 Noise and Vibration

The refrigeration equipment and all associated fittings are to be installed in such a manner that the refrigeration system is capable of operating without causing noise or vibration nuisance.

#### 3.9.27 Condensate Disposal

Adequate provision for the disposal of condensate shall be provided.

#### 3.9.28 Condensate Discharge

Where condensate waste discharges to the sewer, adequate disconnection or air gap shall be provided in accordance with the requirements of the local drainage authority.

#### 3.9.29 Building Regulations

All low temperature rooms are to comply with the building regulation requirements regarding sizes of door openings, alarm devices and capability of being opened from within.

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**PART B – INSTALLATION OF FIXTURES, FITTINGS, EQUIPMENT**

**3.10. Refrigerators and Frozen Food Cabinets**

3.10.1 Supports

Cabinets, upright or horizontal models are to be supported on wheels, plinths, legs or brackets or framework.

3.10.2 Metal Bases

In areas where food is not prepared, such as supermarket retail displays, cabinets with an approved metal base may be fitted directly to an impervious floor provided a complete seal is made between the floor and the metal base of the cabinet.

3.10.3 Sealing of Metal Bases

When fitting a metal base, as referred to in Section 3.10.2, the following is required: -

- a) The seal between the floor and the metal base of a cabinet is to be of an approved silicone sealant laid on the floor in a continuous seam.
- b) Where the floor finish is of vinyl sheeting or similar preformed material the floor covering outside the cabinet is to be sealed to the floor; turned up and sealed to the base of the cabinet with a cove.
- c) Where vinyl sheeting or similar preformed material is turned up to form a cove, a fillet or backing piece is to be fitted to provide support.
- d) Where the floor finish is of terrazzo or concrete material a vinyl skirting strip is to be sealed to the floor; and to the base of the cabinet ~~so as to~~ provide a cove.

3.10.4 Cabinets Located Abutting Walls

Refrigerator and frozen food cabinets may be fitted against the wall provided all joints formed between the back of the cabinet and the wall are suitably sealed to prevent the access of vermin.

3.10.5 Cabinets Located Away from Walls

Where cabinets are kept clear of walls and other fixtures they shall comply with the following requirements:-

- a) Cabinets up to 6m in length are to be kept a minimum of 200mm clear of the wall.
- b) Where the cabinet exceeds 6m in length or cabinets are installed as a continuous run of more than 6m, a minimum space of 400mm is to be provided between the rear of the cabinet and the wall.
- c) Where cabinets are kept clear of wall as specified in a) and b) above, adequate access is to be provided between the cabinets or between the cabinets and any side wall to permit easy cleaning.

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- d) Where cabinets are kept clear of walls a suitable upstand or other approved means is to be provided to prevent the dislodgment of stock over the back of the cabinet or miscellaneous refuse accumulating between the wall and the cabinets.

3.10.6 Refrigerated Milk Bar Counters, ~~etc.~~

Milk bars and similar refrigerated bar counters, where consisting of a number of refrigerated cabinets or a continuous frame in one piece, are to be designed:-

- a) With a continuous top stainless steel or other approved material either cast or welded in one piece, and are to be free of open joints, cracks, crevices, etc. which may allow liquids or food particles to collect therein.
- b) So that any space formed between the face of the counter and the cabinet is to be made proof against the access of vermin, or alternatively, provided with access for easy cleaning.
- c) So that a raised edge or lip is to be formed around each opening in the bar top to prevent foreign material falling into the food wells.
- d) So that hinged lids are to be so constructed that when they are opened any liquid that may be on top of the lid will flow off into a channel formed along the hinged portion.
- e) So that the channel is to extend the full length of the lid so that the liquid will not gain access into the food well.
- f) So that all angles, internal and external, of the cabinet are to be coved or rounded, with all joints smooth finished to allow easy cleaning.

3.10.7 Refrigeration Machinery

Where possible, all machinery and equipment ~~is~~are to be located outside the food premises.

3.10.8 Refrigeration Motor Units

Whether located within the cabinet, adjacent to the cabinet or remote from the cabinet, motor units are to be supported on an open metal frame at least 150mm clear of the floor or 50mm above a plinth, and the unit is to be kept clear of adjacent walls.

3.10.9 Motor Unit Frame Design

The frame is to be designed ~~so as to~~to permit dust, miscellaneous refuse, and ~~the like~~similar to fall through to the floor for easy removal. (~~See~~ Section 3.10.14).

3.10.10 Cabinet Motors

Motor units located within cabinets supported on wheels may be mounted on an open metal frame closer than 150mm to the floor.

3.10.11 Top Mounted Cabinet Motors

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Condensing (motor) units may be located directly on top of the cabinets, providing that all likely harbourage places for vermin beneath the unit are eliminated and adequate access for cleaning is provided at the front, rear, and sides of the unit.

##### 3.10.12 Noise

Condensing (motor) units are to be installed ~~so as to~~ operate without causing offensive noise within the meaning of ~~respective noise control legislation~~ relevant legislation.

##### 3.10.13 Temperatures

The refrigeration system is to be capable of:-

- a) Maintaining at all times the designed temperature within the cabinet commensurate with its proposed use.
- b) Maintaining the temperature of displayed, prepared food ~~capable of supporting the~~ prevent the growth of micro-organisms at temperatures prescribed by food hygiene regulation.

##### 3.10.14 Ventilation Openings

Ventilation openings in cabinets are to be fitted with frames that are easily detachable.

##### 3.10.15 Framework Design

When designing and fabricating angle, "T" or channel iron or flat steel for framework care is required to ensure there are no ledges or cavities formed which will permit the lodgement of dust and grease in areas accessible for cleaning.

##### 3.10.16 Concealment of Pipes

Where possible, all refrigeration pipes, condensate pipes and electrical conduit are to be concealed within cabinets, or within floors, plinths, or walls.

##### 3.10.17 Fixing of Pipes on Brackets

Where concealment is impossible, such pipes are to be fixed on brackets so as to provide at least 25mm clearance between the pipes and adjacent vertical surfaces and at least 100mm clearance from any horizontal surface.

##### 3.10.18 Sealing of Openings

All openings around pipe work and other similar spaces are to be sealed and made ~~proof~~ proof ~~against access of~~ vermin proof.

##### 3.10.19 Restraining Devices

A suitable restraining device is to be provided to upright cabinets where stability problems exist or are likely to occur.

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**3.11. Wheels, Plinths, Legs, Brackets and Framework Design**

**3.11.1 Use of Wheels or Castors**

Wheels or castors capable of adequately supporting and easily moving a fully loaded fitting may be fixed to fittings provided that:-

- a) Sufficient space is available to move such fittings so as to provide access to the floor beneath and the walls adjacent to the fittings for cleaning purposes.
- b) Suitable restraining devices are incorporated on the wheels or castors.

**3.11.2 Plinth Construction and Design**

Plinths are to be an integral part of the floor, constructed of solid material similar to the flooring material and are to be:-

- a) At least 75mm high.
- b) Finished level to a smooth even surface.
- c) Recessed under fittings to provide a toe space of not more than 50mm.
- d) Rounded at exposed edges.
- e) Coved at the intersection with the floor and exposed walls- (See-Figure 7).

**3.11.3 Concealment of the Pipes**

Service pipes may be concealed in plinths provided that the surface finish of the plinth is restored; service pipes are not permitted underneath fittings in the recessed toe space.

**3.11.4 Legs**

Legs are to be of non-corrosive solid or tubular metal or moulded plastic.

**3.11.5 Tubular Steel Legs**

If pipes are used, open ends are to be capped or sealed to prevent the access and harbourage of vermin.

**3.11.6 Clearances**

Legs are to be designed and securely fixed so that:-

- a) There is a clear space between the floor and the underside of the fitting of not less than 150mm.
- b) Where the fitting is located in island formation with access from two sides, the minimum space between the floor and the underside of the fitting is 150mm.
- c) Service pipes are not permitted in the space beneath fittings unless they run vertically.
- d) A clear space of not less than 25mm is provided between the finished wall surfaces and the legs supporting fittings.
- e) Alternatively, the rear legs may be omitted, and the fitting supported on brackets securely fixed onto the wall.

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**3.11.7 Brackets**

Brackets are to be non-corrosive, tubular metal, solid metal or flat steel, and where tubular steel is used the open ends are to be capped or sealed to prevent the access of vermin.

**3.11.8 Hollow brackets**

Pressed metal brackets having hollow backs are not permitted. ~~even when filled in solid at the back.~~

**3.11.9 Fixing**

Supporting brackets are to be securely fixed so that:-

- a) Cracks and crevices are not formed.
- b) A clear space between the floor and the underside of the fitting of not less than 150mm is provided for all fittings up to 750mm in width.
- c) This height shall be increased by 25mm for every additional 100mm or part thereof, in width.
- d) Service pipes are not permitted in the space beneath fittings unless they run vertically.

**3.11.10 Framework**

Framework supports are to be of ~~non-corrosive~~ non-corrosive tubular metal, solid metal, or flat steel.

**3.11.11 Tubular Steel Framework**

If pipes are used, the open ends are to be capped or sealed to prevent the access and harbourage of vermin.

**3.11.12 Framework Design**

Framework is to be designed and fixed in such a manner that easy access is available for cleaning the framework and adjacent surfaces and designed to prevent access or harbourage of vermin.

**3.11.13 Hygienic Construction**

Legs, brackets, and framework are to be:-

- a) Finished smooth.
- b) Free of angles, cavities, crevices, ledges, recesses etc. which will permit the lodgement of dust and grease or provide areas inaccessible for cleaning.

**3.11.14 Flanges**

Flanges fitted to the base of legs or framework, are to be concealed in the floor or plinth and shall not be fixed onto the surface of floors or plinths.

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**3.12. Supporting of Appliances, Equipment, Fittings, and Fixtures**

**3.12.1 Appliance Supports**

Stoves, refrigerators, bain maries, stock pots, washing machines, hot water heaters, large scales, food mixers, food warmers, cupboards, counters, bars etc. are to be supported on wheels, plinths, legs, brackets, or framework as outlined in Section 3.11.

**3.12.2 Sealing Equipment to Plinths**

Where appliances, equipment fittings or fixtures are placed on plinths they are to be effectively sealed to the plinths, ~~so as to~~ prevent any floor washings, food spillage, liquids, vermin, or miscellaneous refuse from gaining access to the surface of the plinths.

**3.12.3 Fixture Supports**

Wash hand basins, sinks, draining boards, tubs, urns, boiling water units, benches ~~and~~ shelving are to be supported on legs, brackets, or framework as outlined in Section 3.11.

**3.12.4 Bench or ~~Counter-Top~~Countertop Equipment**

Where appliances, equipment, fittings, or fixtures which are not easily moved by one person when fully loaded, are placed on benches or counters they are to be:-

- Kept at least 75mm above the bench or ~~counter-top~~countertop and 75mm clear of walls or other vertical surfaces; or
- Sealed to the bench or ~~counter-top~~countertop in such a manner as to eliminate any open joint, space, crevice or cavity which will allow liquids, food particles, grease, or other refuse to collect; or
- Fitted with approved wheels or castors providing sufficient space is available to move the fittings so as to provide access to the bench or ~~counter-top~~countertop beneath and the walls or other vertical surfaces adjacent to the fitting for cleaning purposes.

**3.13. Clearances (Other than Cooking and Heating Equipment)**

**3.13.1 Butting of Fittings**

Inaccessible crevices formed by the butting together of fittings or appliances are not permitted.

**3.13.2 Flashing and Sealing**

Where fittings ~~or walls~~ abut ~~and/or adjoin~~ each other, ~~or walls~~ any crevice formed is to be provided with a cover flashing or sealed in such a manner as to eliminate any open joint, space, crevice or cavity which will allow liquids, food particles, grease, or other refuse to collect therein.

**3.13.3 Space Between Fittings**

Where a space is provided between fittings such clear space is to be:-

- For fittings up to 750mm in width – at least 75mm.
- For fittings over 750mm in width – at least 150mm.



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**3.13.4 Refrigeration and Frozen Food Cabinets**

~~Where a~~ Abutting walls shall comply with Section 3.10.4, and where kept clear of the walls shall comply with Section 3.10.5.

**3.13.5 Hot Water Heaters**

Floor mounted hot water heaters shall be supported above the floor and kept clear of the wall in accordance with Sections 3.11 and 3.12.

**3.14. Clearances (Cooking and Heating Appliances)**

**3.14.1 Installation**

Stoves, ranges, boiling tables, ovens, deep fryers, broilers, griddles, barbecues, and similar heating appliances are to be installed as follows:-

- a) Supported on approved wheels, plinths, legs, brackets, or framework as outlined in Section 3.11.
- b) Located at least 200mm clear of walls where such appliances do not exceed 3 metres in a continuous run and where adequate access to such space is provided from at least one end.
- c) Located at least 400mm clear of walls where such appliances exceed 3 metres in a continuous run, and access to such space, of not less than 300mm, is to be provided from both ends.

Alternatively, cooking appliances may be butted against walls, or other equipment (~~eg~~-e.g., other cooking appliances) provided all joints between the appliances and walls are suitably flashed or sealed in such a manner as to eliminate any open joint, space or crevice or cavity which will allow liquids, food particles, grease, or other refuse to collect.

**3.14.2 Provision of Space**

Where a space is provided between cooking appliances or between them and other fittings, such space is to be at least 75mm for cooking appliances up to 750mm in width.

**3.14.3 Cover Flashing**

A cover flashing of approved material and easily removable by hand may be provided to such a space (Section 3.14.2).

**3.14.4 Greater Width**

For widths over 750mm, at least 300mm clear space is required.

**3.14.5 Abutting other fittings**

Where cooking appliances are ~~butt fitted to each other~~ adjoin to each other or to other fittings, they are to be suitably flashed or sealed in such a manner as to eliminate any open joint, space, crevice or cavity which will allow liquids, food particles, grease, or other refuse to collect therein or vermin to harbour (~~ie~~-i.e., a complete seal).

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**3.14.6 Wheels or Castors**

Where cooking appliances are fitted with wheels or castors and provided with a flexible connection, such appliances may abut and/or adjoin the walls and each other providing sufficient space is available to adequately move the appliance for cleaning purposes.

**3.14.7 Obstruction of Ventilation**

Salamanders and similar equipment shall not be located directly above other cooking appliances where the efficiency of mechanical exhaust ventilation will be impaired.

**3.15. Counter and Bar Fittings**

**3.15.1 Construction**

Counters and bars shall be constructed in situ of solid impervious construction (~~see~~ Section 3.6) or a freestanding fixture.

**3.15.2 Finish**

Freestanding counters and bars shall be finished with glass, metal, plastic, timber sheeting or other approved material.

**3.15.3 Timber Sheeting**

Timber sheeting is to be of solid core or similar timber sheeting, glued and jointed in an approved manner and be free of cracks, crevices, or cavities.

**3.15.4 Metal Framework**

Metal framework (if required) is to be as outlined in Section 3.11.

**3.15.5 Decorative Cladding**

Decorative cladding to counters or bars and any space, crevice or cavity formed between the facade, fittings, equipment, walls etc. is to be made proof against the access of vermin.

**3.15.6 Counters and Bar Tops**

In relation to counters and bar tops, the following requirements apply:

- a) ~~Are to be free of c~~Cracks, crevices, or cavities are not to be present.
- b) The finished surface of the top and edge are to be smooth, durable, and impervious.
- c) Are to be finished on the underside with a smooth, durable impervious finish which may include glass, paint, clear lacquer, or welded sheet vinyl.

**3.15.7 Protection of Food**

All food displayed on bars, counters, ~~self-services~~self-service cafeterias, smorgasbords, and similar positions, is to be adequately protected from contamination from customers' breath, handling, smoking or from flies, dust, and other contamination. (~~See~~ Figures 8, 9, 10 and 11).

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**3.15.8 Self Service Display Designs**

Glass cabinets, louvred display counters and smorgasbord protection designs shall comply with design criteria as in the appended diagrams. (~~See~~ Figures 8,9,10 and 11).

**3.15.9 Supports**

Freestanding counters and bars may be supported on approved wheels, plinths, legs, castors, brackets, or framework, as outlined in Section 3.11.

**3.15.10 Refrigerated Milk Bar Counters**

Refrigerated milk bar counters and similar refrigerated bar counters are to be designed as outlined in Section 3.10.

**3.15.11 Drink Dispensing Equipment**

All drink dispensing equipment is to be installed in an approved manner. Motor units are to be supported as outlined in Section 3.11.

**3.15.12 Post Mix Service**

All post mix units are to be installed as outlined in Section 3.11.

**3.15.13 Safety Glass**

All glass used in the construction of equipment in which food is displayed is to be safety glass.

**3.15.14 Exposed Edges**

Glass shelving, sneeze guards and ~~the likes~~ similar are to have exposed edges bevelled and where necessary protected to prevent chipping.

**3.16. Cupboards and Cabinets****3.16.1 Construction**

Cupboards and cabinets shall be constructed of glass, metal, plastic, timber sheeting or other approved material.

**3.16.2 Timber Sheeting**

Timber sheeting is to be of solid core or similar timber sheeting, glued and jointed in an approved manner, free of cracks crevices or cavities.

**3.16.3 Framework**

Metal framework (if required) is to be as outlined in Section 3.11.

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##### 3.16.4 Backing Materials

Plywood, hardboard, and similar materials used for “backing” to cupboards and cabinets is not permitted unless the rear of the backing material is in an accessible position and coated with a smooth durable finish.

##### 3.16.5 Cupboard and Cabinet Doors

Sliding doors are to be hung from the top of the door and the bottom guides or runners are to be open ~~so as to~~ permit food spillage to fall through to the floor or, alternatively, the bottom guides or runners may be terminated at least 25mm from each end of the door openings so as to permit easy cleaning.

##### 3.16.6 Finish

The surface finish, both internally and externally, including doors and shelving, is to be to an approved standard commensurate with the use of the fitting.

#### **3.17. Shelving**

##### 3.17.1 Shelving Types

Shelving shall be freestanding or fixed.

##### 3.17.2 Materials

Shelving shall be constructed of glass, metal, plastic, solid core timber or other approved material.

##### 3.17.3 Absorbent Materials

The use of particle board or similar absorbent material is not permitted unless the shelving is laminated on all surfaces with an approved impervious material. (~~See also~~ Section 3.15.14 and Figure. 6).

##### 3.17.4 Timber Framing

Timber framing of shelving shall not be permitted; metal or similar approved material shall be used.

##### 3.17.5 Backing

Plywood, hardboard, and similar materials used for “backing” to shelving are not permitted unless the rear face of the backing material is in an accessible position and coated with a smooth durable finish.

##### 3.17.6 Freestanding Shelving

Freestanding shelving shall be supported on wheels, legs, castors, or framework as outlined in Section 3.11.

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**3.17.7 Shelf Clearances**

All shelving is to be kept at least 25mm clear of walls and vertical surfaces unless the joint between the shelf and the wall or other vertical surface is sealed in such a manner as to eliminate any open joint, space, crevice or cavity which will allow liquids, food particles, grease, or other refuse to collect.

**3.17.8 Surface Finish**

The surface of shelving, including edges, is to be smooth, durable, non-absorbent, and free of cracks, crevices, or cavities.

**3.17.9 Stainless Steel Shelving**

In kitchens, food preparation areas and similar wet areas, where direct contact with food may occur shelving and supports shall be constructed only of stainless steel- ~~(See Figure 6-).~~

**3.18. Benches, Draining Boards and Tables**

**3.18.1 Materials**

Benches, draining boards, ~~table-top~~tabletops, ~~etc. and similar~~ are to be of rigid smooth faced non-absorbent, durable material, free of cracks, ~~crevices~~crevices, or cavities such as stainless steel or other approved material.

**3.18.2 Surface Finish**

The surface finish is to be of an approved type, commensurate with the use.

**3.18.3 Stainless Steel Surfaces**

In kitchens, food preparation areas and similar wet areas, where direct contact with food may occur, bench and ~~table-top~~tabletops shall be constructed of stainless steel.

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**PART C - WASHING FACILITIES, OTHER FACILITIES & SPECIAL REQUIREMENTS**

**3.19. Washing Facilities**

3.19.1 Eating and Drinking Utensils Washing Facilities

The following washing facilities are to be provided for the cleaning of eating and drinking utensils:-

- a) A sufficient number of efficient dish-washing and/or glass washing machines; and/or
- b) A double bowl sink and/or two compartment tubs.

3.19.2 Temperature Indicator

Each ~~dish-washing~~dishwashing and glass washing machine shall be fitted with a thermometer which is visible to the operator and show operating temperatures as required by respective State legislation.

3.19.3 Rinsing Cycle

The rinsing cycles shall be operated at a temperature of not less than 80°C or at any higher temperature required by respective State legislation.

3.19.4 Water Temperature

One bowl of each double sink or one compartment of each two-compartment tub shall be supplied with hot water at a temperature of not less than 43°C, together with sufficient soap or detergent for effectively washing the eating and drinking utensils and the other shall be supplied with hot water at a temperature of not less than 80°C, for the final rinsing of the eating and drinking utensils or at any higher temperature required by respective State legislation.

3.19.5 Thermometers

In all cases in which the cleansing of eating and drinking utensils is carried out in double bowl sinks or two compartment tubs, thermometers accurate to plus or minus 1°C, shall be provided convenient to the sinks or tubs to permit frequent checks of the water temperatures.

3.19.6 Rinsing Basket

The bowl or tub used for rinsing shall be provided with approved facilities (~~eg~~-e.g., wire basket with high handles) so that all surfaces of every utensil immersed in rinse water are exposed to such water for 30 seconds.

3.19.7 Equipment Washing Facilities

For tools of trade, benches, fittings, machinery, and utensils and implements (other than those in Section 3.19.1) a pot sink or single bowl tub shall be provided.

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3.19.8 Hot and Cold Water

Such equipment washing facility (Section 3.19.7) is to be provided with an adequate supply of hot and cold water under pressure; the hot water temperature shall be not less than 43°C.

3.19.9 Hand Washing Facilities

Hand washing basins shall be provided in sufficient number in close proximity to where food is prepared; with hot and cold water provided to each, together with a sufficient supply of soap and hand drying facilities. Hot water shall be at a temperature of 40°C or any higher temperature required by respective State legislation.

3.19.10 Mixing Device

Hot and cold water shall be supplied to the hand wash basin through an approved mixing device which can be adjusted to enable hands to be washed under warm ~~hot~~ running water.

3.19.11 Hand Drying Facilities

Hand drying facilities include single use towels, air dryers or other approved hand drying facilities

3.19.12 Location of Hand Basins

The positioning of hand wash basins is determined by the operations of each area and is subject to approval in each individual case.

3.19.13 Accessible Locations

Hand wash basins should be of the freestanding type and are not to be installed under benches or similar fittings and are to be readily accessible during hours of operation.

3.19.14 Preparation Sink

A separate sink shall be required when foodstuffs need to be prepared by immersion in water.

~~Hot and Cold Water~~

~~Such a sink is to be provided with an adequate supply of hot and cold water under pressure; the hot water temperature shall be not less than 43°C.~~

3.19.15 Capacity of Hot Water Systems

Hot water systems must be capable of supplying adequate hot water at minimum temperatures as outlined above at all times, especially at peak washing up periods.

3.19.16 Washing Facilities for Floors

#### Food Premises Policy

A cleaner's sink may be required for the cleaning of floors and such a sink is to be provided with an adequate supply of hot and cold water under ~~pressure, and~~pressure and is to be located in a room or space away from any food preparation area.

#### 3.19.17 *Hose Connections*

Where the floor is drained to an approved sanitary fitting, hot and cold water taps, fitted with hose connections, may be required to be installed in an approved position at least 600mm above the floor.

### **3.20. Food Conveyors (Dumbwaiters)**

#### 3.20.1 *Vertical Lift Conveyors*

Dumb-waiters are to be constructed with an approved metal compartment with rounded internal angles and free from any cracks, open joints, and crevices capable of holding food refuse and vermin.

#### 3.20.2 *Cleaning Access*

Any "well" formed at the bottom of a conveyor shaft capable of holding refuse, is to be constructed as to provide access for easy cleaning.

#### 3.20.3 *Safety Regulations*

Such access shall be provided in accordance with any installation and safety regulations of the relevant authorities.

#### 3.20.4 *Shaft Construction*

Where the walls are constructed in solid materials such as bricks, concrete, etc. these walls shall be cement rendered internally to a smooth even finish and coved at all angles.

#### 3.20.5 *Horizontal Food Conveyors*

Horizontal food conveyors are to be constructed of angle iron, channel iron, "T" iron, tubular framing, or other approved material, with access panels to give reasonable access for maintenance and easy cleaning.

### **3.21. Oyster Opening Bays or Areas**

*This pertains to oyster opening bays or areas for retail restaurants and not seafood processing businesses. The latter require a Food Authority licence.*

#### 3.21.1 *Separate Area*

A separate room or area is to be provided for the hosing down and shucking-opening of oysters.

#### 3.21.2 *Construction*

The floor and walls of any room or place used for the hosing down and the opening of oysters, shall be constructed of solid material and finished in an approved manner.



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**Food Premises Policy**

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**3.21.3 Drainage**

Adequate drainage shall be provided to such room or area; grit arresters may be required.

**3.21.4 Running Water**

All sinks used in conjunction with the opening of oysters are to be provided with running potable water.

**3.21.5 Storage Racks**

Bagged oysters are to be stacked at least 300mm above the floor on approved racks or stands

**3.22. Window Displays****3.22.1 The Display Shelf**

The window display shelf shall be of rigid smooth faced non-absorbent material, free of cracks or crevices – such as stainless steel or other approved material.

**3.22.2 Coved Intersections**

Where wet foods such as meat, fish and the like are displayed, the display shelf is to be coved at all intersections and graded and drained in an approved manner.

**3.22.3 Waste Discharge**

An air gap is to be provided between the discharge wastepipe and the connection to the sewerage service.

**3.22.4 Supports**

Display shelving shall be supported on approved wheels, legs, brackets, castors, or framework or on solid construction. ~~(See (Section 3.11-).~~

**3.23. Staff Dressing Room Accommodation****3.23.1 Dressing Room or Changing Area**

Adequate dressing room accommodation shall be provided for male and female staff, and sufficient lockers shall be provided for all clothing and personal effects.

**3.23.2 Cleaning Materials and Equipment**

Adequate facilities such as a cleaners' room, locker or suitable cupboard shall be provided for the storage of cleaning equipment and material. ~~(See (Section 3.7.1).~~

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**Food Premises Policy**

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**3.24. Toilet Accommodation****3.24.1 Staff Toilet Facilities**

Adequate toilet accommodation and handwash facilities with hot and cold water together with an adequate supply of soap (and appropriate sanitisation) and hand drying facilities shall be provided for male and female staff during hours of operation.

**3.24.2 Air locks**

Internal water-closet compartments are to be entered through an air lock.

**3.24.3 Customer Toilet Accommodation**

Adequate customer toilet facilities shall be provided in accordance with the requirements of the Building Code of Australia.

**3.25. Ventilation****3.25.1 Comfort Ventilation**

Ventilation is to be provided either by natural means or by an approved mechanical ventilating system.

**3.25.2 Kitchen Exhaust Ventilation**

Where cooking or extensive heating processed or such other processes as may be specified are carried out in the kitchen or in food preparation areas, an approved mechanical ventilating exhaust system shall be installed and operated in accordance with Australian Standard AS 1668 2-2012 – Mechanical Ventilation in Buildings. Part 1 and 2.

**3.25.3 Special Areas**

Toilets, garbage rooms, grease arrester rooms shall be either adequately ventilated or shall be ventilated by an approved mechanical exhaust ventilating system.

Food Premises Policy

**PART D - GENERAL ADVICE**

**3.26. Food Business Notification ~~Registration~~ and ~~Inspection~~ Fees**

Council's Environmental Health Officers carry out ~~scheduled~~regular inspections of food premises and an annual inspection and administration fee is charged. ~~to offset the costs associated with this service.~~ A register is ~~also~~ maintained of all food premises that have notified with Council In accordance with clause 4 to Standard 3.2.2 of the Food Standards Code.:-

**3.27. Requirements for Trading**

~~Food premises annual inspection fee.~~

Prior to commencing trade, the following requirements must be addressedis required:-

- a) A completed Notification of Food Business form must be submitted to Council.
- b) A Food Safety Supervisor must be appointed to the food business and certificate kept on the premises.
- c) The premises must comply with the requirements of the Food Act 2003 and Food Regulation 2015 at all times.

~~The premises must at all times comply with the requirements of the relevant Act and Regulations in respect of cleanliness, sanitation, construction, ventilation and lighting.~~

~~Persons failing to comply with the provisions of the Acts and Regulations could be subject to legal proceedings.~~

**3.28. Approvals**

Development consent may be required when the use of a premises changes and the sale or processing of food is involved. Contact the Duty Development Planner in Council's City Development and Environmental Services Group Directorate for advice as to whether an application is required before operating or commencing any work.

**DO NOT COMMENCE ANY WORK UNTIL YOUR APPLICATION HAS BEEN APPROVED**

This work could involve new construction, alterations, installation of cooking equipment, mechanical ventilation systems, toilet accommodation – all of which could prove costly if you proceed without approval and proper advice.

**3.29. Plans**

Premises requiring structural alterations, or the installation of a mechanical exhaust ventilation system may require development consent and approval to construct.

~~Plans submitted must be in triplicate and show interior layout of the building, location and method of installation of all fittings, etc., wall, floor and ceiling finishes, lighting and ventilation details.~~

#### Food Premises Policy

Plans must be submitted to the Council and approval obtained before any work is commenced. Plans must include the following ~~details:- details:-~~

- a) ~~A floor plan showing the location of the cooking station/exhaust ventilation, cool room/refrigeration units, dry store/pantry, hand wash facilities, toilets, floor wastes and any Location of the room in relation to any existing walls, windows or door openings to of~~ the premises.
- b) ~~The construction and finish treatments to walls, floors, and ceiling.~~
- c) ~~The method of joining prefabricated sections, e.g., cool room panels.~~
- a)
- b) ~~The specific use for each cool room and operating temperature.~~
- e) ~~The construction and finish of walls, floor and ceiling.~~
- d) ~~The method of joining prefabricated sections.~~
- e) ~~Details of hanging bars, storage racks, etc.~~
- f) ~~Noise control measures.~~
- g) ~~Safety Requirements.~~

**Note:** ~~The structural stability of cool rooms and the floor loading must be in accordance with the requirements of the manufacturer or structural engineer's requirement. Prior to operation it will be necessary to arrange an inspection by one of Council's Environmental Health Officers. Permission will not be granted to operate unless the premises complies with the requirements of the:-~~

- a) ~~Food Act 1989 and Food General Regulations 1992.~~
- b) ~~Development Consent and/or Construction Certificate where applicable.~~

#### 3.30. Advice and Assistance

The standard of construction set out herein have been designed to meet the requirements of the Food Act and Regulations for the purpose of assisting you in planning your food premises.

Council's City Development ~~Directorate Group~~ will provide advice on:

- a) Whether or not an application is required and the type of application that should be ~~submitted; submitted.~~
- b) Standards for construction and fitting out the ~~premises; premises.~~
- c) Application ~~fees; fees.~~
- d) Submission of ~~plans; plans.~~
- e) ~~Notification Registration~~ of Food ~~premises; premises.~~
- f) All aspects of ~~safe food good~~ handling.

For information regarding application requirements, please contact the Development Duty Planner. For all other information regarding food shops and food handling please contact your District Environmental Health Officer on 4429 3453.

#### 3.31. Liquor Licence

Should you require a liquor licence you are advised to apply to Liquor & Gaming NSW. ~~the Police Licensing Court immediately.~~

## Food Premises Policy

### 3.32. Other Authorities

Some other authorities you may need to consult ~~are:-are:-~~

~~Your energy provider Integral Energy~~ for electricity ~~and gas~~ requirements/~~and~~ appliances.

Council's ~~Shoalhaven Water Group-Utility~~ for water supply, ~~sewerage availability and plumbing and drainage e.g.,~~ Liquid Trade Waste requirements.

Council's ~~City Services Group-Directorate~~ for garbage ~~and recycling collection disposal~~.

The ~~NSW Food Authority~~ for food businesses where a licence is required

- ~~Dairy~~
- ~~Egg Production~~
- ~~Meat~~
- ~~Plant Products~~
- ~~Seafood~~
- ~~Shellfish~~
- ~~Food Service to Vulnerable Persons~~
- ~~Transportation Vehicles related to any of the above foods~~

~~The Department of Industrial Relations~~ for staff amenities, mechanical equipment, safety and registration of your shop.

~~The Dairy Industry Authority~~ for a milk licence.

~~Safe Work NSW~~ for advice on the management of safety hazards and their appropriate mitigation.

### 3.33. Education for Food Handlers

~~Council regularly conducts education for food handlers detailing correct food handling techniques and basic food hygiene. Council strongly recommends that any persons working within the food industry attend. Please contact Council's Development and Environmental Services Group for information on the date and venue of the next food hygiene seminar~~

## 4. Implementation

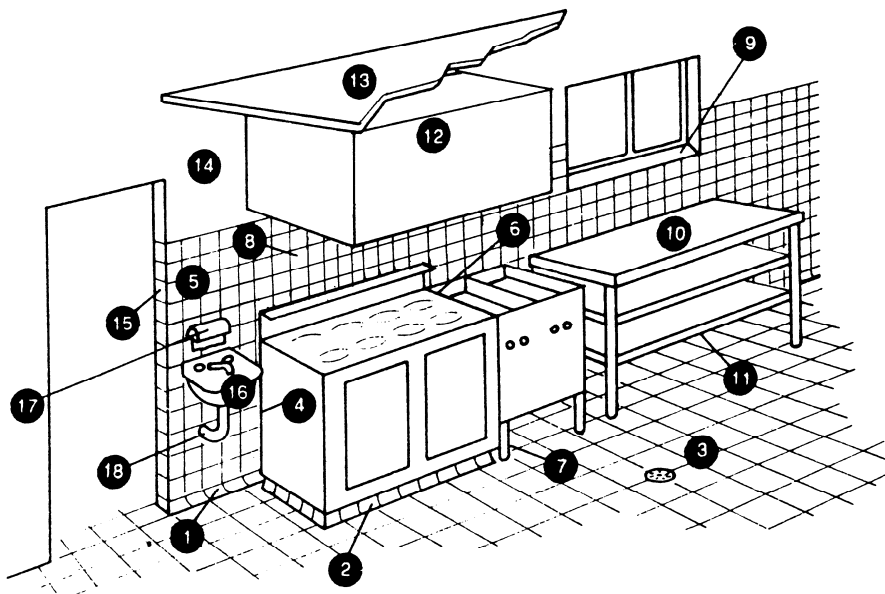
The ~~City Development and Environmental Services Group-Directorate~~ has responsibility to ~~is responsible for the implementation of implement~~ this ~~p~~Policy through assessment of development applications and food premises inspections.

## 5. Review

This policy will be reviewed within one year of the election of every new Council, or earlier should circumstances change to warrant a review.

**Food Premises Policy**

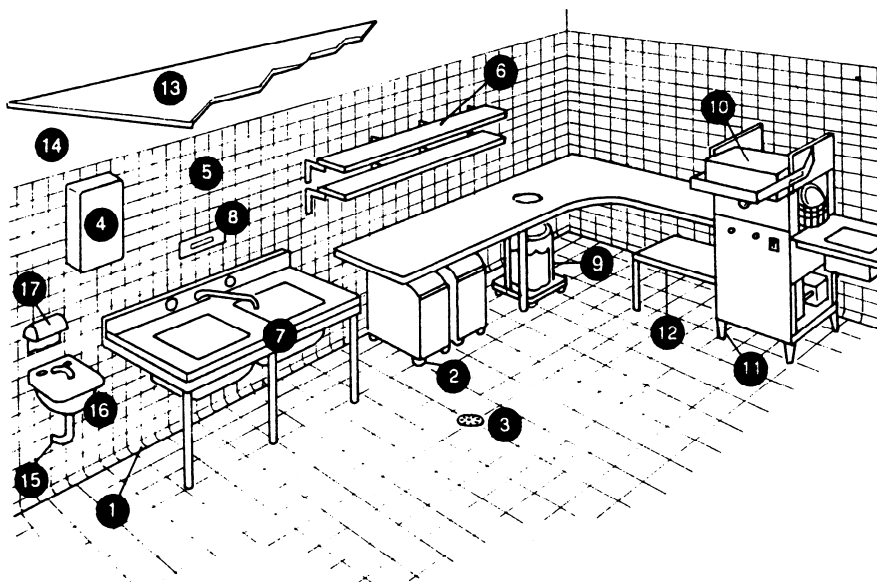
**Figure 1. Requirements – Typical Food Preparation Area**



- |                                              |                                                |
|----------------------------------------------|------------------------------------------------|
| 1. Floor/wall coving                         | 10. Preparation bench – steel framed           |
| 2. Plinth not less than 75mm high            | 11. Bottom shelf min. 150mm above floor        |
| 3. Impervious floor graded and drained       | 12. Mechanical exhaust ventilation canopy      |
| 4. Fittings sealed to wall or 200mm clear    | 13. Rigid smooth faced ceiling                 |
| 5. Walls tiled to 2000mm                     | 14. Smooth cement rendering                    |
| 6. Sealing between fittings                  | 15. No timber door frames                      |
| 7. Legs 150mm min.                           | 16. Hand basin, hot & cold water mixing set    |
| 8. No storage shelves below canopy           | 17. Soap and towel dispenser                   |
| 9. Splayed windowsill 300mm above prep bench | 18. Water and drainage pipes concealed in wall |

Food Premises Policy

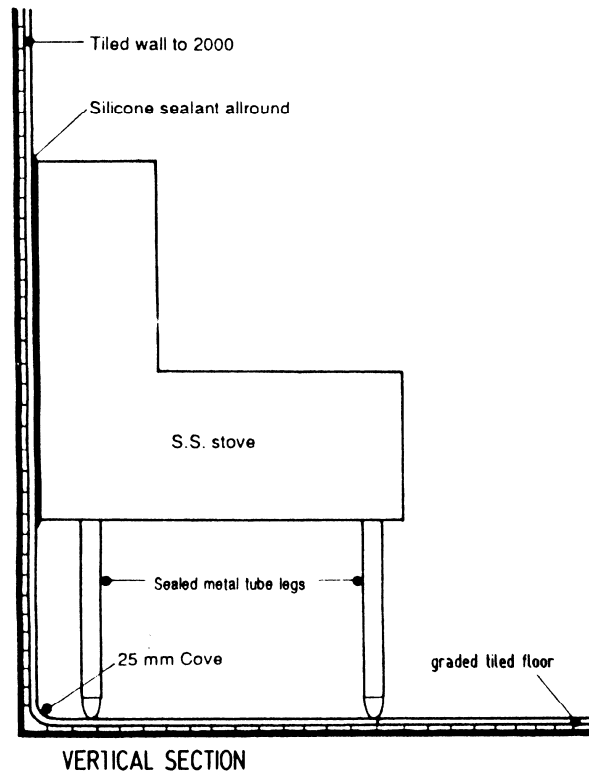
**Figure 2. Requirements – Typical Wash-up Area**



- |                                      |                                                   |
|--------------------------------------|---------------------------------------------------|
| 1. Floor/wall coving                 | 10. Dishwasher with temperature indicating device |
| 2. Castors to under bench storage    | 11. Legs 150mm min.                               |
| 3. Impervious floor graded & drained | 12. Bottom shelf min. 150mm above floor           |
| 4. Hot water heater sealed to wall   | 13. Rigid smooth faced ceiling                    |
| 5. Walls tiled to 2000mm             | 14. Smooth cement rendering                       |
| 6. Shelving 25mm clear of wall       | 15. Water and drainage pipes concealed into walls |
| 7. Sink unit on metal frame          | 16. Hand basin, hot and cold water mixing set     |
| 8. Thermometer                       | 17. Soap and towel dispenser                      |
| 9. Garbage receptacle                |                                                   |

Food Premises Policy

**Figure 3. Typical Arrangement – Stove to Wall**

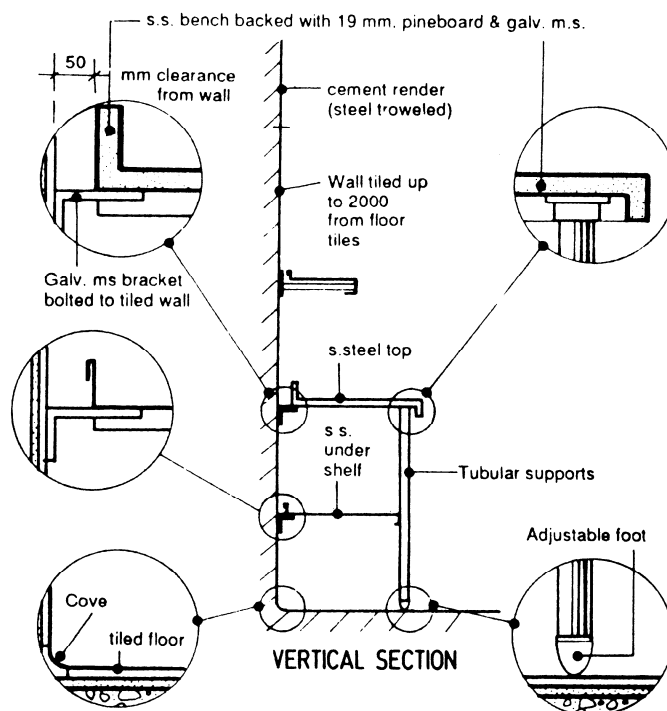


CL22.340 - Attachment 1



Food Premises Policy

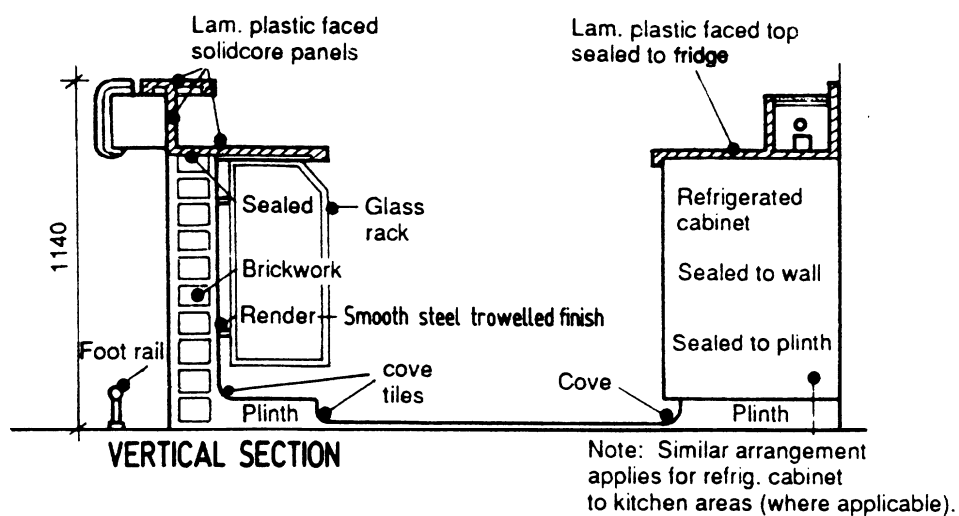
**Figure 4. Typical Arrangement – Wall Bench**



CL22.340 - Attachment 1

Food Premises Policy

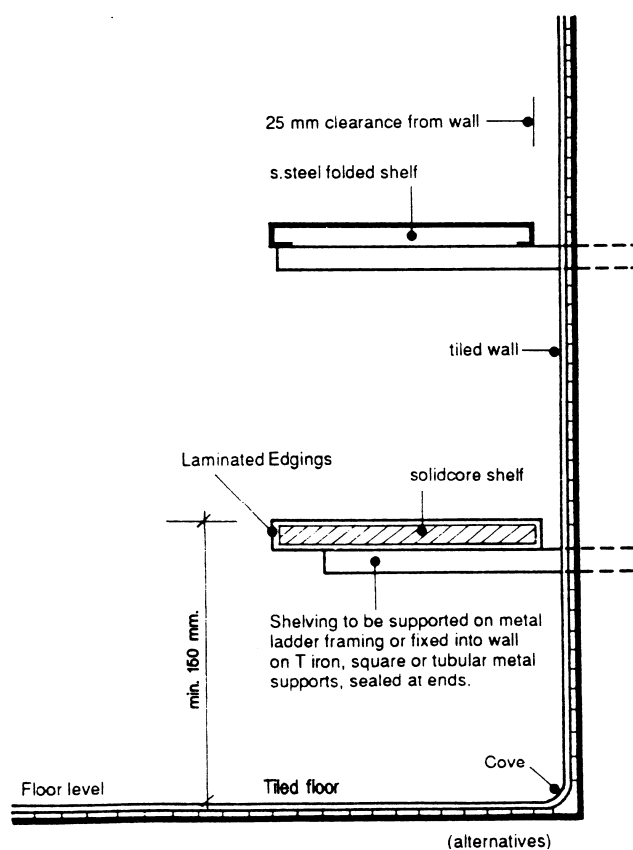
**Figure 5. Typical Bar and Plinth Arrangement**



CL22.340 - Attachment 1

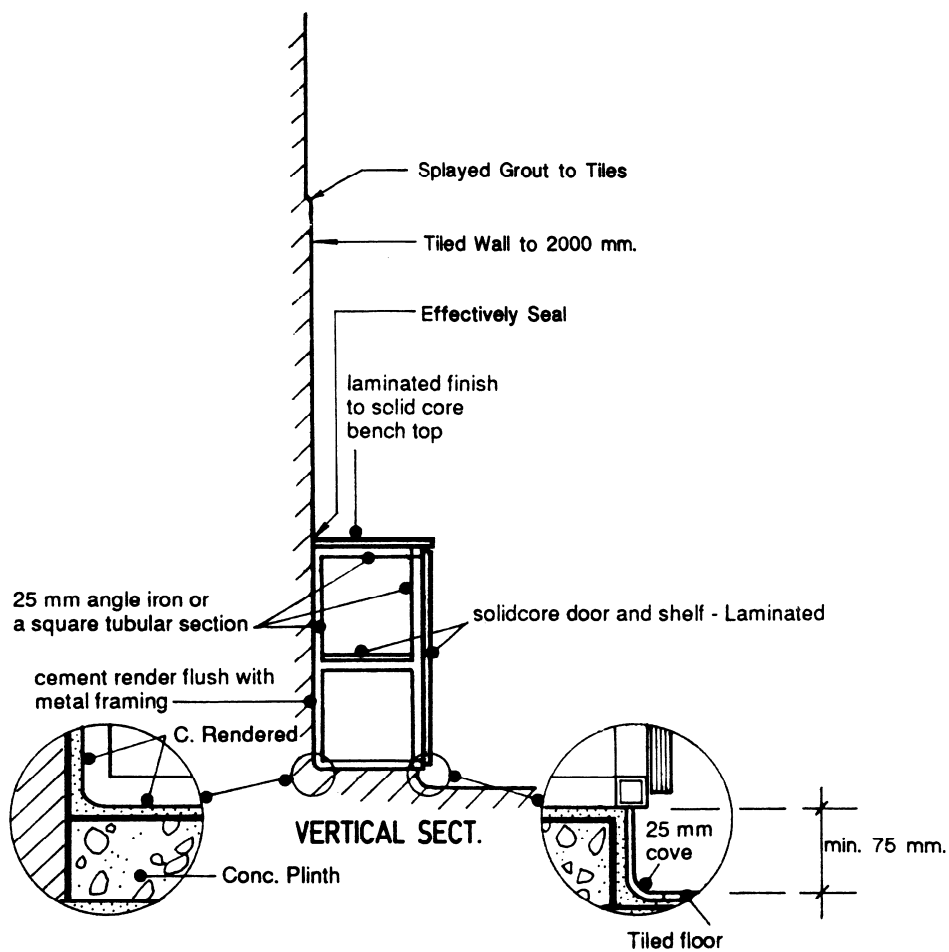
Food Premises Policy

**Figure 6. Typical Arrangement – Shelving**



Food Premises Policy

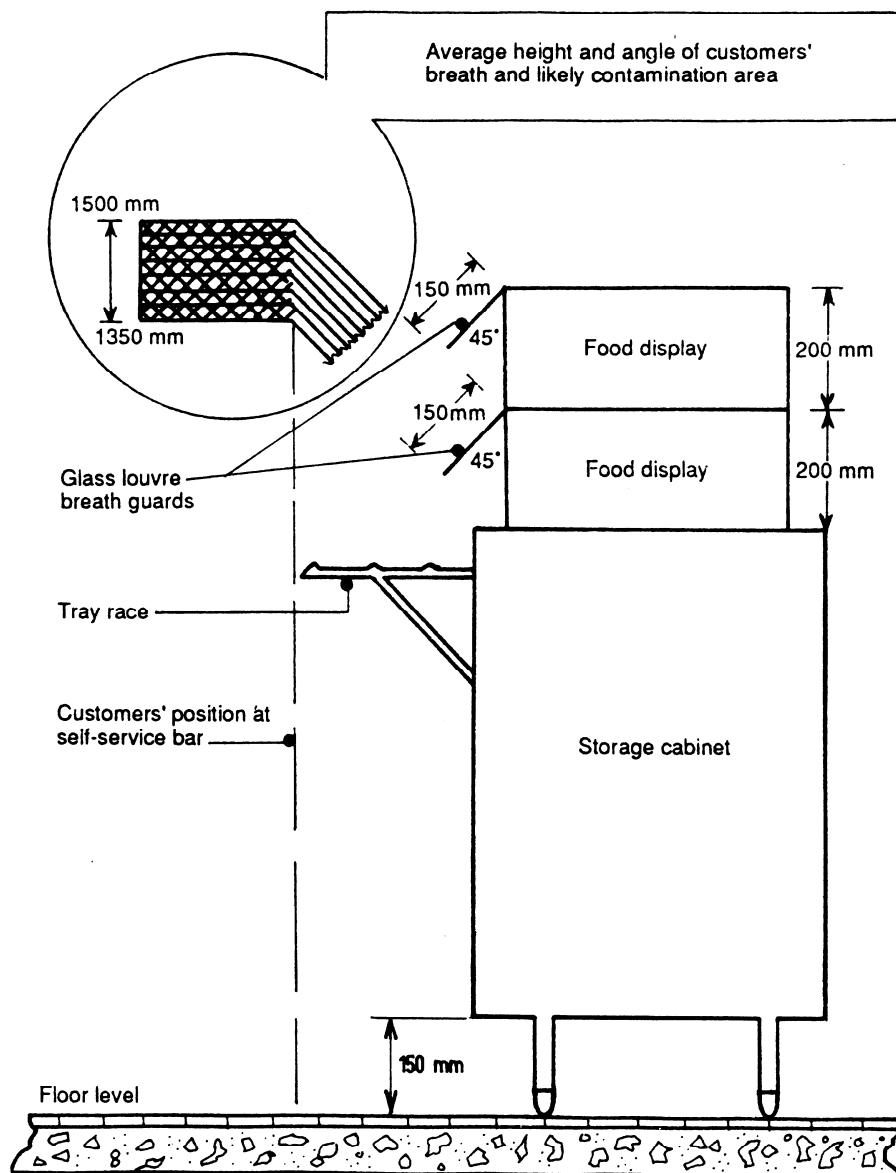
Figure 7. Typical Arrangement – Wall Cupboard (on plinth)



CL22.340 - Attachment 1

Food Premises Policy

Figure 8. Cafeteria Type Self-Service Food Bar



CL22.340 - Attachment 1

Food Premises Policy

Figure 9. Self-Service Appliance without Tray Race

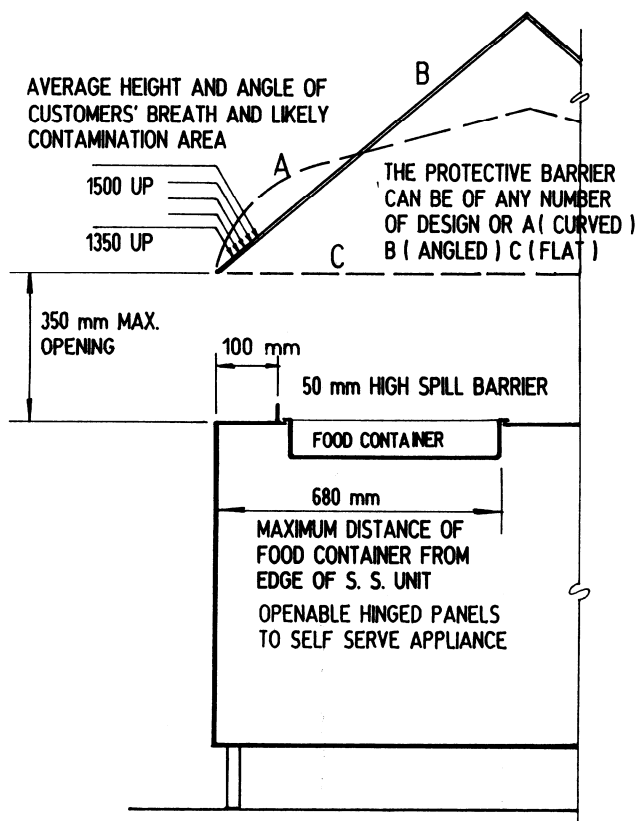
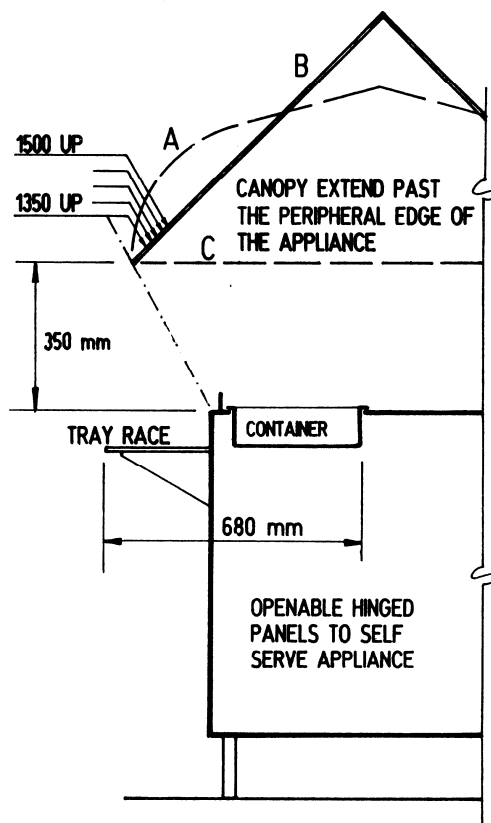


FIG. 9 SELF SERVICE APPLIANCE  
WITHOUT TRAY RACE

CL22.340 - Attachment 1

Food Premises Policy

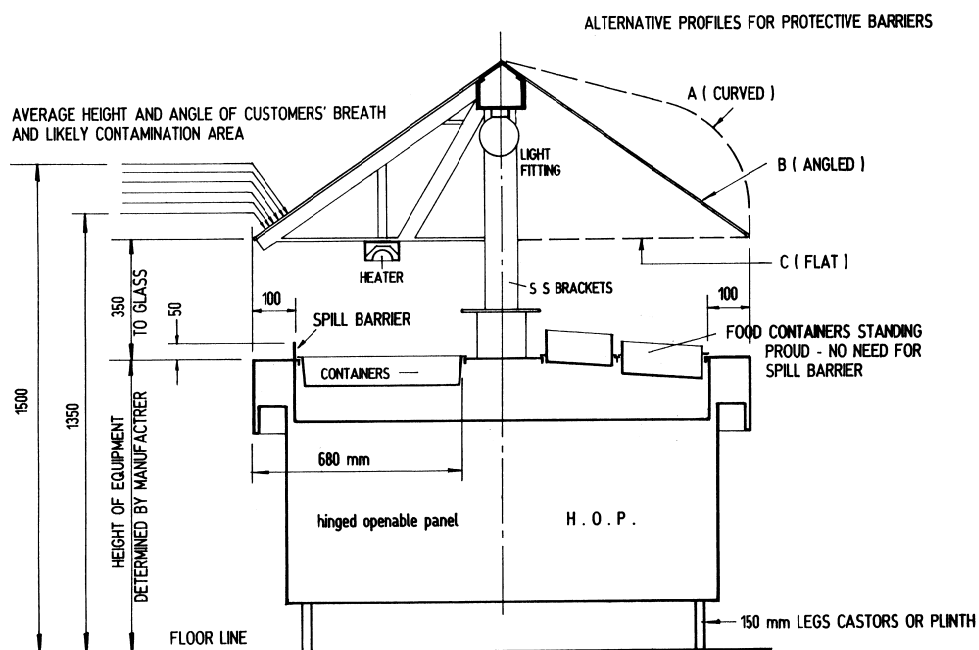
Figure 10. Self-Service Appliance with Tray Race



CL22.340 - Attachment 1

Food Premises Policy

Figure 11. Self-Service Appliance without Tray Race



CL22.340 - Attachment 1



Food Premises Policy

**Appendix 1 - Alterations/Extensions to Existing Timber Framed Food Premises**

Each case will be dealt with on its merits and is subject to the specific approval of the ~~Development and~~ Environmental Services Manager and the following minimum standards will apply –

1. Premises for dry food storage and/or general retailing.
  - a) Timber framed walls and ceiling to be fully lined with an approved smooth faced material.
  - b) Timber quadrant shall be installed at corner of floor covering and wall sheeting. Alternatively, the floor covering may be returned about 80mm up the inner face of wall to provide a coved effect by insertion of a timber infill, suitably shaped adjacent to wall stud surface and under the floor covering.
  - c) Floor covering shall be fixed ~~by the use of~~fusing an adhesive recommended by the floor covering manufacturer, to the timber flooring.
  - d) As concrete plinths below fittings on timber floors are impractical, it is suggested that all fittings and shelving be supported on round legs or cantilevered from walls to provide the minimum clearances of 75mm, 150mm, 200mm, 300mm as separately detailed.
2. Premises for cooking, i.e., an existing food shop to be adapted or converted to a Refreshment Room type premises.
  - a) Cooking/food preparation area. Uncovered timber board flooring will not be approved. Floor may be either a full concrete floor as per Section 2 of this Code, or approved wet area type floor sheeting shall be installed as follows –
 

Joists supporting the approved sheeting are to be fixed in accordance with the manufacturer's recommendations. Floor tiles or ~~heavy-duty~~heavy-duty vinyl shall be installed and graded to the floor waste.

Walls shall be provided with glazed ceramic tiles (or other approved materials) to a height of 2 metres above floor level (See Item 1). The remaining wall section shall be painted or covered with smooth faced material for ease of cleaning.

Junctions at walls and floor shall be a coved tile or rendered to a 25mm radius.
  - b) General retailing area – non-cooking/food preparation area (i.e., customer area of shop) – Timber floor shall be covered with a heavy-duty vinyl flooring material, all joints heat sealed and flooring covering glued to timber surface.

Fittings shall be supported above the floor as detailed in Section 12.

Extension of existing timber framed food shop to provide cooking area. The entire extension, if to include the cooking/food preparation area in whole or in part, shall comply in full with the general standards of construction, i.e., concrete floor, brick walls, etc. (See Sections 1 and 2).

All other requirements of the ~~Policy Code and shall~~, where applicable still apply.

## CL22.341 Policies - Control and Eradication of Priority Weeds and Pesticide Use Notification Plan

**HPERM Ref:** D22/287359

**Department:** Environmental Services

**Approver:** James Ruprai, Director - City Development

**Attachments:** 1. Draft Policy - Control and Eradication of Priority Weeds [↓](#)  
2. Draft Policy - Pesticide Use Notification Plan [↓](#)

### Reason for Report

All Public Policies are to be submitted to Council within 12 months of the election of Council. This report summarises the proposed updates made to the Control and Eradication of Priority Weeds and Pesticide Use Notification Plan Policies.

### Recommendation

That Council:

1. Adopt the revised and retitled Control and Eradication of Priority Weeds Policy (previously titled Noxious Weeds Control and Eradication).
2. Adopt updates to the Pesticide Use Notification Plan.

### Options

1. Adopt the recommendation as written

Implications: The revised policies will ensure that Council retains policy to implement weed management under the *Biosecurity Act 2015* (along with the Pesticide Use Notification Plan required under the *Pesticides Regulation 2017*).

2. Not adopt the recommendation

Implications: Council can request further details, seek further community input, or make other changes. The implications will depend on the resolution of Council.

### Background

The [Control and Eradication of Priority Weeds Policy](#) relates to the management of Priority Weeds within the Local Government Area. Priority Weeds are plants that have the potential to pose a biosecurity risk to human health, the economy, aesthetics, and natural environmental resilience.

The Pesticide Use Notification Plan outlines how Council will notify the community of pesticide applications in outdoor public places. This notification allows community members to avoid contact with pesticides.

### Proposed Changes to Policy

Minor changes have been made to both policies to reflect the contemporaneous nature of in-force legislation.

CL22.341

In summary, the following changes have been made to the Control and Eradication of Priority Weeds Policy:

- Change of the name of the policy to include 'Priority Weeds' as 'noxious weeds' is no longer applicable under the *Biosecurity Act 2015*.
- Section 2 – Statement: Inclusion of information regarding the importance of Priority Weed management.
- Section 3 – Provisions: Word and terminology changes to reflect the management of Priority Weeds, added safety considerations (following herbicide specimen label and Safety Data Sheet requirements), and removal of the private hire availability of Council's spraying units.

In summary, the following changes have been made to the [Pesticide Use Notification Plan](#) Policy:

- Section 1 – Introduction: staff training requirements included.
- Updates required to legislation references due to the *Pesticides Regulation 2009* being repealed and replaced with the in-force *Pesticide Regulation 2017*.

# Control and Eradication of ~~Noxious Priority Weeds~~ ~~(under the Biosecurity Act~~ ~~2015 )~~

<b>Adoption Date:</b>	02/10/1984
<b>Amendment Date:</b>	19/10/2004, 20/11/2007, 28/07/2009, 14/10/2014, 21/02/2017
<b>Minute Number:</b>	MIN84.2702, MIN04.1322, MIN07.1645, MIN09.973, D14/268923, MIN17.95
<b>Review Date:</b>	01/12/2020
<b>Directorate:</b>	City Development
<b>Record Number:</b>	POL22/22

## Control and Eradication of ~~Noxious~~ Weeds

### 1. Purpose

Shoalhaven City Council's objective is to ~~prevent, eliminate or minimise control or eradicate all scheduled noxious weeds~~ Priority Weeds within ~~the City area~~ the Local Government Area (LGA).

### 2. Statement

~~This policy statement is based on Council Minute 84.2702 of 2<sup>nd</sup> October 1984. Council amended the policy by Minute 04.1322 of 19<sup>th</sup> October 2004. Refer to the report to Policy and Planning Committee (TRIM reference D04/95253) for details of amendments.~~

The presence of weeds is a risk to the environment and agricultural lands. They have a cumulative impact on natural areas by predominantly displacing native vegetation and decreasing biodiversity values, as well as attracting pest animals. Weeds can damage crops, increase susceptibility to land degradation and can reduce farm productivity.

Priority Weeds are plants that have the potential to pose a biosecurity risk to human health, the economy, aesthetics, and natural environmental resilience. As such, Priority Weeds are those that create the highest level of risk in accordance with the *Biosecurity Act 2015* (the Act). These are broken up into State, Regional and Local Priority Weeds species for the Shoalhaven LGA (Priority Weeds for the Southeast) and can be found on the NSW Department of Primary Industries – NSW Weedwise website: <https://weeds.dpi.nsw.gov.au/WeedBiosecurities?Areald=114>

~~Council is responsible for the control of Priority scheduled noxious weed control weeds~~ on Council owned and managed land. –

- ~~i. All roadside areas,~~
- ~~ii. Council owned land,~~
- ~~iii. Land under the control of Council,~~
- ~~iv. Crown Land on behalf of the State Government subject to available funds.~~

~~Council is also required under the *Biosecurity Act 2015* the Act Noxious Weeds Act 1993 to ensure that private landowners and oOccupiers within the City area LGA are taking reasonable and effective measures meeting their obligations under the Act to control scheduled Priority noxious weeds on privately owned land.~~

### 3. Provisions

- a. Council's Policy is to progressively reduce ~~scheduled Priority noxious weeds growing on these areas in a responsive, strategic strategic, and ongoing way.~~ To achieve this Council shall:
  - i. Provide adequate resources for the effective management of all matters relating to the control and eradication of ~~scheduled Priority noxious weeds~~ through the appointment of appropriately authorised officers under the Act, within the City area within its budget capacity

Control and Eradication of ~~Noxious~~ Weeds

- ii. Set an example to land-holders by controlling or eradicating all ~~scheduled~~ Priority noxious Weeds growing on all land under the control of Council.
- iii. Carry out regular property inspections throughout ~~the City area~~ the LGA to determine the degree of ~~scheduled~~ Priority noxious Weed infestation ~~with a strategic focus on high-risk weeds in order to seek compliance with the Act from owners/occupiers.~~
- iv. Keep accurate records and maps detailing the type and extent of infestation of ~~scheduled~~ Priority noxious Weeds within the ~~City area~~ LGA.
- v. Aim to assist, educate, and advise landowners on the type of ~~weeds~~ Priority Weeds present and the best method of control.
- vi. Liaise with landowners to achieve maximum co-operation in implementing weed control ~~programmes~~ programs on private land.
- vii. Council shall enforce the provisions of the Biosecurity Act 2015 ~~Noxious Weeds Act 1993~~ for the ~~C~~ control of ~~scheduled~~ Priority Noxious Weeds on ~~P~~ private ~~L~~ land.
- viii. Keep abreast of modern control methods and chemicals available for control of weeds by having staff members attend conferences and field days, lectures etc., which deal with the control of ~~scheduled~~ Priority noxious Weeds.
- ix. Ensure the health and the safety of Council's staff and all members of the public are considered when purchasing spraying equipment and herbicide and before implementing spraying ~~programmes~~ in any areas. This shall be undertaken by strictly following the specimen label and Safety Data Sheets for the nominated herbicide.
- x. Notify the public prior to spray operations in accordance with Council's Pesticide Use Notification Plan.
- xi. Consider the protection of the environment before implementing spraying ~~programmes~~ . This shall be undertaken by strictly following the specimen label and Safety Data Sheets for the nominated herbicide.
- ~~xii.~~ Make available for private hire Council's spraying units on a full cost recovery contractual basis to encourage landowners and occupiers to carry out scheduled noxious weed eradication on their land.
- ~~xiii.~~ xii. Maintain Council's spraying plant and equipment to a high standard and ensure that all spraying operations are carried out in a safe and efficient manner.
- ~~xiv.~~ xiii. Encourage good public relations with private landowners, ~~concerned Rural Groups and Community Associations throughout the City area~~ through appropriate community stakeholder engagement programs.
- ~~xv.~~ xiv. Keep the public aware of all matters relating to ~~scheduled~~ Priority noxious Weed control by presenting displays ~~at local Shows and Field Days~~ at relevant exhibitions and making available ~~news media releases and articles concerning scheduled~~ Priority noxious Weed control ~~to local newspapers, radio stations and other media outlets.~~

#### Control and Eradication of ~~Noxious~~ Weeds

- ~~xvi.~~xv. Advise the ~~Noxious~~ Weeds Advisory Committee on the declaration of ~~scheduled~~Priority noxious Weeds within the ~~City LGA~~ and any other matter pertaining to the control of ~~scheduled~~Priority noxious Weeds.
- ~~xvii.~~xvi. Liaise with the Department of Primary Industries ~~and its Officers with regards to about~~ establishing field trials, holding ~~Field Days~~ exhibitions and presenting results of trials to landowners.
- ~~xviii.~~xvii. Communicate with ~~chemical and herbicide~~ spray equipment manufacturers to ensure that manufacturers are aware of Council requirements for sprays and spraying equipment and to ensure that Council is aware of the latest chemicals and application techniques available.
- ~~xix.~~xviii. Make available ~~an~~ information pamphlets ~~to all ratepayers~~ outlining ~~Council's Biosecurity Weeds Noxious Weeds Policy~~Priority Weeds, new information obtained in relation to effective control strategies and the methods of implementing this Policy.
- ~~xx.~~xix. Investigate means of alleviating financial hardship on landowners in relation to ~~scheduled~~ Priority noxious Weeds eradication.
- ~~xxi.~~xx. Make representations through its local members of Parliament for significantly increased grants that will assist to control ~~scheduled~~ Priority noxious Weeds.

#### 4. Implementation

The City Development Directorate has responsibility for implementing this policy.

#### 5. Review

The City Development Directorate will review this policy within one year of the election of every new Council.

# Pesticide Use Notification Plan

<b>Adoption Date:</b>	28/11/2006
<b>Amendment Date:</b>	28/07/2009, 21/06/2013, 16/05/2017
<b>Minute Number:</b>	MIN06.1644, MIN09.972, MIN13.600, MIN17.399
<b>Review Date:</b>	
<b>Directorate:</b>	City Development
<b>Record Number:</b>	POL22/23



## Pesticide Use Notification Plan

### 1. Introduction

This ~~P~~esticide ~~U~~se ~~N~~otification ~~P~~lan has been prepared by Shoalhaven City Council in accordance with the requirements of the Pesticides Regulation ~~2009-2017~~ (the Regulation).

The aim of this plan is to address Council's obligations concerning the use of pesticide under ~~section S~~ 4019 (1) (a) and (b) of the Regulation and to ensure that Council has given public notice of the proposed use of pesticides in accordance with this plan. Council will give public notice of the proposed use of pesticide in relation to pesticide applications made on any prescribed public place that is owned or controlled by Shoalhaven City Council. The plan allows members of the community to take action to avoid contact with pesticides if they wish. Council ensures pesticides are applied to its public places in a safe, responsible manner, minimising harm to the community or the environment. Council must also meet all other obligations under the Regulation including that staff involved have required training.

Other prescribed public places may be under the control of other public authorities, e.g., National Parks, State Forests, Water NSW, etc. These authorities are required to implement their own notification plans.

The plan describes: ~~The plan describes:~~

- What public places are covered by the plan.
- Who regularly uses these public places and an estimate of the level of use.
- How and when Council will provide the community with information about its pesticide applications in these public places.
- How the community can access this plan and get more information about Council's notification arrangements.
- How future reviews of the plan will be conducted.
- Contact details for anyone wishing to discuss this plan with Council.

### 2. Public Places Covered by this Plan

Council proposes to use or allow the use of pesticides in the following categories of outdoor public places that it owns or controls within the boundaries of the City of Shoalhaven:

- Community Land – Park and General Use including:
  - gardens
  - playgrounds
  - picnic areas
  - surrounds of community and operational buildings
  - surrounds of cemeteries and crematoria
- Community Land – Sportsground including:

#### Pesticide Use Notification Plan

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- sporting fields and ovals
- surrounds of swimming pools
- showgrounds
- golf course
- Community Land – Natural Area including:
  - Walking trails (both formal and informal)
  - Lookouts
  - Bushland areas without walking trails
- Road and drainage reserves including:
  - Verges
  - Footpaths
  - Gardens
  - Drains
  - Laneways
- Asset protection zones (for bushfires)
- Operational land, utilised as, or adjacent to, public places including:
  - Pump stations
  - Communication facilities
  - Tourist parks

| This notification plan does not apply to the use of pesticide within Council buildings, in public baths, swimming pools or spas.

| Council's estimate of the level of community use, the regular user groups and types of pesticide use in each of these categories of public places is summarised in the following table.

**Pesticide Use Notification Plan**

Public places	Regular user groups	Level of use of public place	Type of pesticide use
<b>Community Land – Park and General Use</b> <ul style="list-style-type: none"> <li>gardens</li> <li>playgrounds</li> <li>picnic areas</li> <li>surrounds of community and operational buildings</li> <li>surrounds of cemeteries and crematoria</li> </ul>	<ul style="list-style-type: none"> <li>children</li> <li>young families</li> <li>elderly people</li> <li>general recreational users e.g., joggers, picnickers</li> <li>social groups</li> <li>community organisations</li> <li>people attending burials or cremations</li> </ul>	Variable and seasonal use - higher use on weekends, during holidays and warmer months - use dependent on functions held at community buildings	Spot application of herbicides or insecticides Broadscale selective or non-selective herbicides Broadscale insecticides Fungicides Spray termiticides Spray ant control Bait termiticides Large vertebrate baiting
<b>Community Land – Sportsground</b> <ul style="list-style-type: none"> <li>sporting fields and ovals</li> <li>surrounds of swimming pools</li> <li>showgrounds</li> <li>golf course</li> </ul>	<ul style="list-style-type: none"> <li>children</li> <li>families</li> <li>sporting groups</li> <li>spectators (all ages)</li> <li>school groups</li> <li>swimmers (all ages)</li> <li>golfers and visitors</li> <li>walkers</li> </ul>	Variable use - higher use on weekends - moderate use in evenings - no swimmers during pool closure season - higher during Shows - higher during golf competitions	Spot application of herbicides or insecticides Broadscale selective herbicides Broadscale insecticides Fungicides Spray termiticides Spray ant control Bait termiticides

**Pesticide Use Notification Plan**

Public places	Regular user groups	Level of use of public place	Type of pesticide use
<b>Community Land – Natural Area</b> <ul style="list-style-type: none"> <li>Walking trails</li> <li>Lookouts</li> <li>Bushland</li> </ul>	<ul style="list-style-type: none"> <li>general recreational users e.g., joggers, walkers</li> <li>cyclists</li> <li>tourists</li> <li>Bushcare volunteers</li> </ul>	Low use	Spot application of herbicides or insecticides Broadscale selective herbicide Spray termiticides Bait termiticides Large vertebrate baiting
<b>Road and Drainage Reserves</b> <ul style="list-style-type: none"> <li>Verges</li> <li>Footpaths</li> <li>Gardens</li> <li>Drains</li> <li>Laneways</li> </ul>	<ul style="list-style-type: none"> <li>local residents and visitors</li> <li>vehicle operators</li> <li>government and private employees</li> </ul>	Variable use - low in rural areas - low to moderate in residential areas - moderate to high in commercial areas	Spot application of herbicides or insecticides Broadscale selective herbicide Spray termiticides Bait termiticides Large vertebrate baiting Fungicides
<b>Asset Protection Zones</b>	- residents living adjacent or near APZ	Low use	Spot application of herbicides or insecticides Broadscale selective herbicide Spray termiticides Bait termiticides Large vertebrate baiting
<b>Operational land utilised as, or adjacent to, public places</b> <ul style="list-style-type: none"> <li>Pump stations</li> <li>Communications facilities</li> <li>Tourist parks</li> </ul>	<ul style="list-style-type: none"> <li>general recreational users e.g., joggers, walkers</li> <li>patrons and visitors to tourist parks, all age groups</li> </ul>	Low use except tourist parks which have variable use depending on season	Spot application of herbicides or insecticides Broadscale selective herbicide Spray termiticides Bait termiticides Fungicides

**Pesticide Use Notification Plan**

### 3. Notification Arrangements

This section of the plan describes the manner in which Shoalhaven City Council will provide notice of pesticide use in prescribed public places under its ownership, management or control including special measures for defined sensitive places that are adjacent to public places, arrangements for emergency pesticide applications and circumstances where notice will not be given.

These notification requirements are based on Council's assessment of:

- The level of usage of public places where pesticides may be used.
- The extent to which members of the public who are most likely to be sensitive to pesticides (e.g., young children, the sick, pregnant women; sick and elderly people) and are likely to use these areas regularly.
- The extent to which activities generally undertaken in these areas could lead to some direct contact with pesticides.
- The class and quantity of pesticide used.

#### How and when notice of pesticide use will be provided

Notice of pesticide use will be provided by one or more of the following ways:

- Signs
- Information on Council's internet website
- Letters or letterbox drop
- Telephone, fax, or e-mail
- Door knocking
- Print and/or electronic media (generally only for aerial spraying)

Council will also allow persons to nominate to have their details placed on a central register which would allow them to be notified of pesticide uses within 150 metres of their residence that exceed the minimum quantity (~~see below~~).

Council frequently uses small quantities of some pesticides that are widely available in retail outlets and ordinarily used for domestic purposes, including home gardening e.g., glyphosate-based products. Quantities, less than 20 litres of 'ready-to-use' mixture, will not be 'notifiable' i.e., Council does not intend to provide notice for such pesticide applications. This will also apply to minor control of indoor and outdoor insect pests using baits or aerosol spray cans and spot weed control using a wand, hand-held spray bottle or gel herbicide applicators.

This notification plan does not apply to pesticide use within Council buildings.

Pesticide use is subject to suitable conditions (e.g., weather) so appropriate prior warning will generally be found on Council's website. The website will contain details of the areas where pesticides are expected to be used in the next 7 to 14 days.

#### Pesticide Use Notification Plan

Any aerial spraying or large vertebrate baiting programs arranged by Council will also be notified in local papers as well as the website.

##### **a) Community Land**

On community land, signs will be erected near the pesticide application area and/or main entrances and/or at the start of trails or tracks, when quantities exceed the notifiable limit (see above). These signs will be erected to maximise effectiveness and will contain contact details for those wishing to find out more information of the pesticide use. However, signs will not be required for pesticide use in Natural Areas e.g., bushland, away from tracks and trails.

Signs will be erected for all the pesticide uses listed in the table above and remain in place until either the pesticide is removed or has dried (if sprayed).

Where pesticide use occurs within 150 metres of 'sensitive places', the occupiers will be provided with 48 hours' notice by telephone, fax, e-mail, letter, or letter drop (whichever is most practicable). Persons on the central register will be similarly notified.

##### **b) Road and Drainage Reserves (Public Roads and Car Parks)**

Road and drainage reserves may contain road pavements, footpaths, verges, drains, gardens, laneways etc. When quantities exceed the notifiable limit, signs will be erected near the pesticide application area and/or entrance to car park and/or start of road and/or on the spray vehicle, where applicable. These signs will be erected to maximise effectiveness and will contain contact details for those wishing to find out more information of the pesticide use.

Signs will be erected for all the pesticide uses listed in the table above and remain in place until either the pesticide is removed (e.g., baits) or has dried (if sprayed).

Where pesticide use occurs within 150 metres of 'sensitive places', the occupiers will be provided with 48 hours' notice by telephone, fax, e-mail, letter, or letter drop (whichever is most practicable). Persons on the central register will be similarly notified.

##### **c) Asset Protection Zones (APZ)**

In asset protection zones, signs will be erected near the pesticide application area, when quantities exceeding the notifiable limit are used. These signs will be erected to maximise effectiveness and will contain contact details for those wishing to find out more information of the pesticide use.

Signs will be erected for all the pesticide uses listed in the table above and remain in place until either the pesticide is removed or has dried (if sprayed).

Where pesticide use occurs in an APZ or within 150 metres of 'sensitive places', the adjacent occupiers will be provided with 48 hours' notice by telephone, fax, e-mail, letter drop or door knocking (whichever is most practicable). Persons or organisations on the central register will be similarly notified.

##### **d) Operational land adjacent to public places**

Where operational land is adjacent to moderate to high use public land, signs will be erected near the pesticide application area, when quantities exceed the notifiable

#### **Pesticide Use Notification Plan**

limit. These signs will be erected to maximise effectiveness and will contain contact details for those wishing to find out more information of the pesticide use.

Signs will be erected for all the pesticide uses listed in the table above and remain in place until either the pesticide is removed or has dried (if sprayed).

Where pesticide use occurs within 150 metres of 'sensitive places', the occupiers will be provided with 48 hours' notice by telephone, fax, e-mail, letter, or letter drop (whichever is most practicable). Persons on the central register will be similarly notified.

#### **e) Sensitive Places**

Clause 39 of the Pesticides Regulation 2017 defines a "sensitive place" to be:

- a) School, pre-school, kindergarten, or childcare centre
- b) A hospital, community health centre or nursing home
- c) any place declared to be a sensitive place by the Environment Protection Authority by order published in the Gazette

Special notification measures for programmed pesticide use in public places within 150 metres of a sensitive place will apply. Occupiers will be provided with 48 hours' notice by telephone, fax, e-mail, letter, or letter drop (whichever is most practicable), for pesticide use above the minimum notifiable quantities.

#### **f) Notification of emergency pesticide application**

In cases where emergency pesticide applications in public places are required to deal with biting or dangerous pests (that pose an immediate health hazard), signs will be erected near the pesticide application area. These signs will be erected to maximise effectiveness and will contain contact details for those wishing to find out more information of the pesticide use.

Signs will be erected for all the pesticide uses listed in the table above and remain in place until either the pesticide is removed or has dried (if sprayed).

Where emergency pesticide use occurs within 150 metres of 'sensitive places', the occupiers will be contacted prior to commencement by telephone, fax, e-mail, or letter drop (whichever is most practicable). Persons or organisations on the central register will be similarly notified.

#### **g) Pesticide contractors and lessees of public places**

Where Council uses contractors to apply pesticides on its behalf, Council will ensure that notification is made in accordance with the notification requirements of this plan.

Where persons and organisations hold an existing lease on Council-controlled land that remains a public place and if they use pesticides in this area, Council will still require notification in accordance with the requirements of this plan.

#### Pesticide Use Notification Plan

### 4. What Information will be Provided

In accordance with clause ~~41.20~~(1)(h) of the Pesticides Regulation ~~2009,2017~~ the following information will be available by contacting the telephone number listed on signs and/or on Council's website ([www.shoalhaven.nsw.gov.au](http://www.shoalhaven.nsw.gov.au)):

- ~~(i) (i)~~ the full product name of the pesticide to be used,
- ~~(ii) (ii)~~ the purpose for which the pesticide is to be used,
- ~~(iii) (iii)~~ the dates on which, or the range of dates during which, the pesticide is to be used,
- ~~(iv) (iv)~~ the places where the pesticide is to be used,
- ~~(v) (v)~~ any warnings about limitations on the subsequent use of or entry onto the land if such warnings are specified on the approved label for the pesticide or in the permit for use of the pesticide,
- ~~(vi) (vi)~~ a contact telephone number or email address for the officer of the public authority whom the affected persons can contact to discuss the notice.

### 5. How the Community will be Informed of this Plan

Council will advise the community of this plan and its contents by:

- making a copy of the plan available for viewing, free of charge, at its Administrative Centre, Bridge Road, Nowra.
- placing a copy of the plan on its website at [www.shoalhaven.nsw.gov.au](http://www.shoalhaven.nsw.gov.au).
- placing a notice in local papers inviting submissions from the public on the draft plan.
- adopting the plan, after public consultation, at an Ordinary Meeting of the Council.

### 6. Future Reviews of the Plan

The notification plan will be reviewed every four years or when circumstances require a review of the plan. The review will include:

- a report on progress of implementing the plan.
- placing any proposed changes to the plan on public exhibition and calling for submissions on these changes.
- making recommendations for changes to the plan, if applicable, considering the public submissions.

### 7. Contact Details

Anyone wishing to contact Council to discuss the notification plan or to obtain details of pesticide applications in public places should contact:

~~Team Supervisor Biosecurity Weeds~~ Biosecurity Coordinator  
PO Box 42



**Pesticide Use Notification Plan**

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Nowra  
NSW 2541  
Tel ~~02 4429 382233~~ or ~~0437 745 9270423 587 316~~ 1300 293 111  
[council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au)  
Or access website – [www.shoalhaven.nsw.gov.au](http://www.shoalhaven.nsw.gov.au)

## CL22.342 Policies - Shoalhaven Water Group - Round Six

**HPERM Ref:** D22/226594

**Department:** Water Business Services

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

**Attachments:**

1. Water and Sewerage Headworks Charges (Section 64 Contributions) Assistance for Developments [↓](#)
2. Community Service Obligations – Water Supply, Wastewater, Effluent, Trade Waste Services and Section 64 Contributions [↓](#)
3. Payment Assistant Scheme – Water Accounts [↓](#)
4. Shoalhaven Water Debt Management Policy [↓](#)
5. Shoalhaven Water Undetected Leak Policy [↓](#)

### Reason for Report

All Public and Local Approval Policies are to be submitted to Council within 12 months of the election of a new Council. This is the sixth round of policies proposed for reaffirmation with respect to Shoalhaven Water responsibilities.

### Recommendation

That Council reaffirm the following policies with changes:

1. Water and Sewerage Headworks Charges (Section 64 Contributions) Assistance for Developments.
2. Community Service Obligations – Water Supply, Wastewater, Effluent, Trade Waste Services and Section 64 Contributions.
3. Payment Assistant Scheme – Water Accounts.
4. Shoalhaven Water Debt Management Policy.
5. Shoalhaven Water Undetected Leak Rebate Policy.

### Options

1. Adopt the recommendation as written.

Implications: Changes will assist for currency and clarity. Specific details of changes are outlined further below.

2. Not adopt the recommendation.

Implications: Council can request further details, seek community input, or make other changes.

### Background

Changes (tracked) have been made to the policies as shown in the attachments to this report. A summary of these changes is outlined below.

CL22.342

## **1. Water and Sewerage Headworks Charges (Section 64 Contributions) Assistance for Developments.**

The updated policy essentially reverts to the discount policy that was in place before a series of Council resolutions in response to COVID 19 (MIN20.240, MIN20.276, MIN21.116 and MIN21.514) that provided an additional discount for developments which were approved, and had developer contributions paid, over the period 7 April 2020 and the 31 March 2022.

The updated policy, however, is revised to include those developments caught under the COVID 19 rules for potential reimbursement of part of their Section 64 charges. The two scenarios that apply are:

- A development approved prior to 7 April 2020 that paid contributions during the period 7 April 2020 to 31 March 2022 may apply for the further discount within two years of the payment of those contributions if the development has reached approximately 25% completion.
- A development approved during the period 7 April 2020 to 31 March 2022 may apply for the further discount within two years of the Operational Development Consent if the development has paid the contributions and reached approximately 25% completion.

## **2. Community Service Obligations - Water Supply, Wastewater, Effluent, Trade Waste Services and Section 64 Contributions**

- Minor edits throughout the document to reflect current naming conventions, current organisation structure and grammatical errors.
- No changes to eligibility criteria or assessment process.
- Definitions list.
  - words not used throughout the document have been deleted
  - introduction of 2 new words in definitions list; 'Community benefit' and 'Non-profit'
- Introduction of new section 'Funding Provisions' – no change in funding or process, but now easily able to be identified in document.
- A checklist and application form has been created to guide potential applicants.

## **3. Payment Assistant Scheme - Water Accounts**

- Minor edits throughout the document to reflect current naming conventions and current organisation structure.
- Update of value of budgeted funding provision to reflect current funding (increased from \$15,000 to \$20,000).
- Printed water saving brochures have been replaced with detailed online resources. Community agencies guide the customer through this information online when undertaking their customer appointment.

Guidelines for Community agencies that administer the Scheme have also been updated to reflect the policy.

## **4. Shoalhaven Water Debtor Management Policy**

- Introduction of debt management pathway for eligible pensioners. This process aligns with the pathway described in Council's Revenue – Debt Recovery Policy (Rates) and was endorsed by Council resolution on 24 June 2015 (MIN15.421). No eligible

pensioner will be referred to an external debt recovery agency without Council resolution in each instance.

- Insertion of detail on each type of Shoalhaven Water customers and their debt management pathway.
- Minor title changes to reflect managing of debt rather than the debtor.
- Minor edits throughout the document to reflect current naming conventions and organisation structure.

## 5. Shoalhaven Water Undetected Leak Rebate Policy

- Minor title change.
- Minor edits throughout the document to reflect current naming conventions and organisation structure.
- Format changed to improve readability and understanding.
- Reflecting industry best-practice:
  - Introduction of an upper limit of rebate, now capped at \$2,000
  - Introduction of 'Methodology' – provides transparency on how the rebate is calculated. No actual change to how the rebate is calculated.
  - further clarification on what constitutes an 'undetected' leak.

## 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 proposed changes as being significant.

## Policy Implications

All policies included in this report are proposed for reaffirmation as the nature of the changes are considered to enhance delivery and clarity and therefore have no implications or deviation from the existing intent of the current approved policies.

## Financial Implications

Changes proposed to the policies will have no financial implications to current approved budgets. There is however, up to \$1.5m in potential further refunds of paid Section 64 (Water Supply and Sewerage) charges that could result from the expected sunset date of 31 March 2024.

Applications for the further refund (Covid-19 Relief) are expected over the remaining period as developers complete at least 25% of their development.

## Risk Implications

No risks identified from the changes proposed for the attached policies.



# Water and Sewerage Headworks Charges (Section 64 Contributions) - Assistance for Developments

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: POL22/155

Adopted: 28/06/2011

Effective: 1/07/2011

Reaffirmed: 26/02/2013, 13/06/2017, 23/07/2019

Amended: 10/06/2014, 28/5/2020, 15/09/2021

Minute Number: MIN11.527, MIN13.148, D14/147248, MIN17.512, MIN19.491,  
MIN 20.240, MIN 20.276, MIN 21.116, MIN21.514

File: 12039E

Review Date:

## 1 PURPOSE

To assist all types of developments (subject to approval under the Environment Planning & Assessment (EPA) Act within the Shoalhaven Local Government area in relation to granting a concession to the calculated equivalent tenement loading imposed on the water supply and sewerage systems. This Policy was revised as a result of Council's resolution to provide further economic stimulus following the impacts of the Coronavirus.

## 2 STATEMENT

This policy statement is based on Council Minute 11.116, Minute 13.864, Minute 20.240, Minute 20.276, Minute 21.116 and Minute 21.514.

It should be noted that Section 64 charges/contributions are also known as Headworks/Developer charges/contributions.

## 3 PROVISIONS

### Concessional Section 64 Contributions

- The system loadings/demands to determine the applicable Section 64 charges are calculated for all developments based on the provisions contained in Council's Delivery Program and Operational Plan, and
- The unit rate for the applicable Section 64 charge is contained in Council's annual fees and charges, and
- For any Development Application and/or Complying Development Certificate considered by Council or by a private certifier:
  - Under the Environment Planning & Assessment Act, and
  - In accordance with the current Development Servicing Plans, and
  - Is permissible within the zoning,

the applicable Section 64 charges may be reduced (at time of payment) as follows:-

Equivalent Tenements (ETs)	Reduction Amount
0.0 - ≤ 2.0	75%
> 2.0	50%

### Covid-19 Relief (Further Refund)

- For developments that have received operational consent (eg. DA and/or CDC) between approved between 7<sup>th</sup> April 2020 and 31<sup>st</sup> March 2022 (inclusive), a further refund (resulting in a total discount of 75% of the full contribution for all paid ETs) may apply for a further refund following a written application from the owner/applicant to Shoalhaven Water demonstrating:

Shoalhaven Water – Water and Sewerage Headworks Charges  
(Section 64 Contributions) – Assistance for Developments

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- payment of the Section 64 Charges as outlined in the Water Development Notice has been made, and
- the development is approximately 25% complete (as determined by Shoalhaven City Council), and
- the application for further refund is made within two (2) years from the date of consent for the development.

b. -For developments that have been granted operational consent (eg, DA and/or CDC) prior to 7 April 2020, a further refund (resulting in a total of 75% of the contributions/s paid) may apply for a further refund following a written application from the owner/applicant to Shoalhaven Water demonstrating that have paid the developer contributions within that period, a further discount (resulting in a total discount of 75% of the full contribution for all ET) will be applied as a refund following a written application from the owner/applicant once the development is approximately 25% complete (as determined by Shoalhaven City Council).

- payment of the Section 64 Charges as outlined in the Water Development Notice has been made during the period between 7 April 2020 to 31 March 2022 (inclusive), and
- the development is approximately 25% complete (as determined by Shoalhaven City Council), and
- the application for further refund is made within two (2) years from the date of payment of the Section 64 Charge/s for the development.

**General**

- ~~d. —~~
- ~~e. — Any claims for the further discount under these provisions must be made within two years of the issue of an operational Development consent.~~
- ~~f. — Any proposal that has been approved where development contributions have not yet been paid as at the date of implementation of this Policy will potentially qualify for the discount.~~
- a. — If a property changes ownership, the entitlement to a discount under this policy will remain with the land and any refund will be issued to the legal owner of the land at the time of payment of the refund.
- ~~g. —~~
- h.b. — For the purpose of approving the refund of Section 64 contributions the CEO/delegate will be the sole arbitrator in determining and assessing the status of a development, and further determining eligibility for the refund.

**4 EXEMPTIONS**

This policy does not apply to:

**Concessional Section 64 Contributions**

CL22.342 - Attachment 1

Shoalhaven Water – Water and Sewerage Headworks Charges  
(Section 64 Contributions) – Assistance for Developments

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- Any development/s that does not have an operational consent under the Environmental Planning & Assessment Act or has received an Occupation Certificate and/or a Subdivision Certificate and/or a Strata Certificate and/or licence for the development as the case may be,
- Any development where the development consent articulates how the Headworks charges are to be calculated (that is the charges are not specified in Council's Fees & Charges),
- Any development/s which have paid or have signed an agreement/contract/deed with Council prior to 1<sup>st</sup> July 2013 to pay its Section 64 contributions.
- Any developments which receive S64 assistance under Council Policy POL14/36 (Community Service Obligations – Water Supply, Wastewater, Effluent, Trade Waste Services and Section 64 Contributions).

**Covid-19 Relief (Further Refund)**

- Any development/s (in relation to the further discount) which have paid or have signed an agreement/contract/deed with Council prior to 7 April 2020 to pay its Section 64 contributions.
- Any development consent granted after 31-3-2022.
- Existing approved development consent (approved prior to 7-4-2020) and payment of Section 64 Charges have been made after 31-3-2022.
- Any approved development consent that makes written application for the section 64 Covid-19 Relief after 31-3-2024.
- Any written application for the Further Refund which cannot demonstrate ALL the relevant requirements as set out under Section 3 PROVISIONS.

**5 IMPLEMENTATION**

Shoalhaven Water Group has responsibility for implementing this policy.

**Concessional Section 64 Contributions**

~~a-~~

~~b-~~ An example of the calculations involved in the implementation of this policy is as follows:-

Eligible commercial business with an original determined load of 6.2 ETs for water supply and 6.20 ETs for sewerage services.

202~~24~~/2~~32~~ water supply ET Charge = \$6,578/ET.

202~~24~~/2~~32~~ sewerage services ET Charge = \$8,339/ET.

Original determined charge = 6.2 x (\$6,578 + \$8,339)  
= \$92,485.40

Reduction application: -

First 2 ET = 2.0 x (\$6,578 + \$8,339) x 0.25 = \$7,458.50 (0.25 is applied for 75% reduction)





Shoalhaven Water – Water and Sewerage Headworks Charges  
(Section 64 Contributions) – Assistance for Developments

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$$\begin{aligned} >2 \text{ ETs} &= 4.2 \times (\$6,578 + \$8,339) \times 0.50 = \$31,325.70 \text{ (0.50 is applied for 50\% reduction)} \\ \text{Reduced Payable Total} &= \$38,784.20 \end{aligned}$$

$$\text{Savings} = \$92,485.40 - \$38,784.20 = \$53,701.20 \text{ (2021/22)}$$

#### Covid-19 Relief (Further Refund)

Applies only to those developments which have a total equivalent tenement (ET) loading greater than 2 ETs. The further refund ONLY applies to those ETs above 2 ETs.

An example of the calculation and amount of the further refund after the concessional charges have been applied is\*:

$$\begin{aligned} &= 0.5 \times \$31,325.70 \\ &= \$15,662.85 \end{aligned}$$

**\* Subject to compliance with ALL relevant requirements as set out under Section 3 PROVISIONS.**

#### General

- a. Approved developments of 2 ET's or less are not entitled to any further refund as 75% reduction is already applied at assessment stage.
- b. Any determined refund will apply to the Section 64 Charge rates that were applicable at the time they were paid.

~~Upon written application for the further Reduction (as a Refund) in accordance with the Provisions:~~

~~Applies to loading above 2 ETs only.~~

~~Hence, after applying a further concession, refund amount is\*:~~

$$\begin{aligned} &= 0.5 \times \$31,325.70 \\ &= \$15,662.85 \end{aligned}$$

~~\* Subject to achieving 25% or more completion of development within 2 years of operational consent (as per the Provisions) as determined by Shoalhaven City Council.~~

- c. ~~Developments of 2 ET's or less are not entitled to any further refund as 75% reduction is already applied at assessment stage.~~
- d. ~~Any determined refund will apply to the Section 64 Charge rates that were applicable at the time they were paid.~~

## 6 REVIEW

~~This policy will be reviewed by 7 March 2022. Application of the further refund/discount component of this policy will end after 31 March 2024.~~

CL22.342 - Attachment 1



Council reserves the right to review or amend this Policy and any future review may involve discontinuing the policy earlier than 31 March 2024.

## 7 APPLICATION OF ESD PRINCIPLES

This policy provides an incentive for economic growth of the City, while ensuring that projected system demands can be met.

CL22.342 - Attachment 1



# Community Service Obligations - Water Supply, Wastewater, Effluent, Trade Waste Services and Section 64 Contributions

For more information contact  
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File: 12039E

Review Date: 1/12/2020

## 1 PURPOSE

The purpose of this policy statement is to outline Council's determining criteria for recognition of Community Service Obligation (CSO) and the charging policy of water, wastewater, effluent, trade waste services and Section 64 contributions for approved Community Service Obligation organisations or projects.

## 2 STATEMENT

Council reaffirmed this policy in its revised format by Minute 06.853 on 27<sup>th</sup> June 2006.

### 2.1 General

The Independent Pricing and Regulatory Tribunal in 1996 determined in its recommendation on Cross Subsidies, that CSO's are essentially an issue for Government policy and, as such a matter for Governments. The Tribunal considered however that the preferred method of funding CSO's should be through explicit and transparent government payment. This action is consistent with the NSW Government Water Supply, Sewerage and Trade Waste Pricing guidelines for Local Water Utilities.

This policy will provide consistency in the recognition and determination of organisations to qualify as CSO's and summarise the degree of subsidy by Council.

### 2.2 Documentation Endorsement

The information within this policy statement is based on various Council resolutions relating to Community Service Obligation.

- File 72/4510 Council Meeting of 10<sup>th</sup> June 1997 – ~~Non-Rateable~~ Non-Rateable Water and Wastewater services
- File 72/4510 Council Meeting of 17<sup>th</sup> June 1997 – Church Schools
- File 2213 Council Meeting of 28<sup>th</sup> May 2002 – Usage Charges for Playing Fields CSO3
- File 24523 Council Meeting of 23<sup>rd</sup> June 2003 – Effluent Pump out Services
- File 12039 Council Meeting of 23<sup>rd</sup> February 2004 – CSO for Water and Wastewater Charges
- File 12039 Council Meeting of 26<sup>th</sup> July 2004 – Community Service Obligation (CSO) Review
- File 12039 Council Meeting of 23<sup>rd</sup> May 2006 – Waiving of Section 64 Contributions for Community Projects

### 2.3 Definitions

<del>Bushfire station</del>	<del>A complex owned by the RFS or community and operated for the sole purpose of providing fire-fighting support to the community.</del>
Charity	A non-profit organisation run for the benefit of the community.
Church	A place of worship with no attached hall, <del>residence</del> residence, or facility.
<del>Church hall</del>	<del>An attached hall or facility (not church school or child care). An organisation of benefit to the health and wellbeing of the public.</del>

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<u>Community benefit</u>	<u>Providing benefits for the community, as opposed to exclusive private benefits for individuals.</u>
Community organisation	An organisation of benefit to the health and well-being of the public.
<u>Not-for-profit (non-profit)</u>	<u>A charity as defined in the Charities Act 2013 (Cth).</u>
Owned by <u>Community</u>	A premises Locally owned by organisations, groups or incorporated bodies etc.
<u>Public amenities</u>	<u>Public toilet complexes located on Council owned property.</u>
<u>Public reserve</u>	<u>Land as defined within the LGA 1993 Schedule 9</u>
<u>Public museum</u>	<u>A non-profit operated facility of historical public interest.</u>
Section 64	The charges levied in accordance with Section 64 of the <u>NSW Local Government Act, 1993</u> .
<u>Sporting oval</u>	<u>Council owned public sports field.</u>
Swimming pools	Council owned and operated Swimming Pools.
Usage allowance	Means the first 300kL of water used in the financial year on a pro-rata basis.

## 2.4 Abbreviations and Acronyms

CSO Community Service Obligation

LGA Local Government Act

RFS Rural Fire Service

Ss.64 Section 64

## 3 PROVISIONS

### 3.1 Common Provisions

There are no common provisions relating to this policy. The policy is only related to the provision of financial subsidy to facilities of public benefit in respect of Water Supply, Wastewater, Effluent, Trade Waste related services and s.64 contributions.

### 3.2 Charges Policy Subsidies applicable to CSOs

CSO's are categorised into four levels based on the nature and level of service provided to the community. The recognition of a CSO in respect of Water Supply, Wastewater, Effluent, Trade Waste services and Section 64 result in the following subsidy from Council Charges where applicable.

#### Water Supply

CSO Level 1:	Waiver of availability charge. Specified Usage charge allowance.
CSO Level 2:	Waiver of availability charge.

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CSO Level 3: Waiver of availability charge.  
Specified Usage charge allowance.  
Usage charge at a lower rate.

### Wastewater

CSO Level 1: Waiver of availability charge.  
~~Specified Usage charge allowance (being phased out, see below).~~  
CSO Level 2: Waiver of availability charge.  
CSO Level 3: Waiver of availability charge.  
Waiver of usage charge.

### Effluent Services

CSO 1, 2 and 3: There is no subsidy provided for the conduct of effluent services (pumpout, cleanout or other related contracted services)

### Trade Waste

CSO 1, 2 and 3: There is no subsidy provided in respect of Trade Waste charges.

### Section 64

CSO Level 1: Reduction of 75% for projects.  
CSO Level 2: Reduction of 50% for projects.  
CSO Level 3: Reduction of 25% for projects.  
CSO Level 4: Reduction as determined by the contributions due for the Council project.

The relevant charges and respective allowances for CSO's are contained within Council's Delivery Program and Operational Plan, which is exhibited for public comment each year during May and June.

### 3.3 CSO Classification as a CSO Process

Organisations or properties, which seek to be classified as a CSO under this policy, must formally apply to Council for such recognition. Applications must be accompanied by sufficient documentation to support the claim and be signed by the governing body, CEO or owner of the property. Council will reserve the right to seek further confirming detail where required.

CSO's will be classified into an appropriate Level based on criteria relevant to the nature of the property and subject to review. The degree of service and the nature of the organisation should be the determining factor of the Level to which a CSO is placed. This can include whether the facility is income producing but not necessarily classified as commercial in nature [e.g.](#) Council owned swimming pools. As a guide the following criteria must be satisfied when assessing applicants for recognition as a CSO.

CL22.342 - Attachment 2

### **3.4 Split Land Use**

Some organisations have combined facilities within a Land Use e.g., Church/School. The criteria for classification of CSO in these cases would need to be based on the primary purpose of the property, or a pro-rata determination by the CEO (Executive Manager, Shoalhaven Water).

The CEO (Executive Manager - Shoalhaven Water) is delegated authority to make the determination of CSO and Level based on eligibility criteria and in cases where dual Land Uses exist.

## **4 ELIGIBILITY CRITERIA: WATER, WASTEWATER, EFFLUENT AND TRADE WASTE**

### **CSO Level 1**

- Community benefit, **and**
- Non-profit, **and**
- Operated and run solely by volunteers, **and**
- Requires subsidy for operation, **and**
- Owned by Community or Government, **and**
- All public have full access to facility at all times.

### **CSO Level 2**

- Community benefit, **and**
- Some paid employees, **or**
- Some monies generated through fund-raising, **and**
- Owned by Community or Government **or**
- A ~~character-building~~ character-building organisation (not including sporting, education or hobby interest group) singularly supporting adolescence development.

### **CSO Level 3**

- Community benefit, **and**
- Some paid employees, **or**
- Some monies generated through fund-raising, **and**
- Owned by Community or Government, **and**
- All public have access to sporting fields outside of committee organised events

## **5 ELIGIBILITY CRITERIA: SECTION 64**

### **CSO Level 1**

- Community benefit, **and**
- Non-profit, **and**

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- Operated and run solely by volunteers, **and**
- Requires subsidy for operation, **and**
- Owned by Community or Government, **and**
- All public have full access to facility at all times.

#### CSO Level 2

- Community benefit, **and**
- Some paid employees, **or**
- Some monies generated through fund-raising, **and**
- Owned by Community or Government **or**
- A ~~character-building~~ **character-building** organisation (not including sporting, education or hobby interest group) singularly supporting adolescence development, **and**
- All public have access (outside of committee organised events).

#### CSO Level 3

- Community benefit, **and**
- Some paid employees, **or**
- Some monies generated through fund-raising, **and**
- Owned by a Community Organisation or Government, **and**
- All public have limited access (outside of committee organised events).

#### CSO Level 4

- Is a Shoalhaven City Council funded project.

#### General

~~Some organizations have combined facilities within a Land Use eg Church/School. The criteria for classification of CSO in these cases would need to be based on the primary purpose of the property, or a pro-rata determination by the General Manager (Director Shoalhaven Water).~~

### 6 FUNDING PROVISIONS

~~In respect of Church Schools, Council at its meeting of 17<sup>th</sup> June 1997 determined that such organizations would be treated as non-residential.~~

Total funding for Section 64 reduction in contributions in respect of CSO Levels 1 to 3, will be limited to \$20,000 from the Water Fund and \$20,000 from the Wastewater Fund each financial year. Additional funding will be considered on a ~~case-by-case~~ **case-by-case** basis and reported to Council. Funding in respect of Section 64 reductions for CSO Level 4 will be considered on a ~~case-by-case~~ **case-by-case** basis and reported annually within the Delivery Program and Operational Plan.

CL22.342 - Attachment 2



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~~The General Manager (Director Shoalhaven Water) is delegated authority to make the determination of CSO and Level based on the above criteria and in cases where dual Land Uses exist. Approval for the recognition of an organization for CSO is vested in the General Manager (Director Shoalhaven Water).~~

## 47 IMPLEMENTATION

The Water ~~Customer and Business Support Section~~ services Department of Council's Shoalhaven Water Group will implement policies relating to applicant processing, management, recognition of CSO's and the capture/reporting the level of financial subsidy.

Approval for the recognition of an organisation for CSO is vested in the CEO (Executive Manager - Shoalhaven Water).

## 58 REVIEW

This policy will be reviewed within one year of the election of every new Council.

## 69 APPLICATION OF ESD PRINCIPLES

None Applicable.

CL22.342 - Attachment 2



# Payment Assistant Scheme - Water Accounts

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File: 24486E

Review Date: 1/12/2020

## 1 PURPOSE

The Payment Assistance Scheme (PAS) is a Council initiative designed for the purpose of helping residential customers who are financially disadvantaged and having difficulty paying their home water usage charges because of a crisis. The situations whereby PAS could be given is outlined in detail at paragraph 6 of the attached “Guidelines for Community Agencies”.

## 2 STATEMENT

~~The~~ PAS is not intended to be used as an ongoing income support nor is it intended to relieve Council of its obligations to manage the customer’s debts in a fair and equitable manner. ~~The~~ PAS is funded entirely by Council and is applied only against water usage charges. It is expected that the majority of people given PAS will be either in receipt of a maximum Government Pension or Benefit or on a low income or have dependent children; making it difficult to absorb costs. People that are not in these groups are not precluded from receiving PAS as other circumstances may dictate assistance being appropriate ~~eg~~ financial hardship or family disaster.

## 3 PROVISIONS

The policy and management of ~~the~~ PAS is the responsibility of Council with funding levels set each year as part of the Delivery Program and Operational Plan. Interested Community Agencies will deliver the program in order that as far as possible, a person’s needs can be assessed locally and at a time the assistance is required. It also enables Community Agencies to incorporate PAS into their broader range of financial counselling services and assistance measures for people in need. Community Agencies eligible for assistance under this policy must be as a minimum:

- Holders of an ABN, and
- Recognised as an Emergency Relief Material Aid Agency, or
- Be an approved Member of Financial Counsellors Association of Australia, or
- As approved by Council

The limit to which Council will provide assistance under the scheme will be:

- a. Allocation of vouchers proportionately to Agencies (to the value of \$25.00 per voucher in books of 20) and up to a total funding limit for the scheme of ~~\$1520~~ \$20,000 and/or as per the level as adopted within the Delivery Program and Operational Plan, ~~and~~
- b. Provision of water saving ~~brochures and advice, and~~
- ~~c. Provision of onsite audit services at premises to assess and advise on ways to minimise water use in and around homes.~~

The issue of vouchers to applicants under ~~the~~ PAS is conditional upon Agencies complying with the following parameters;

- Any person within the city served by their organisation is able to apply for PAS and have their situation assessed, regardless of race, gender, disability, sexual preference, religion as defined by the NSW Anti-Discrimination Act 1977 as amended November 2021,
- It is expected that Agencies will help applicants to develop financial independence and investigate other forms of assistance e.g., Pensioner Rebate Concession,
- It is expected that Agencies will provide advice about water saving ideas as per Shoalhaven Water's website ~~issue water saving brochures to applicants~~ and encourage them to undertake ~~onsite-a~~ water audit ~~services by Shoalhaven Water to assess and advise on ways~~ to minimise water use in and around homes, as water consumption directly affects charges on an account,
- Submission of an original water usage account with vouchers, alternatively Agency contact with Shoalhaven Water be made to ascertain water use charges and previous use of PAS,
- Advising applicants that PAS is only applied against water usage charges,
- Attendance of Agency representative at Council convened meetings to review the PAS program and discuss issues as required, and
- Acceptance of the attached document "Guidelines for Community Agencies" as the basis for managing ~~the~~ PAS.

~~The~~ PAS is not limited to property owners and can be utilised by residential tenants, but only if a water account or copy is rendered with the vouchers.

In exceptional circumstances the Director-Executive Manager, Shoalhaven Water (Water ~~Customer &~~ Business Services Manager) may authorise the issue of vouchers direct to an applicant where it is not practical, or time constraints dictate that an applicant attend the relevant Agency.

It is a preference that Agencies manage the issue of vouchers carefully to ensure that benefits are able to be provided to applicants throughout the financial year after the initial allocation. In this respect applicants should not receive PAS for the entire amount of a water usage account. A self-funded contribution should be encouraged to acquit the total amount outstanding on the water usage account. The use of Council's ~~payment arrangement scheme~~ Water Account Payment Plan should also be utilised as a strategy to reduce the level of account debt.

#### 4 IMPLEMENTATION

Agencies will be provided with vouchers by 1<sup>st</sup> July of each year with the distribution calculated and monitored by Council. The further issue of vouchers will be at the discretion of Council based on the level of use. It may be necessary to recall vouchers from one Agency for re-distribution. Further funding beyond the total limit set for the scheme each financial year, will be at the discretion of Council.

The Water ~~Customer and~~ Business Services Section-department of the Shoalhaven Water Group is responsible for the implementation and management of claims within this policy. The Director-Executive Manager, Shoalhaven Water Group (Water ~~Customer &~~ Business Services Manager) is authorised to



determine PAS allocations and proper use of the scheme under the terms of this policy and “Guidelines for Community Agencies” document.

## 5 REVIEW

This policy will be reviewed within one year of the election of every new Council.

## 6 APPLICATION OF ESD PRINCIPLES

To reduce the level of water consumption in residential premises through advice and assistance offered as a condition of PAS.

CL22.342 - Attachment 3



# Shoalhaven Water - Debtor Management Policy

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Minute Number: MIN17.715, MIN18.217  
File: 12039E  
Review Date: 1/12/2020

## 1 PURPOSE

Shoalhaven Water follows an established process when payments are overdue. The purpose of this policy is to ensure that customers are aware of how Shoalhaven Water responds to overdue accounts and the debtor management actions which can be taken to recover the charges. Specifically, the objectives of this policy are to:

- Fulfil the statutory requirements of the Local Government Act and Regulations with respect to the recovery of charges from property owners,
- Ensure that customers are treated fairly, consistently, confidentially and with courtesy at all times in the debt recovery process,
- Raise customer awareness of payment assistance measures provided by Shoalhaven Water, and
- Uphold relative compliance with NSW Government directives and Industry practice guidelines.

This policy is consistent with debtor management matters as contained within [the adopted Shoalhaven Water's Customer Service Plan](#).

## 2 STATEMENT

~~In meeting the objectives above, due cognisance must be given to the fact that Shoalhaven Water is an essential service provider to the community.~~ The continuing supply of water and sewerage services to the community ~~can only be achieved and~~ is contingent upon customers paying for those services.

~~Consequently, t~~The pursuance of unpaid debt is an important function for Shoalhaven Water to ensure available cash flow, limit the risk of unrecoverable debt and reduce environmental impacts from uncontrolled water loss. In light of Shoalhaven Water's responsibility as an essential service provider, minor deviation from standard processes, procedures or policy in relation to debt recovery may be necessary on a ~~case-by-case~~[case-by-case](#) basis.

## 3 PROVISIONS

This policy applies to all Shoalhaven Water customers, including residential, commercial, industrial and community service classified properties.

### 3.1 Water and other Shoalhaven Water accounts

~~Most~~ Water accounts are issued on a quarterly ~~and cyclic~~ basis at the time of water meter readings. ~~Some bulk water users are billed on a monthly basis. Other accounts (sundry accounts) are issued on undertaking or supplying a service and debtor management for these are conducted through mercantile recovery agencies.~~

Shoalhaven Water issues accounts for services other than water supply and wastewater services. This includes but is not limited to septic tank (effluent) services, liquid trade waste, development inspections, telecommunications site fees. These accounts are known as Sundry Accounts.

Shoalhaven Water is committed to issuing accurate and timely accounts for the services provided. It is an expectation that customers will pay their accounts promptly, advise Shoalhaven Water if they are unable to do so, or commit to a payment arrangement or other payment assistance measures as agreed.

### 3.2 Time given to pay water accounts

Shoalhaven Water levies water accounts in the name of the property owner and to the address so nominated by the owner. Payment is due 28 days after the date the account is issued, and a further grace period of 10 days is given before interest charges are applied to allow for delays eg. g., post and banking.

### 3.3 Overdue ~~W~~water ~~A~~accounts

Shoalhaven Water undertakes the following measures when payments are overdue, the workflow for metered and unmetered properties are as follows:

#### ~~3.3.3.1~~ Metered Supply

Shoalhaven Water undertakes the following measures when payments are overdue and the property owner of a metered property has not made contact or made regular prearranged payments and there is an amount outstanding at the due date then:

1. If the account has not been paid by the due date, a ~~A~~ **Reminder** is issued, if not paid by due date, then-
2. ~~If the account remains unpaid, an overdue notice~~ **Final Reminder** is issued, which includes details of payment assistance measures and ~~recovery options~~ next steps if the account remains unpaid is released. If not paid by due date, then
3. ~~Following this, a **Registered Letter** is sent by registered post to the owner indicating that the property is being assessed for water flow restriction and/or legal action. If the property address is different to the postal address, a similar letter is also sent by ordinary mail addressed to the occupier. If contact is still not forthcoming, then either:~~
4. ~~If contact is still not forthcoming, a **Notice of intention to Install a Water Flow Restrictor** the flow of water is hand delivered to the property advising that the property may be restricted after 24 hours (see section 3.4 Water accounts - flow restriction restriction of service below): OR~~
- 4.5. The debt is referred to our external debt recovery agency.

At the stage of point 4 above and Prior to progressing to step 4 or 5, and where possible, telephone or email contact is will be attempted.



If the account remains unpaid Shoalhaven Water may restrict the supply of water and/or commence legal action. In each formal contact with customers, information and access to Water Account Payment Plans or assistance programs is offered.

~~Shoalhaven Water may restrict the supply of water and/or commence legal action.~~  
Unmetered Supply and Standpipe Hire

For customers who do not have a metered supply to their property (i.e., properties who do not have a meter installed or for customers who hire metered standpipes) the following process applies:

1. A **Reminder** is issued, if not paid by due date, then
2. A **Final Reminder** is issued, which includes details of payment options and next steps if the account remains unpaid. If not paid by due date, then
3. A **Registered Letter** is sent by post to the owner indicating that the account is being assessed for legal action.

If the account remains unpaid, Shoalhaven Water may refer the debt to our external debt recovery agency. In the case of metered standpipe hire, failure to pay outstanding charges is basis for termination of the Hire Agreement.

~~In the case of unmetered properties legal actions may commence after point 2 above. Legal actions are conducted by an alternative mercantile recovery agent to that used for general rates as this ensures that essential services are clearly identified in debt recovery proceedings.~~

~~In each formal contact with customers, information and access to Shoalhaven Water staged payment arrangement or assistance programs is offered.~~

### 3.4 Water aAccounts - flow restriction

The Local Government (General) Regulation 2021 permits the restriction of water supply to properties if “rates or charges in respect of the water supplied to the premises are unpaid”.

Water flow restriction involves significantly reducing the water supply to the property. A small amount of water is supplied for health and hygiene purposes. It is Council policy that water flow restrictors ~~not be~~are not used on;

- Eligible pensioners as defined by Council Policy – “Revenue Pensioner Rates and Charges - Arrears and Interest”,
- Rural properties with animals,
- Kidney Dialysis Patients,
- Hospitals,
- Schools,
- Pre-schools and;
- Retirement Homes.



In accordance with [NSW Office of Local Government Circular 15-40](#) of 16 December 2015, Water flow restrictors will not be installed on properties once Shoalhaven Water becomes aware that a property is tenanted. A tenant is so determined to be an occupier of the property holding a signed NSW Government Fair Trading “Standard form – Residential tenancy agreement” or similar [e.g.](#), Commercial Property Lease Agreement. [In this case, water account debts of tenanted properties may be referred to our external debt recovery agency. \(see section 3.5\)](#)~~In this case, action to recover outstanding monies from the occupier in accordance Section 569 and 1650 of the may be commenced.~~

### Avoiding Restriction

Shoalhaven Water will not instigate a water flow restriction to customer properties if;

- A [suitable](#) formal [Water Account Payment Plan](#) ~~arrangement to a repayment plan~~ is accepted, signed and the payments on the due date are made,
- An accepted and active Centrepay arrangement (through Centrelink) is maintained,
- [There is a](#) an outstanding water account complaint with Shoalhaven Water or a complaint that is being investigated by the Energy and Water Ombudsman of NSW (EWON).

#### 3.4.1 Restoring the water supply

If a property has been restricted, Shoalhaven Water will restore the water supply when;

- The outstanding water charges are paid in full including the removal fee, or
- ~~The customer has agreed and signed an approved formal arrangement, payment extension or other form of assistance which has been approved, or~~
- The customer has paid an agreed lump sum ~~arrears~~ of the outstanding balance and [has agreed and signed an approved formal arrangement made an informal undertaking to pay the balance by instalment in a reasonable timeframe](#), or
- Contact has revealed that the property is subject to a signed NSW Government Fair Trading “Standard form – Residential tenancy agreement” or similar [e.g.](#), Commercial Property Lease Agreement.

### 3.5 Water Accounts – Legal Action

[To ensure that debts related to an essential service are clearly identified in debt recovery proceedings, legal actions undertaken on behalf of Shoalhaven Water, are conducted by an alternate external recovery agent to that used for Council Rates.](#)

[Once the debt is referred, the Debt Recovery Agency will issue a letter in relation to the overdue amount advising that Shoalhaven Water has referred the debt to the agency for collection and that payment in full or an approved payment arrangement is required within 14 days, otherwise legal action may be commenced. The letter specifies the minimum amount in legal costs that will be added to the water account if legal action is commenced.](#)

Subsequent steps undertaken by the Debt Recovery Agency under instruction of Shoalhaven Water may include (but not limited to) summons, Statement of Claim and Judgement. Minimum costs of any subsequent actions will also be advised in advance of progression of legal action.

### 3.53.6 Eligible Pensioner Accounts

On 24 June 2015, Council resolved (MIN15.421) to amend the means by which Council deals with outstanding debts of eligible pensioners. Shoalhaven Water's debt recovery dealings with eligible pensioners reflects the process as defined in Council's *Revenue – Debt Recovery Policy*.

#### 3.6.1 Recovery Action for Pensioners Who Became Eligible after 1 July 2015

1. A **Reminder** is issued, if not paid by due date, then
2. A **Final Reminder** is issued, which includes details of payment assistance measures and next steps if the account remains unpaid. If not paid by due date, then
3. A **Registered Letter** is sent by post to the owner indicating that the property is being assessed for legal action, including minimum legal fees which may be charged if legal action proceeds. If the property address is different to the postal address, a similar letter is sent by ordinary mail addressed to the occupier. If contact is still not forthcoming, then
4. A **Report to Council** will be submitted, detailing arrears of water account charges and requesting permission for referral to our Debt Recovery Agency. Only on approval from Council will referral to the agency occur. Once approved by Council, subsequent legal action will continue as outlined in this Policy, under *Water accounts – Legal Action*.

#### 3.6.2 Recovery Action for Pensioners Who Became Eligible prior to 1 July 2015

Shoalhaven Water will not institute legal action to recover water account charges from eligible pensioners, except where such charges are outstanding for a period of seventeen (17) years, at which time Shoalhaven Water will commence action to secure outstanding charges. Such action to secure overdue charges will include the issuing of a Statement of Claim followed by Judgment.

Council resolution 421 of 24 June 2015 refers in relation to deferral and debt recovery actions.

### 3.63.7 Payment Assistance Scheme

Shoalhaven Water's ~~has a payment assistance program~~ **Payment Assistance Scheme (PAS)** is consistent with the essential service industry to help customers experiencing financial difficulties. The program is in lieu of a formal hardship policy and is available to ~~all~~ residential customers including tenants. The scheme is largely managed by a range of Community

Support Agencies on behalf of Shoalhaven Water. Under this scheme, vouchers are issued by an Agency to offset water usage charges. — Assistance under this scheme is monetary and any amount can be applied directly, immediately and indiscriminately against the water usage charges. — Full details of the Payment Assistance Scheme are articulated in the following Policy: *Payment Assistant Scheme - Water Accounts*.

### **3.73.8** Overdue Sundry Accounts

Shoalhaven Water issues accounts for services other than water supply and wastewater services. This includes but is not limited to septic tank (effluent) services, liquid trade waste, development inspections, telecommunications site fees. These accounts are known as Sundry Accounts.

The following is the debt recovery process for Sundry Accounts, where accounts are overdue, and no approved payment arrangement is being maintained:

1. undertakes the following measures when payments are overdue and the debtor has not made contact or made regular prearranged payments; A **Reminder** is issued, if not paid by due date, then
2. A **Final Reminder** is issued, which includes details of payment options and next steps if the account remains unpaid. If not paid by due date, then
3. A **Registered Letter** is sent by post to the owner indicating that the property is being assessed for legal action.

If the account remains unpaid, Shoalhaven Water may refer the debt to our external debt recovery agency.

1. If the account has not been paid by the due date, a reminder is issued.
2. If the account remains unpaid an overdue notice is released and this includes details of legal recovery options.

If the account remains unpaid, Shoalhaven Water may commence legal action.

## **4 IMPLEMENTATION**

The Shoalhaven Water Business and Customer Services Manager is responsible for the implementation, actions and management of this policy.

## **5 REVIEW**

This policy will be reviewed within one year of the election of every new Council.

## 6 APPLICATION OF ESD PRINCIPLES

To reduce the demand on treated water supplies through the user pay principle.

CL22.342 - Attachment 4



## **Water, Sewer and Trade Waste Usage charges Shoalhaven Water - – Undetected Leak Rebate Policy**

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Policy Number: POL22/143



## 1 PURPOSE

To make available assistance to customers by providing some relief for significantly higher Water Accounts emanating from undetected water leaks.

## 2 STATEMENT

Council provides potable water to the boundary of a property; water that has subsequently passed through a metered service connection becomes the responsibility of that property owner. This policy is not intended to provide full compensation to customers for water and sewer usage charges as a consequence of an undetected water leak on their property. However, as an act of good faith and in the interest of good public relations, Council provides a means by which some assistance for higher usage charges can be obtained, subject to the provisions of this policy being met.

## 3 PROVISIONS

In order to be eligible for an Undetected Leak Rebate, applications must meet and address all the criteria. An Undetected Leak is where there is no visible sign of water loss. Both the fault and/or the water loss could not have been reasonably detected by visible inspection prior to Shoalhaven Water issuing an account.

**The limit to which Council will provide assistance will be:**

- A 50% reduction calculated according to the difference between the averaged water consumption for the previous five (5) periods and the consumption recorded on the Water Account issued immediately prior to the repairs being completed, or
- A 25% reduction calculated according to the difference between the averaged water consumption for the previous five (5) periods and the consumption recorded on the Water Account issued immediately prior to the repairs being completed for complying claims which are incomplete or inconsistent in detail.
- In respect of properties where the payment of sewer and trade waste usage charges are applicable, and an undetected leak has occurred and the water has not entered the sewerage system, the charges for sewer and trade waste usage will not be payable for consumption greater than the averaged water usage for the previous five (5) periods. Where claims are incomplete or inconsistent in detail, a 25% reduction only will be provided as assistance in the same manner indicated at dot point two above.

Council will not waive interest charges accrued on unpaid Water Accounts that are subject to a claim under this policy.

**Applications must comply with the following criteria: Assistance will be subject to the submission of a complying claim, which must;**

- Involve a significant leakage on the property. A leakage is so determined to be significant if the water usage on the Water Account issued immediately prior to the repairs being completed



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is more than \$200 and 1.5 times greater than the previous five (5) period's daily average consumption.

- Involve a leakage in pipelines, which are undetected. Undetected leakage is defined as occurring within pipeline breaks or connections in the ground, under slabs or within walls etc and is clearly not visible to the owner.
- Include a declaration indicating that the abnormally high water usage was applicable for an undetected water leakage and acknowledgement that subsequent claims under this policy will not be accepted,
- Contain supporting documentation that the water leakage was repaired immediately (within 30 days of an account being issued or after the customer learnt of its existence),
- Include a statement or invoice from a licensed plumber indicating the cause and location of the water leak and that it has been repaired or in the case where a plumber was not employed, a declaration by the owner with the equivalent details.

~~Where water usage charges are less than \$200 and/or 1.5 times the previous five periods and financial hardship is being experienced, customers could seek relief under the Payment Assistance Scheme.~~

~~Council will not waive interest charges accrued on unpaid Water Accounts that are subject to a claim under this policy.~~

**Claims will not be accepted which:**

- ~~Could have been reasonably detected by visible inspection~~
- Is the result of a second occurrence at the same property and by the same owner regardless of whether it is a related event or separate undetected leakage.
- Involve ~~faulty plumbing fixtures a leakage from an (e.g., appliances, pumps, hot water systems, pressure release or float valves, cattle troughs, solar panels or pool heaters, pool or pond lines, taps, toilet cisterns, sprinkler or irrigation systems) and other water fittings etc.~~
- Involve a leakage caused directly by way of accidental or wilful damage.
- Do not contain the documentation or meet the terms of a complying claim.

**Methodology:**

~~The following outlines the process for calculating the rebate for complying applications, noting that only one rebate will be offered per customer, per property, over the lifetime of ownership of the property.~~

**The Rebate:**

- ~~Applies to one billing period only (i.e., the billing period for which the undetected leak commenced).~~
- ~~Provides a reduction in the volume of water use charged to the customer equal to 50% of the estimated volume of water lost.~~
- ~~Will be capped at \$2,000.~~
- ~~If a volumetric sewage or waste disposal charge is applicable, providing a 100% reduction in these charges associated with the full estimated volume of water lost.~~





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**Calculation:**

The estimated volume (in kilolitres) of water lost is calculated as follows:

**H** = high volume water use measured over the high usage period and

**A** = estimated average water use (calculated using the average daily usage from the last 5 billing periods)

then

**Volume of Water Lost (VWL) = H - A**

The Undetected Leak Rebate will be calculated as follows:

**Undetected Leak Rebate = VWL/2**

As a result, the remaining 50% of the estimated high water usage will remain payable.

**Further Assistance:**

Where applications do not meet all eligibility criteria: i.e.,

- water usage charges are less than \$200.
- water usage is less than 1.5 times the average daily consumption of the previous five periods.
- is a second occurrence as property owner.
- leak impacts more than one billing period.
- or any other eligibility criteria

and financial hardship is being experienced, customers could seek relief under the Payment Assistance Scheme.

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## 4 IMPLEMENTATION

The Water Business Services Section of Shoalhaven Water is responsible for the implementation and management of claims within this policy. The Executive Manager Shoalhaven Water (Water Business Services Manager) is authorised to determine applications for assistance and payment under the terms of this policy.

## 5 REVIEW

This policy will be reviewed within one year of the election of every new Council.

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## 6 APPLICATION OF ESD PRINCIPLES

None Applicable

## LOCAL GOVERNMENT ACT 1993

### 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.